

# **Scrutiny Guide**

London Borough of Sutton

**A comprehensive guide to scrutiny in Sutton for  
councillors, officers, representatives from the community  
and the Council's partners**

**May 2018**

## **Contents**

- **Introduction**
  - Background
  - Sutton's committee structure
  
- **About scrutiny**
  - Responsibilities of the Scrutiny Committee
  - Powers of the Scrutiny Committee
  - Importance of effective scrutiny
  
- **Specific functions of the Scrutiny Committee**
  - Health
    - The South West London and Surrey Joint Health Overview and Scrutiny Committee
    - Determining whether a proposed change in health services is "substantial"
  - Crime and disorder
  - Flood risk management
  
- **The scrutiny process**
  - Importance of effective scrutiny
  - Scrutiny work plan and different types of scrutiny
  - Workstyle
  - Task and finish groups
  - Training
  - Membership and interests
  - Independent advice
  - Officer responsibilities
  - Key partners
  
- **Advice and resources**

## **INTRODUCTION**

### **Background**

This document has been written to provide members, officers, representatives from the community and the Council's partners with some guidance on the scrutiny arrangements which Sutton operates. This guide has been updated following the Local Elections May 2018.

### **Sutton's committee structure**

The Council comprises four main standing committees, which are decision-making bodies:-

1. Strategy and Resources Committee (15 members)
2. Environment and Neighbourhood Committee (10 members)
3. Housing, Economy and Business Committee (10 Members)
4. People Committee ( 11 Members)

The Council also appoints a number of regulatory committees and other bodies - for example, the six local committees which have specified decision making powers.

Sutton Council's four main committees are politically proportionate, and it is expected that they will go about their core committee work in a way that provides constructive challenge, ensuring that there are appropriate checks and balances in place. In addition to this, the Scrutiny Committee (which is a single, politically proportionate committee) is responsible for the exercise of the Council's statutory scrutiny functions. The full constitution, which sets out the role and responsibilities of Sutton's Scrutiny Committee, is accessible at [https://www.sutton.gov.uk/downloads/download/405/council\\_constitution](https://www.sutton.gov.uk/downloads/download/405/council_constitution).

## **ABOUT SCRUTINY**

### **Responsibilities of the Scrutiny Committee**

The primary responsibility of Sutton's Scrutiny Committee is to undertake the Council's statutory responsibilities in respect of

- Health
- Crime and Disorder
- Flood Risk Management.

More detail on each of these statutory functions is set out on pages 5-8.

However, the Scrutiny Committee is not limited to scrutinising these three areas and may also consider other topics. The following are important ways in which items may come to the attention of the Scrutiny Committee:

- Referral from a standing or local committee: The Scrutiny Committee is empowered to carry out reviews or investigations on behalf of standing and local committees. To agree the priorities for review before the beginning of each committee cycle, the Scrutiny Committee should hold an annual meeting with the chairs of the standing and local committees (as well as other key partners). Depending on resources available within the Scrutiny Committee, they may also consider requests referred by these committees during the year.
- Referral from a Scrutiny Committee member: Any member of the Scrutiny Committee can ask the Proper Officer (the Statutory Scrutiny Lead Officer) to ensure that a particular item (relevant to the Committee's functions) is included on the agenda for the next available meeting.

At the end of each committee cycle, the Scrutiny Committee is required to produce an annual report about the activities it has undertaken. The report should be presented to Full Council at the earliest opportunity.

### **Powers of the Scrutiny Committee:**

The Scrutiny Committee receives its powers from Section 9JA of the Local Government Act 2000 as amended by Schedule 2 of the Localism Act 2011 and the subsequent Local Authority (Committee System) (England) Regulations 2012.

The Committee carries out the council's statutory scrutiny function in holding specified external partners to account, and can undertake investigations of and make recommendations to those partners. The Committee has particular powers in relation to health matters: the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 enable a local authority to review and scrutinise any matter

relating to the planning, provision and operation of the health service in its area and to be consulted on any substantial reconfiguration proposals of a relevant NHS body or a relevant health service provider. Where the Committee has concerns over the merit of proposals for substantial variations in health services or believes that the process of consultation on any such proposals has been inadequate, it has the power of referral to the Secretary of State.

In terms of Sutton's own constitution, the Scrutiny Committee is also empowered to:

- Directly hold other standing and local committees to account through an agreed programme of Chairs' Question and Answer sessions or such other mechanism as shall be determined by the Scrutiny committee each year.
- Make recommendations to a decision making committee at the conclusion of a Scrutiny exercise, and require that committee to publish a formal response.

### **SPECIFIC FUNCTIONS OF THE SCRUTINY COMMITTEE**

The specific responsibilities of Sutton's Scrutiny Committee are as follows:

#### **Health**

- ❖ To investigate major health issues identified by, or of concern to, the local population.
- ❖ To consult, be consulted on and respond to substantial changes to local health service provision, including assessing the impact on the local community and health service users.
- ❖ To scrutinise the impact of interventions on the health of local inhabitants, particularly socially excluded and other minority groups, with the aim of reducing health inequalities.
- ❖ To maintain an overview of health service delivery against national and local targets, particularly those that improve the public's health.
- ❖ To receive and consider referrals from local Healthwatch on health matters.

In order to do this, it is important that the Scrutiny Committee maintains an overview of relevant local issues as they are discussed at other Council committees, primarily:

- The Strategy and Resources Committee, which considers and decides upon matters relating to public health.
- The Health and Wellbeing Board, which brings together the NHS, public health, adult social care and children's services and other partners to plan how best to meet the needs of their local population and tackle local inequalities in health.

The main responsibilities of Sutton's Health and Wellbeing Board include:

1. Ensuring that Sutton has a Joint Strategic Needs Assessment (JSNA), and that it remains up to date. The JSNA provides local policy-makers and commissioners with

a profile of the health and wellbeing needs of the local population, and helps to improve commissioning and reduce health inequalities by identifying current and future health trends within a local population.

2. Leading on the development of a Sutton Joint Health and Wellbeing Strategy (JHWS), which uses the information within the JSNA to tackle local health and wellbeing priorities.
3. To consider options and opportunities for the joint commissioning of health and social care services for adults and children and families in the London Borough of Sutton to meet needs identified within the JSNA and to consider any relevant strategies and plans regarding the commissioning of health and social care services for adults and children.

### The South West London and Surrey County Council Joint Health Overview and Scrutiny Committee

The Health and Social Care Act 2011 (and directions issued by the Secretary of State for Health) allows and in some instances requires Joint Health Scrutiny Committees to be established to scrutinise proposals by NHS Trusts and commissioners that affect more than one local authority area.

In accordance with this legislation, a South West London and Surrey County Council Joint Health Overview and Scrutiny Committee (SWL&SCC JHOSC) was established on 26 June 2018 for a 4 year period. This is a joint standing committee with representation from six London Boroughs and Surrey County Council ( Croydon, Kingston, Merton, Richmond, Sutton, Wandsworth and Surrey County Council). Its purpose is to respond to changes in the provision of health and health consultations which affect more than one constituent area.

The JHOSC can also establish subcommittees to look at specific issues. A sub committee was also established on 26 June to look at the NHS proposals under their 'Improving Healthcare together 2020-2030' programme. This currently comprises members from Sutton, Merton and Surrey.

At present ,Sutton's representatives to the standing JHOSC are Councillors Colin Stears, Councillor Edward Joyce and substitute Councillor Marlene Heron, membership of the sub committee will be formally confirmed at its first meeting.

Information on committee meetings, agendas etc is available via

<https://moderngov.sutton.gov.uk/ieListMeetings.aspx?CId=626&Year=0>

### Determining whether a proposed change in health services is "substantial"

As mentioned above, the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 require providers to engage in formal consultation when "substantial" changes to local health service provision are proposed. However, neither the regulations nor the corresponding guidance define the term "substantial" - instead, local

authority scrutiny bodies are encouraged to agree with their NHS counterparts protocols for determining whether a change is substantial. Such protocols generally take account of: changes in accessibility of services; impact of the proposal on the wider community; number and nature of patients affected; and level of changes to methods of service delivery (these criteria are drawn from the 2003 Health Scrutiny Guidance, which remains the most current authority on this specific area of scrutiny).

A draft protocol was prepared for discussion with NHS colleagues by the previous SW London JHSC and this will need to be reconsidered over the near future by the new SW London & Surrey County Council JHSC.

### **Crime and Disorder**

Under the Police and Justice Act 2006 local authority scrutiny committees are required to undertake scrutiny of the local Community Safety Partnership. In Sutton, the statutory Community Safety Partnership is called the Safer Sutton Partnership Board (SSPB).

The five responsible authorities on the SSPB (Police, Local Authority, CCG, Fire and Rescue Authority and Probation Service) must work together with their chosen local partners to:

- reduce reoffending;
- tackle crime and disorder;
- tackle anti-social behaviour;
- tackle alcohol and substance misuse; and
- tackle any other behaviour which has a negative effect on the local environment.

The Mayor's Office for Policing and Crime (MOPAC) and the responsible authorities on the SSPB must co-operate and take account of each other's priorities.

The SSPB is responsible for setting the key priorities for tackling crime and disorder across Sutton and does this through its annual strategic assessment.

### **Flood Risk Management**

As the Lead Local Flood Authority, the Council is responsible for coordinating the management of flood risk from surface water, groundwater and ordinary watercourses. The Scrutiny Committee has a statutory responsibility to scrutinise the work of the Council's Highways and Transport service in this area.

## **THE SCRUTINY PROCESS**

### **Importance of effective scrutiny**

Scrutiny has long been an important aspect of the democratic process in local authorities. However, events in the health sector have drawn more attention to the vital role that scrutiny can play in safeguarding local populations, and to the serious incidents that can occur when scrutiny is absent or inadequate.

There are 2 recent significant examples of the importance of effective scrutiny and what can occur if scrutiny is absent. The Grenfell Tower fire tragedy on 14th June 2017, took the lives of 71 people. Safety and fire risks were highlighted by residents years before the fire which were ignored. "The most significant factor in determining whether or not scrutiny committees are effective is the organisational culture of a particular council. Where there is an environment that welcomes constructive challenge and democratic accountability, it can minimise the risk of damaging the council's reputation, and missing opportunities to use scrutiny to improve service outcomes. In extreme cases, ineffective scrutiny can contribute to severe failures".(CFPS Website, June 2018)

The Health and Social Care sector can benefit from scrutiny. In February 2013, the Francis Inquiry into the failings at Stafford Hospital concluded that, while the Mid-Staffordshire NHS Foundation Trust was primarily responsible for the "appalling care" (which included numerous serious instances of neglect of vulnerable patients), other agencies - including local authority scrutiny - had played a significant role. Specifically, the Francis Inquiry found that Staffordshire County Council Scrutiny Committee "appeared to have been wholly ineffective as a scrutineer of the Trust" and that, overall, local authority scrutiny failed to "detect or appreciate the significance of any signs suggesting serious deficiencies at the Trust." The report concluded that scrutiny committees had failed to take account of the views of the public and had played a passive role in their relationships with the Trust, relying uncritically on the information presented by the Trust and failing to undertake meaningful challenge.

It is important that all scrutiny committees learn from the findings of the Francis Inquiry, in particular by committing to:

- Involve and engage the people who use services, their families, and the public.
- Make effective use of information (in the press and from other monitoring bodies, as well as from the bodies being scrutinised).
- Collaborate and complement the work of others, by understanding the roles of key partners and building supportive relationships.
- Take up relevant training and knowledge building opportunities.

In order to facilitate effective scrutiny, it is important that the Scrutiny Committee builds meaningful relationships with the bodies being scrutinised; as an example, it may be prudent for members of the Scrutiny Committee to 'buddy up' with different healthcare providers and stakeholders, thereby taking a degree of individual responsibility for developing these

relationships, and maintaining oversight of the activities of the providers as appropriate. Information and intelligence from this can be shared with the Committee as necessary.

### **Scrutiny workplan and different types of scrutiny**

At the beginning of each municipal year, the Scrutiny Committee will set out a workplan identifying the work that it will undertake over the year. This will be formed of a mixture of

- Formal investigations - where the Committee will undertake an investigation into a topic and may prepare a report and written recommendations. The extent of the work will depend upon the topic, timing and resources but in some instances the relevant committee or partner will be required to provide a formal written response.
- Progress reports - where the committee will receive an update
- Pre-decision scrutiny – where the committee will undertake investigatory or feasibility work in advance of a main committee’s decision
- Responses to consultations or other such matters.

These categories are essentially illustrative of the flexible way in which scrutiny can work.

The workplan will provide a clear plan and direction of travel for the work the Committee anticipates it will undertake but will also retain sufficient flexibility so that new or urgent work can be accommodated.

The process for developing the annual workplan will start at the end of the existing cycle of meetings and be completed so that it is ready for the start of the new cycle.

The annual workplan will be a standing item on the committee’s agenda providing a clear ‘spine’ of the committee’s anticipated work for the coming municipal year. It is not an absolutely fixed plan and can be varied to accommodate change.

It will include, amongst other things :-

- The result of email or actual round table discussions with decision-making committee Chairs to gather their proposals for possible scrutiny work topics;
- Considering any ‘carry-forward’ items from the previous year;
- Regular opportunities to maintain oversight of key partners e.g health Trusts, NHS Sutton CCG, SSPS;
- Monitoring and / or evaluation of previous Scrutiny committee work and recommendations.

The annual workplan, as well as being publically available via the committee agenda, will also be shared with key colleagues and organisations in order that they can have reasonable early notice of issues and topics which the scrutiny committee plans to be looking into.

In order to help decide which topic areas should be considered for a formal investigation the Chair can use the ‘One Page Strategy’ template to test proposed ideas against a small number of criteria, including aim of the review; current performance; time required;

anticipated outcomes. Lead scrutiny officers and relevant service / expert colleagues will provide advice to help inform this process.

The cycle of Committee meetings and agenda planning meetings will provide an opportunity for the original 'start of the year' workplan to be modified over the course of the year as a result of the introduction of such new business. The individual Agenda Planning meetings (which take place approximately 6-8 weeks before the Committee meetings) will be an opportunity to take final decisions on the items, order of business, indicative timing for items and relevant witnesses for each agenda.

### **Workstyle**

With regard to the Council's scrutiny function, the constitution has been designed to give a broad, permissive approach to the way the Scrutiny Committee may operate. The constitution explicitly states that the Committee "is not constrained by traditional working practices. There is wide scope for it to adopt innovative ways of doing things and its ability to do so is fundamental to its success. It may operate more like a Parliamentary select committee, taking evidence through oral witness hearings or in writing."

The Committee can ask for information from external partners and /or Sutton colleagues which may be required in order to address a particular topic under consideration. This may be needed for the meeting or may need to be supplied outside of the formal Committee meeting. The Committee will need to be mindful of the resource demands this may impose and be clear about the relevance, proportionality and timeliness of such requests. The Scrutiny Committee can require elected members and officers to attend their meetings and answer questions (either in relation to previous decision, or forthcoming issues); they can also request individuals from outside organisations to attend meetings and with regard to health scrutiny issues members and employees of a relevant NHS body or relevant health service provider have a duty to attend.

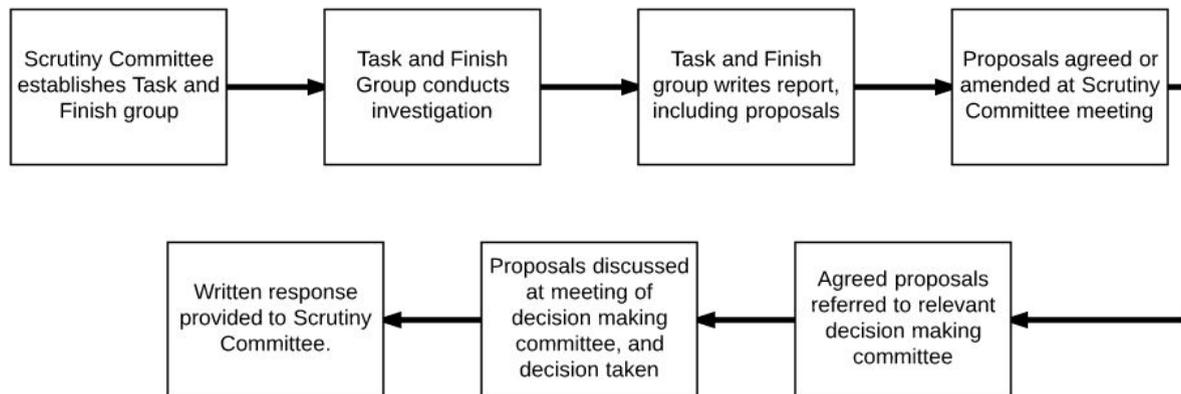
In terms of formal constraints on the Scrutiny Committee, the Committee will need to conform to statutory requirements for committee meetings (for example, the need to publish agendas and associated papers in advance of the meeting), and it must meet formally on a regular basis.

### **Task and Finish groups**

The Scrutiny Committee may decide to set up time-limited Task and Finish Groups to consider an issue and report back to the Committee. These arrangements can include informal, cross-party Task and Finish groups, which may include advisory (non-voting, non-Councillor) members, as well as members of other committees. Following the recent Ministry of Housing,

Communities & Local Government Select Committee (MHC & LG) report the Government accepts the need to limit the executive's involvement in the scrutiny meetings. The Government will be publishing fully updated guidance on Local Authority scrutiny in late 2018 which will make clear that members of the executive should not participate in scrutiny other than as witnesses.

The Task and Finish group will report back to the Scrutiny Committee with conclusions and proposals and the Scrutiny Committee will then agree whether to refer the proposals to the relevant committee for decision, see flow-chart below:



## **Training**

There will also be a need for the Committee to be briefed on certain topics or provided with training in order to ensure Members are in the best position to engage with particular issues. In our experience this occurs best just before a Committee meeting or through a separate learning and development session that may involve external site visits.

Training opportunities that Sutton Scrutiny Committee members will be encouraged to pursue may include:

- General scrutiny skills training (eg. delivered by Centre for Public Scrutiny)
- Charing scrutiny training (Chair and Vice Chair only)
- Training in specific areas of scrutiny - particularly regarding the complex health and community safety landscapes.
- Attendance at relevant public meetings (eg. Commons Health Select Committee) to observe and learn from scrutiny elsewhere
- Attendance and participation at London Scrutiny Network meetings and training events.

As noted earlier, the need for appropriate and adequate training of Scrutiny members was highlighted by the Francis Report. In response to this, the Government published the [Department of Health guidance on Local Authority Health Scrutiny](#), with which all Scrutiny members should ensure they are familiar.

## **Membership and interests**

The Scrutiny Committee membership is 10 members and is politically proportionate. In the current cycle this means there will be six members from the majority party, three from the opposition and one independent. In addition to the 10 councillor members, there may also be advisory members, including representative(s) from Healthwatch. Such members may participate at meetings but may not vote.

Named substitute members will also be appointed in order to be able to attend meetings if required.

In terms of potential conflicts of interest of Scrutiny members, Sutton’s constitution states the following:

- A councillor may speak at a Scrutiny Committee meeting where a specific decision or proposal of a Local Committee of which s/he is a member is being scrutinised, but must then leave the meeting for the remainder of the debate on that item.
- Where a Scrutiny Committee is reviewing policy generally, members should declare any interest before the relevant agenda item is reached.
- Scrutiny Committee members may not scrutinise decisions they have made as a member of a Local or another Committee. In this case, they should declare an interest and leave the meeting room. If a member feels that there is a particular reason why he or she should participate, a dispensation must be sought from the Standards Committee or Monitoring Officer.

It will be important for councillors to use the forward plans to apprise themselves of any such possibilities and alert the Chair of Scrutiny Committee and Committee Manager as soon as possible.

**Independent advice**

The Chair retains the right to ask independent participants to Scrutiny Committee meetings on an ad hoc basis.

**Officer responsibilities**

Unlike the six Standing Committees - which have access to a single lead officer - the Scrutiny Committee, in recognition of the breadth of issues for which it is responsible, may receive advice and support from a number of officers and other stakeholders. The list below is not exhaustive.

<b>Area</b>	<b>Lead Officers</b>	<b>Committee support</b>
Health	Dr Imran Choudhury, Director of Public Health  Jan Underhill, Executive Head of Wellbeing	Lead: David Olney, Commissioning and Business Insight Manager  Support: Davina Brown, Commissioning and Business Insight Officer
Crime and Disorder	Warren Shadbolt, Executive Head of Safer & Stronger Communities  BCU Commander Jeff Boothe.	Committee management and administration: Cathy Haywood Committee Services Team Leader (Interim)

Flood risk management	Warren Shadbolt, Executive Head of Safer & Stronger Communities  Olga Gilevska, Highway Contracts & Delivery, Highways & Transport Group	Legal: South London Legal Partnership  Statutory Scrutiny Lead Officer: Tom Alexander, Head of Strategic Business  Monitoring Officer: Jessica Crowe, Executive Head of Customers, Commissioning and Governance
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Lead officers and committee support will work with the Chair and Vice Chair through agenda planning in order to help prepare the business for each meeting and the overall workplan.

**Key partners:**

The Scrutiny Committee will need to establish and develop close working relationships with a number of key partners.

The list of key stakeholders shown below is not meant to be definitive - particularly during the current period of significant change to the national and local Health landscape. However the Scrutiny Committee will need to work with:

- the Health & Wellbeing Board (HWB)
- Healthwatch Sutton (and possibly Healthwatch England)
- the Sutton Clinical Commissioning Group (CCG)
- South West London Health and Care Partnership - the group which includes the six South West London CCGs and NHS England.
- service providers (Epsom & St Helier, SWL & St George's MHT, Royal Marsden)
- and Sutton's communities and neighbourhoods.

## **ADVICE AND RESOURCES**

### **For further advice, please contact:**

For general queries relating to Scrutiny: [scrutiny@sutton.gov.uk](mailto:scrutiny@sutton.gov.uk)

Scrutiny Committee Lead Officer : David Olney, Commissioning and Business Insight Manager (020 8770 5207 / [david.olney@sutton.gov.uk](mailto:david.olney@sutton.gov.uk))

Scrutiny Committee Supporting Officer : Davina Brown, Commissioning and Business Insight Officer (020 8770 4685 / [davina.brown@sutton.gov.uk](mailto:davina.brown@sutton.gov.uk) )

Committee Management: Cathy Hayward, Committee Services Officer (020 8770 4171 / [cathy.hayward@sutton.gov.uk](mailto:cathy.hayward@sutton.gov.uk) )

Sutton Statutory Scrutiny Officer: Tom Alexander, Head of Strategic Business, (020 8770 4522 / [tom.alexander@sutton.gov.uk](mailto:tom.alexander@sutton.gov.uk))

Monitoring Officer: Jessica Crowe, Executive Head of Customers, Commissioning and Governance (020 8770 6519 / [jessica.crowe@sutton.gov.uk](mailto:jessica.crowe@sutton.gov.uk))

### **Further resources:**

The Centre for Public Scrutiny - [www.cfps.org.uk](http://www.cfps.org.uk)

Guidance on Health Scrutiny Regulations 2013 - <http://www.legislation.gov.uk/uksi/2013/218/contents/made>

Department of Health guidance on Local Authority Health Scrutiny - <https://www.gov.uk/government/publications/advice-to-local-authorities-on-scrutinising-health-services>

Strengthening and Smartening Health Scrutiny Arrangements for the London Borough of Sutton (2015) - <https://moderngov.sutton.gov.uk/documents/s36983/Strengthening%20and%20Smartening%20Scrutiny%20Report%20-%20FINAL.pdf>