

Report to Governance Committee

9 May 2022

Development of an Executive-Scrutiny Protocol

Report by Director of Law and Assurance

Electoral division: Not applicable

Summary

The Committee is asked to agree to the development of an Executive-Scrutiny Protocol, in line with the statutory guidance on overview and scrutiny in local authorities. This will complement the new Code of Governance agreed by the Committee at its last meeting in February 2022 and respond to some of the issues raised by the Committee when agreeing the Code, including the need to clearly set out the aims and expectations of scrutiny committees and their relationship with the Executive and to explain the process for ensuring timely scrutiny of major policy issues. It is proposed that there is engagement with all members in the development of this Protocol prior to seeking formal approval by this Committee in the autumn.

Recommendation

The Committee is asked to:

- (1) Agree to the development of an Executive-Scrutiny Protocol and the process for member engagement;
- (2) To identify any particular elements for inclusion in the Protocol; and
- (3) Agree that a draft Protocol be presented for approval by this Committee in September 2022

Proposal

1 Background and context

- 1.1 Statutory [national guidance](#) on scrutiny was issued by the Government in 2019. It includes a recommendation that councils should consider developing an Executive-Scrutiny Protocol. This can help to deal with the practical arrangements between scrutiny committee members and the executive, as well as the cultural dynamics. It can help define the relationship between the Executive and Scrutiny and provide a framework for challenge and debate.
- 1.2 The national scrutiny guidance was reviewed by this Committee in June 2019 and as part of a review of scrutiny carried out later that year. The review of scrutiny formed part of the proposals relating to improvements to the Council's governance arrangements agreed by the Committee and by County Council in

December 2021. At that stage, the development of an Executive-Scrutiny Protocol was not considered to be a priority. However it is now proposed that such a Protocol would form a useful additional tool to enhance the effectiveness and understanding of the Council's scrutiny process and to complement the new Code of Governance agreed by the Committee in February 2022.

2.1 The aims of the Protocol will be to:

- a) Set out and agree good scrutiny practice
- b) Enable an open, trusting relationship between the Executive and Scrutiny
- c) Describe the key roles and responsibilities of Scrutiny and the Executive
- d) Support focused, transparent and timely scrutiny of policy development
- e) Facilitate more effective scrutiny work programme planning and outcomes
- f) Enable Scrutiny to influence Council business in a meaningful way

2 Proposal details

2.2 It is proposed that an Executive-Scrutiny Protocol be developed through engagement with members (as set out in paragraph 4) and in line with the aims set out above.

2.3 In developing the Protocol, consideration should be given to the inclusion of the following content, as suggested in the national guidance:

- How scrutiny develop its work programme (including how senior officers and Cabinet members are kept informed)
- How senior officers and Cabinet keep scrutiny informed of policy development and enable its scrutiny, including safeguards to address sensitivities in timing or the content of plans
- Measures to reinforce the code of conduct relating to member behaviour in meetings
- Defining the responses scrutiny can expect from its recommendations to the executive, to requests to the Executive for information, and to attend meetings
- Describing the role of the statutory scrutiny officer (the Head of Democratic Services) and Monitoring Officer to ensure compliance with the Protocol and the achievement of its aims, with outcomes reported to full Council through the scrutiny Annual Report

2.4 Governance Committee is invited to comment on this proposal and identify any other matters to be included in the drafting of the Protocol.

3 Other options considered (and reasons for not proposing)

3.1 The development of an Executive-Scrutiny Protocol is not a statutory requirement and is not essential to the operation of the scrutiny function. However, the adoption of a Protocol should enhance scrutiny arrangements and provide a mechanism for managing relationships. It will be important for the Protocol to be reviewed on a regular basis to ensure it is used effectively.

4 Consultation, engagement and advice

4.1 Cabinet Members and Scrutiny Chairmen have informally indicated support for

the development of an Executive-Scrutiny Protocol. It is proposed that there should be engagement with members in the development of the Protocol as follows:

- A cross-party member workshop of scrutiny committee members (May 2022, date to be confirmed)
- Input from Performance and Finance Scrutiny Committee (June 2022, as part of its annual scrutiny review)
- A workshop of Cabinet Members and Scrutiny Chairmen and Vice-Chairmen (July 2022, date to be confirmed)
- Draft Protocol to be shared with Group Leaders and all members for input and comment prior to consideration by the Governance Committee

4.2 It is also proposed that examples of such protocols in other councils or similar mechanisms used for describing their approach to ensuring effective scrutiny/executive working are looked at in the preparation of the Protocol.

5 Finance

5.1 There are no revenue or capital budget consequences.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
Ineffective scrutiny	Adoption of an Executive-Scrutiny Protocol with full member engagement will help to ensure robust scrutiny arrangements and clarity of roles of, and relationships between, Scrutiny and the Executive

7 Policy alignment and compliance

7.1 An Executive-Scrutiny Protocol will support the Council's constitutional commitments and ensure key governance arrangements are in line with national guidance.

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Appendices

None

Background papers

None