

The Impact of Scrutiny at Nottingham City Council An Expert Assessment

June 2021

Background to the review

The Centre for Governance and Scrutiny (CfGS) were invited by Nottingham City Council to carry out a review of scrutiny following the publication of the Public Interest Report.

In response to this Report, the Council agreed an Action Plan at an extraordinary meeting held on 27 August 2020. Following the publication of the report, a Rapid Non-Statutory Review of Nottingham City Council was commissioned by the Ministry for Housing, Communities and Local Government, with the review findings being published in December 2020. Both reports recommended a review of Overview and Scrutiny in order to strengthen the function enabling it to provide effective challenge and support to the Council.

Our brief was therefore as follows:

- Take the 2019 MHCLG Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities into account and advise on how Overview and Scrutiny in Nottingham can best adopt the practices outlined within it.
- Take into account the level of direct support available to Overview and Scrutiny in any recommendations.

The objectives of the review were to:

- a) analyse the current structure, roles, culture and ways of working of Overview and Scrutiny, in light of the statutory guidance;
- b) identify areas for improvement;
- c) produce recommendations on how those improvements might be made with limited resources.

Our review was carried out during 22nd - 24th March 2021 and conversations and observations were arranged online due to Covid restrictions in place at this time.

CfGS bring a wealth of expertise, experience and research which informs the scrutiny review framework, and our intention is to work closely with Members and the Council to provide a realistic improvement plan.

Scope & Methodology

The CfGS model for this review focused on:

- **Structure** - How scrutiny is structured and whether it is appropriate, agile and effective;
- **Culture** - The mindset and mentality underpinning the operation of the overview and scrutiny process. This will involve a focus on the Council's corporate approach to scrutiny;
- **Information** - How information is prepared, shared, accessed and used in the service of the scrutiny function;
- **Impact** - Ways to ensure that scrutiny is effective, that it makes a tangible difference to the lives of local people.

The review framework therefore consisted of:

- **Desktop work** - CfGS carried out a general sense-check of the Council's constitution and rules of procedure insofar as they relate to scrutiny, and of recent work plans and scrutiny scopes and review reports. This provided an evidence base for the rest of the work;
- **Scrutiny Conversations** - The review took evidence from across the council including frontline Members and Members of Overview and Scrutiny. It also included the Council Leader, leading Members in Scrutiny (Chair, Vice Chairs) and Opposition Group Leaders. From an officer perspective the review conversations included; the Chief Executive, Monitoring Officer, Finance (s151) Officer, senior officers who attend scrutiny and Scrutiny Support Officers. The option existed to interview those who are subject to scrutiny – service officers – and partner organisations or people who have given evidence to scrutiny;
- **Observation** - This is a common theme of the evaluation task and was programmed in as practical timescales allowed. Live and recordings of committee meetings were used as attendance was not a viable option.

Review Findings Summary

The review found that scrutiny Members were engaged and committed to delivering effective scrutiny, and passionate about improving the lives of residents in the city. Overall, there was a recognition that the scrutiny function needed to significantly improve to add value to decision-making by holding to account and providing oversight in Nottingham City.

The review identified a number of areas of concern in relation to the focus and purpose of scrutiny as well as culture, relationships, trust, communication and use of information. There were also weaknesses in the way scrutiny selects and prioritises its work, and in the skills of Members which are in need of updating. Scrutiny is currently not performing effectively or delivering what the Council, or its residents need, particularly at this time when urgent improvement is necessary.

To deliver the required pace of change, we have made ten recommendations for improvement, we are also recommending that scrutiny operates on a 'recovery footing' for twelve months to deliver these outcomes:

1. To repurpose and prioritise scrutiny so that it concentrates its focus on the delivery of the Council's recovery plan.
2. To encourage greater trust and challenge between Scrutiny and the Executive.
3. To upskill and develop Members to give them the capacity and capability to take on this challenge.

Review key findings

1. Members of Scrutiny committees are committed to their city and show a good understanding of place and residents' needs. Many Members are keen to engage with scrutiny and to build greater understanding of their role and purpose. There were some examples of effective scrutiny practice, particularly in the health committee and Members who are passionate about ensuring that vulnerable people receive the care and support they need, and that the Council's fulfils its Council plan commitments. These values and ambitions are often apparent in scrutiny.
2. Scrutiny is however not seen as operating as a strategic function forming a valued part of governance activities and making an impact. The Max Caller Rapid Review report specifically called for '*a simplified decision-making process as part of the recovery plan for the duration of the recovery period to support implementation of the recovery plan and ensure it is delivered at pace*'. Scrutiny needs to be firmly integrated into this structure and capable of supporting effective and efficient decision-making.
3. Scrutiny itself is essentially disconnected from the extraordinary challenge that the Council now faces and has largely been absent in its duty to challenge the activities, decisions and events which have led it to the point of crisis. Scrutiny appears to be operating in a business-as-usual way, primarily focused on service operational issues and an external focus through health scrutiny, detached from the corporate challenges which the Leader and Improvement and Assurance Board are addressing.
4. The council's constitution sets the first purpose of Overview and Scrutiny (O&S) to:

Hold local decision-makers, including the Council's Executive and the Boards of the Council's group of companies, to account for their decisions, actions, performance and management of risk.

Our review found that overall, this was not the focus of O&S. Scrutiny of the Executive and Council companies was superficial and inadequate, this is partially due to scrutiny having no clearly understood role and the lack of a suitable information to base its scrutiny upon. We also note that some of the councillor-board roles and positions were potentially in conflict or might contribute to the weakened input of scrutiny oversight and challenge. We recognise that commercial confidentiality can often become the reason for the

exclusion of scrutiny and if such reasons are allowed to persist it can affect how businesses are held to account or allowed to fail without questions being asked.

5. In exploring the reasons for this situation, the impact of a legacy culture of dominant party/group loyalty must be acknowledged. Although such loyalties are a familiar aspect of politics and democracy, the adherence to this code overtime has resulted in any public challenge being seen as 'disloyalty'. With the majority of decision-making review and challenge happening in group meetings, scrutiny's formal role has been eroded and resulted in them keeping their focus within 'safe territory' and avoiding public challenge of the Executive. This has meant scrutiny fails to align with the strategic goals and challenges of the council, especially in those crucial areas which can lead to failure. and has negatively impacted on transparency and public democratic accountability. The Council Leader and Deputy Leader are aware of this and said they want to be more open to challenge and public scrutiny.
6. Scrutiny's focus and practice, particularly that of the main scrutiny committee, is significantly different from its terms of reference within the Council's constitution. In our opinion it is not performing to good practice guidelines. However, this is not the fault of scrutiny itself, or the very capable officers who support it. Scrutiny is a whole-Council responsibility and to improve it will need to be elevated and supported to allow it to perform to its best ability. The scrutiny work programme is a mix of repetitive reporting and Member issue topics, with limited reference or alignment to Executive decision-making and the corporate plan and improvement objectives. Scrutiny meetings mainly focus on the scrutiny of officers and officer reports, and lack strategic oversight or enabling democratic accountability of Executive decisions. Where Executive Members are involved in scrutiny meetings this is usually a showcasing event rather than an exploration of current and live policy, or decisions where scrutiny can play a valuable role in shaping and improving.
7. Finance and budgets receive only superficial scrutiny and there is little in-depth analytical challenge of the budget-making process or the Council's financial performance. Oversight of the budget and corporate services are described as being the responsibility of the Audit Committee, leaving the main scrutiny committee to focus primarily on 'place related' service delivery such as highways services. This leaves corporate decision-making subject only to an audit rather than scrutiny review. Audit itself is viewed positively by the Council but is managing a large work programme which would benefit from rebalancing.
8. Across all committees there was limited interest and involvement in budget performance or achieving outcomes with reduced resources. Perhaps more worryingly, committees do not seem sufficiently sighted on the implications that the corporate financial challenge may have upon the future design and delivery of services. Scrutiny is not asking the key questions about the potential impact that the recovery plan will have, or how service transformation will meet the future needs of the Council and residents. Overall, there is a lack of clear direction for scrutiny. We also noted that the Chair of O&S sits on the Council's Audit Committee and the Audit Chair sits on scrutiny. We recognise that this may be designed to support stronger liaison, but we would suggest that the two roles (Scrutiny and Audit) are kept separate, particularly at this time, and co-ordination takes place outside of committees. This approach is supported by CIPFA.

9. Scrutiny Chairs do a great job in advocacy and raising awareness of issues and there are some examples of effective practice, but overall there is insufficient strategic level challenge, where the questions and lines of enquiry are around policy, key decisions, major change, risk etc. Chairs do not necessarily view their role as the crucial leaders of robust, constructive challenge - acting as a vital check and balance, shaper and improver. Instead, Chairs lead their committee to focus on issues, which may be understandably important to Members, but not essential to the current urgent mission of recovery and creating a sustainable platform.
10. Members and Committee Chairs can often lack sufficient core knowledge about the specific areas they are asked to scrutinise, which can lead to the level of questioning and debate being elementary. Committees rarely request for additional briefing or expert involvement to assist them in becoming more capable to develop questioning strategies that will deliver high-impact and value-adding scrutiny. Member development is not meeting the existing gaps in the capacity of Members to perform at a strategic level. Many Members are unable to clearly articulate their role, purpose or more importantly, their impact.
11. There are some positive signs and examples of useful work by Scrutiny where it has selected key issues to scrutinise and to explore, but these often fall short of what is required. There is a need to select the right information and evidence, to prepare and build sufficient core knowledge and to develop appropriate key lines of enquiry. Drawing these elements together into a strong questioning strategy will provide the level of scrutiny input which is now necessary for the Council.
12. The legacy operating culture has also inevitably affected the Officer-Scrutiny relationship. We found that senior officers retain a cautious approach to sharing information, especially if there are negative implications. There are also examples of where the scrutiny officers could be more assertive and directive in their support to the Chair and Committee Members. Whilst it is noted that officers now have a more open political environment which is starting to encourage challenge and constructive criticism - this new approach needs to take on a faster pace.
13. Scrutiny committees are well supported by a dedicated team, who are very experienced in the purpose and role of scrutiny and the Council has a history of good scrutiny practice. The team has however been reduced over recent years from a dedicated team with a head of scrutiny and three officers, to the equivalent of 0.8 FTE, with some short-term interim support which ends in July. We believe this has negatively impacted on the capacity and ability of the team to support effective scrutiny and could continue to hold back the pace of improvement.

A comparison based on data from CfGS' recent annual scrutiny surveys (below) demonstrates how other similar sized local authorities tend to have a higher level of scrutiny resourcing, and an average of 2.53 FTE. It is also worth noting however that not all authorities have dedicated scrutiny resource, many have democratic services staff working across the executive, scrutiny and other committees. Others also draw on policy or directorate-based resources.

CfGS research demonstrates that the presence of dedicated scrutiny support in councils tends to make scrutiny more effective. Dedicated officer resource provides the best opportunity for robust, high-quality support to members, and greater capacity for scrutiny to deliver change. We have also found that in councils with limited dedicated officer resourcing there tends to be a heavier reliance on, and increased workload for, democratic services officers and senior officers from other service departments.

As Nottingham enters a period of intense activity to raise scrutiny standards, sufficient dedicated officer support will be crucial to supporting the transition work and embedding new practices.

Name	Population	Type	FTE scrutiny resource
Croydon	386,710	London borough	2
Leicester	354,224	Unitary authority	3
Wakefield	348,312	Metropolitan borough	2
East Riding of Yorkshire	341,173	Unitary authority	3.5
Enfield	333,794	London borough	2.5
Nottingham	332,900	Unitary authority	0.8
Sandwell	328,450	Metropolitan borough	3
Northumberland	322,434	Unitary authority	2
Southwark	318,830	London borough	3
Lewisham	305,842	London borough	3.5
			2.53
			Average

14. In our view, scrutiny at Nottingham City Council is underachieving and is lacking any potency as an essential check and balance. The vital role of holding the Executive to account, testing the assessment of risk, challenging under-performance, shaping and improving policy and decisions – as well as the crucial task of supporting the recovery and future sustainability of the Council is some way off.

Recommendations for improvement

The majority of the recommendations can be delivered over the next twelve months if the organisational commitment and resource to deliver at pace is agreed, although the overall recovery is likely to take two civic calendars. The table at Appendix A provides a summary with indicative timescales.

Following feedback from the Members and the Improvement Board, a full action plan should be developed. The recommendations for improvement are:

1. Repurpose Scrutiny

To be effective, Scrutiny needs to be put on a recovery footing to fully align and integrate into the corporate plans for recovery. This should last for twelve months, then subject to further review. We believe this recovery can be achieved within the existing scrutiny structure of three committees. It will however require a refresh of scrutiny's purpose and role. This should entail a twelve month focus on financial, and commercial challenges confronting the Council, service delivery within a tighter financial envelope and the risks involved achieving this at pace. It will also require a realignment between Audit and Scrutiny.

2. Openness to Scrutiny

The current fault lines within Scrutiny include culture and behaviour, governance and structure, capacity and capability. These all need to be addressed as a whole Council matter. Change needs to impact further on culture and behaviours. Officers and Members need to be completely confident that sharing information in an open and transparent way, or challenge and constructive criticism is accepted and without reproach. This may be helped by a new protocol that sets out expectations and norms, including access to information.

3. Prioritisation

Scrutiny work programmes need to be refocused almost exclusively on topics that address and support the Council's recovery plan. For the foreseeable future we would recommend that the Scrutiny work programme focuses on finance, the improvement plan and service transformation. Additional items should only be added where the Members are confident of scrutiny making an impact through their recommendations. Whilst maintaining Scrutiny's independence, work programmes should not entirely reflect Member preference, but be designed in consultation with the wider Council. For transparency and to provide further oversight, we recommend that the work programme is shared with the I&A Board, during the period that the Board is in place.

4. Meeting Agendas

Scrutiny committee agendas (across all committees) should be limited to two substantive items with recovery and service transformation as the focus – informed by a clear understanding of the Council's current financial situation and ongoing plans. This requires a change of emphasis and 'parking' many of the current issues. This is particularly important for areas of high spend and high risk, such as health and care, children and oversight of external commercial interests. To accommodate this, health scrutiny needs to gain a greater focus on social care and a stricter prioritisation of health-related scrutiny topics.

5. Parity of Esteem

We suggest that Scrutiny needs to be elevated in its role and should be led by Scrutiny Chairs having greater authority within the council. This could partially be achieved through a rebalancing of SRAs between Executive Members and Scrutiny Chairs to signal a change in recognised parity. This would give a clear indication that Scrutiny is an equal partner in the governance process. It would diminish the often-held view that scrutiny is inferior to Executive positions.

6. Democratic Accountability

Committee meetings should comprise mainly of holding Executive Members, or where appropriate, the Leader to account, supported by officers. The emphasis is therefore on a strategic holding to account for progress and executive decisions that are driving essential change and recovery. Scrutiny's motive needs to be focused on helping to drive and improve, or to test the management of risk and quality of intended outcomes. Care will need to be taken that this political accountability does not become a space for generalised questioning – preparation and focus is essential.

7. Chair and Member skills

Scrutiny Members needs to be upskilled and have greater confidence to challenge, explore and intercede. We recommend that a job description is prepared for the Chair, Vice Chair and Committee Member roles and that Chairs receive specialised 1-2-1 coaching and mentoring to build skills, experience, confidence and capacity in leading Scrutiny. For all Committee Members, there should be mandatory development and training. The aim should be for Scrutiny to be a credible, sought after position, particularly from Members with the necessary skills and ambition. The significant improvements within the Audit Committee, led by the new Chair, demonstrates the impact that this leadership role can have.

8. Executive and Officer Skills

Executive Members would also benefit from additional training and support regarding their role in working with Scrutiny, opening themselves to scrutiny and getting the best out of the scrutiny and accountability experience. Reinforcing the whole council approach to scrutiny, training and briefings should also be considered for officers.

9. Information and expertise

Scrutiny needs to build greater expertise and insight, especially on the more technical aspects of finance, commercial activities and transformation. We suggest Scrutiny makes greater use of independent experts and more officer 'masterclass' style events to build Member knowledge, expertise and confidence. It might also extend its capacity through the managed use of a wider range of scrutiny methods, such as task groups and single-issue inquiry style sessions. To ensure satisfactory access to information, there may need to be a refresh of scrutiny's powers.

10. Scrutiny Support Capacity

Scrutiny relies on effective support from officers, particularly as investment is made to repurpose and raise standards. Currently there are inherent risks in the size of the officer core and the Council should consider increasing officer capacity and considering if training and development is needed.

Thank you and acknowledgements

We would like to thank the Chairs and Vice Chairs and Members of the council's Scrutiny Committees, the Leader, Executive Members, Chief Executive and officers who took part in interviews for their time, insights and open views. We would also like to thank Nancy Barnard, Jane Garrard, Laura Wilson, Kim Pocock and Beth Brown for their help and support in organising this review.

Review team

Jacqui McKinlay – CfGS Chief Executive

Kate Grigg – CfGS Senior Research Officer

Ian Parry – CfGS Head of Consultancy (Review lead)

Summary of recommendations – 12 month suggested timeline

Recommendation	Rationale	Timescale
<p>1. Repurpose Scrutiny</p>	<p>To be effective, Scrutiny needs to be put on a recovery footing to fully align and integrate into the corporate plans for recovery. This should last for twelve months, then subject to further review. We believe this recovery can be achieved within the existing scrutiny structure of three committees. It will however require a refresh of scrutiny's purpose and role. This should entail a twelve month focus on financial, and commercial challenges confronting the Council, service delivery within a tighter financial envelope and the risks involved achieving this at pace. It will also require a realignment between Audit and Scrutiny.</p>	<p>Immediate – agree and implement within a month and apply for 12 months, then review</p>
<p>2. Openness to Scrutiny</p>	<p>The current fault lines within Scrutiny include culture and behaviour, governance and structure, capacity and capability. These all need to be addressed as a whole Council matter. Change needs to impact further on culture and behaviours. Officers and Members need to be completely confident that sharing information in an open and transparent way, or challenge and constructive criticism is accepted and without reproach. This may be helped by a new protocol that sets out expectations and norms, including access to information.</p>	<p>Agree protocol within three months and ongoing application</p>
<p>3. Prioritisation</p>	<p>Scrutiny work programmes need to be refocused almost exclusively on topics that address and support the Council's recovery plan. For the foreseeable future we would recommend that the Scrutiny work programme focuses on finance, the improvement plan and service transformation. Additional items should only be added where the Members are confident of scrutiny making an impact through their recommendations. Whilst maintaining Scrutiny's independence, work programmes should not entirely reflect Member preference, but be designed in consultation with the Council. For transparency and to provide further oversight, we recommend that the work programme is shared with the I&A Board, during the period that the Board is in place.</p>	<p>Immediate – review and implement new work programme within a month</p>

<p>4. Meeting Agendas</p>	<p>Scrutiny committee agendas (across all committees) should be limited to two substantive items with recovery and service transformation as the focus – informed by a clear understanding of the Council’s current financial situation and ongoing plans. This requires a change of emphasis and ‘parking’ many of the current issues. This is particularly important for areas of high spend and high risk, such as health and care, children and oversight of external commercial interests. To accommodate this, health scrutiny needs to gain a greater focus on social care and a stricter prioritisation of health-related scrutiny topics.</p>	<p>Apply to first cycle of meetings</p>
<p>5. Parity of Esteem</p>	<p>We suggest that Scrutiny needs to be elevated in its role and should be led by Scrutiny Chairs having greater authority within the council. This could partially be achieved through a rebalancing of SRAs between Executive Members and Scrutiny Chairs to signal a change in recognised parity. This would give a clear indication that Scrutiny is an equal partner in the governance process. It would diminish the often-held view that scrutiny is inferior to Executive positions.</p>	<p>Review within six months</p>
<p>6. Democratic Accountability</p>	<p>Committee meetings should comprise mainly of holding Executive Members, or where appropriate, the Leader to account, supported by officers. The emphasis is therefore on a strategic holding to account for progress and executive decisions that are driving essential change and recovery. Scrutiny’s motive needs to be focused on helping to drive and improve, or to test the management of risk and quality of intended outcomes. Care will need to be taken that this political accountability does not become a space for generalised questioning – preparation and focus is essential.</p>	<p>Immediately</p>
<p>7. Chair and Member skills</p>	<p>Scrutiny Members needs to be upskilled and have greater confidence to challenge, explore and intercede. We recommend that a job description is prepared for the Chair, Vice Chair and Committee Member roles and that Chairs receive specialised 1-2-1 coaching and mentoring to build skills, experience, confidence and capacity in leading Scrutiny. For all Committee Members, there should be mandatory development and training. The aim should be for scrutiny to be a credible, sought after position, particularly from Members with the necessary</p>	<p>Within three months, and ongoing support for Chairs</p>

	skills and ambition. The significant improvements within the Audit Committee, led by the new Chair, demonstrates the impact that this leadership role can have.	
8. Executive and Officer Skills	Executive Members would also benefit from additional training and support regarding their role in working with Scrutiny, opening themselves to scrutiny and getting the best out of the scrutiny and accountability experience. Reinforcing the whole council approach to scrutiny, training and briefings should also be considered for officers.	Within three months
9. Information and expertise	Scrutiny needs to build greater expertise and insight, especially on the more technical aspects of finance, commercial activities and transformation. We suggest Scrutiny makes greater use of independent experts and more officer 'masterclass' style events to build Member knowledge, expertise and confidence. It might also extend its capacity through the managed use of a wider range of scrutiny methods, such as task groups and single-issue inquiry style sessions. To ensure satisfactory access to information, there may need to be a refresh of scrutiny's powers.	Ongoing
10. Scrutiny Support Capacity	Scrutiny relies on effective support from officers, particularly as investment is made to repurpose and raise standards. Currently there are inherent risks in the size of the officer core and the Council should consider increasing officer capacity and considering if training and development is needed.	Within three months