
Report to Performance and Finance Scrutiny Committee

17 June 2022

Scrutiny Annual Report and Executive-Scrutiny Protocol

Report by the Director of Law and Assurance

Summary

The Committee contributes to the Annual Scrutiny Report and endorses it for publication, the aim being to promote effective scrutiny and identify areas of best practice or areas for development. The Annual Report for 2021/22 is Appendix 1. The Committee is also asked to help complete a new Executive-Scrutiny Protocol. Governance Committee agreed in May 2022 that this would provide a useful additional tool to enhance scrutiny. A cross-party member workshop assisted the development of a draft, attached at Appendix 2. The workshop highlighted wider issues of practice included here for consideration as part of the annual review.

Focus for scrutiny

To consider the Scrutiny Annual Report for 2021/22 (Appendix 1) and ask:

- 1) Does it provide an accurate account of the effectiveness of the Council's scrutiny function during the past year against the aims of:
 - Influencing policy ideas or proposals before they are developed.
 - Spending time on matters critical to service outcomes for residents.
 - Providing meaningful challenge to the performance management of services.
 - Showing the difference scrutiny makes to service outcomes for residents.
- 2) Does it sufficiently identify best practice or lessons learned to be shared between scrutiny committees and areas for improvement or development
- 3) Does it identify measures to help raise the profile of scrutiny and how should the report be presented to the next meeting of the County Council?

To consider the draft Executive-Scrutiny Protocol (Appendix 2) and ask:

- 4) Are there any points or issues that should be amended or added?
- 5) Are the arrangements for member engagement in its development reasonable?
- 6) Are there issues to raise at the meeting of Cabinet and scrutiny chairmen?

The Chairman will summarise the output of the debate.

1. Background and context

- 1.1 The Annual Report for 2021/22 (Appendix 1) provides an overview of scrutiny business, identifies best practice and highlights areas for development for 2022/23.

- 1.2 All scrutiny members contributed to the annual review of scrutiny through the end of year feedback, with each committee holding an informal session for member comments. The all-member session on scrutiny work programme planning held in March 2022 also provided an opportunity to see how well scrutiny is working and identify areas for development.
- 1.3 In May 2022 Governance Committee agreed that an Executive-Scrutiny Protocol should be developed, in line with statutory [national guidance](#) on scrutiny. This will complement the new [Code of Governance](#) agreed in February 2022 and responds to issues raised by Governance 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 input into policy and decision-making. The aims of the Protocol are to:
- Set out good scrutiny practice for achieving real impact
 - Describe the roles and responsibilities of Scrutiny and the Executive
 - Enable open, trusting relations between the Executive and Scrutiny
 - Support focused, transparent and timely scrutiny of council business
 - Facilitate effective scrutiny work planning and objective setting
 - Enable Scrutiny to influence Council business in a meaningful way
- 1.4 A cross-party member workshop in May 2022 began the work on this protocol, which is due to be approved by the Governance Committee in September 2022. The member workshop also identified issues relating to general scrutiny practice, which the Committee is invited to consider as part of its annual review of scrutiny (and as set out in the table at para 2.6).

2 Details: Annual Review of Scrutiny

- 2.1 The Committee is asked to assess Scrutiny activity during 2021/22, with reference to the following indicators of effective scrutiny (agreed by Governance Committee and the County Council in 2019):
- Influence policy ideas or proposals before they are developed
 - Spend time on matters critical to service outcomes for residents
 - Provide meaningful challenge to the performance of services
 - Show the difference scrutiny makes to service outcomes for residents
- 2.2 The Scrutiny Annual Report at Appendix 1 provides an overview of scrutiny activity during 2021/22 and identifies areas that members felt had worked well as well as those needing improvement, as summarised below.
- 2.3 **Worked well:**
- Committees are building good relationships and developing ways of working together
 - The flexibility of being able to meet in person as well as virtually
 - Different ways of working, such as briefings/information sessions to increase understanding and the use of pre-meetings to help prepare for meetings.
 - The range of issues covered in work programme planning and Cabinet Member engagement in this.

- Task and finish groups (TFGs) enabling flexibility and the ability to deep dive into issues.
- More robust performance, budget and risk monitoring.

2.4 Areas for improvement:

- A clear 'Focus for Scrutiny' in reports to help steer questioning in meetings.
- A better balance between proactive and reactive scrutiny, with more and earlier involvement in policy development.
- Ensuring timely scrutiny input into the decision-making process and time for proper consideration of scrutiny recommendations.
- Use of external witnesses/external subject matter experts to hear a range of views.
- More visits to be programmed relating to the services being scrutinised and more informal information/briefing sessions to help members build their knowledge.

2.5 A scrutiny development action plan is in place which is monitored and overseen by scrutiny committee chairmen, and the Annual Report lists specific actions undertaken during the past year as part of this. Actions for the future are also set out, including:

- The development of an Executive-Scrutiny Protocol.
- A review of the Fire and Rescue Service Scrutiny Committee.
- Continuing to strengthen scrutiny input into monitoring performance against the Council's priorities.
- All scrutiny committees to ensure they are considering the impact of Climate Change in all matters.
- To better evidence the impact of scrutiny (including a system for tracking and monitoring scrutiny recommendations and a review of the scrutiny business planning checklist)
- Sharing scrutiny best practice by liaison with Surrey County Council.
- Opportunities to raise the profile of scrutiny.

2.6 General comments on scrutiny practice were also raised at the cross-party member workshop held in May 2022. These are summarised in the table below for consideration as part the Committee's annual review of Scrutiny. Proposals for next steps to take them forward are included for comment.

Issue raised at member workshop	Next steps
a) Relationships have suffered due to the pandemic. More informal opportunities for interaction between members need to be encouraged, including between Cabinet and scrutiny members.	Part of the ongoing Scrutiny Development Action Plan
b) All committee members and cabinet should ensure scrutiny is not a 'tick box' exercise.	Covered in the proposed Executive-Scrutiny Protocol.

Issue raised at member workshop	Next steps
c) All scrutiny committees are different and have different ways of working to meet their objectives.	Reference for ongoing assessment for effective scrutiny and for monitoring as part of annual Scrutiny Review.
d) A lack of member input into policy development (not just scrutiny). Members should be part of the early consultation by services when developing policy/decision proposals – to use their experience and knowledge and to enable them to represent residents’ views. This could also enhance scrutiny.	To be forwarded to the Member Development Group and Cabinet for consideration and response.
e) There is a need for more background information to assist scrutiny of issues.	Democratic Services is developing a checklist of background information and supporting policy documents (with links) for new members of committees and to be available to all members via the Mine (members’ intranet).
f) The ‘Focus for Scrutiny’ should help members questioning by identifying what’s going well or less well and what the main challenges are.	Identified as an area for development in 2022/23 for business planning.
g) TFG output should not be duplicated by scrutiny committees. Should TFG recommendations carry more weight as they are likely to be more fully informed?	All TFG terms of reference should be agreed by the relevant committee and published. The internal guidance on scrutiny TFGs could be reviewed by business planning groups to ensure it continues to reflect best practice and is applied consistently.
h) Hold more scrutiny committee meetings in venues other than the Council Chamber which doesn’t lend itself to a consensual approach.	The Council Chamber is the only venue where meetings can be both hybrid and webcast. The technology to enable this in other rooms is being explored. If some meetings could be held fully in-person (no remote attendance), these could be webcast from one of the Committee Rooms at County Hall.
i) Absence of minority party chairmen or vice chairmen of scrutiny committees.	This is a matter for Governance Committee and County Council, as change would require changes to the Council’s Constitution.
j) One suggestion was that members should declare whether they are subject to their party group whip in relation to anything on the agenda.	Whipping in political groups is not recognised in County Council governance. Recording of voting subject to a group whip would require the political groups to adopt a whipping policy and for this to be incorporated

Issue raised at member workshop	Next steps
	within the Constitution. This is for group leaders to consider.

3 Details: Executive-Scrutiny Protocol

- 3.1 Statutory [national guidance](#) on scrutiny was issued by the Government in 2019. It recommends that councils consider developing an Executive-Scrutiny Protocol. It can help the practical arrangements between scrutiny and the executive, define the relationship between them and provide a framework for challenge and debate. The national guidance was reviewed by Governance Committee in June 2019 and as part of a review of scrutiny later that year, but the development of an Executive-Scrutiny Protocol was not considered to be a priority. However, Governance Committee agreed in May 2022 that this would now form a useful tool to enhance the effectiveness and understanding of the Council’s scrutiny process.
- 3.2 The national guidance recognises that local authorities are best placed to determine the scrutiny arrangements that best suit their needs. It therefore gives a great degree of flexibility to decide the arrangements that work for them, and although it sets out suggestions for the purpose of and process for the development of an Executive-Scrutiny Protocol, it is for the Council to determine what will work best for the County Council. Although it has suggestions for the purpose of and process for developing a protocol, it is for the Council to determine what will work best.
- 3.3 The Centre for Governance and Scrutiny (CfGS) [Good Scrutiny Guidance](#) includes some common themes and principles for developing a Protocol:
- A collective understanding of scrutiny’s role within the council
 - Regular dialogue between scrutiny and the executive to ensure a clear sense of each other’s work and priorities
 - Plans in place, owned jointly by scrutiny and the executive, to continuously improve scrutiny
 - An understanding that scrutiny is in charge of its own work programme
 - An understanding that scrutiny is political, driven by politicians whose political insights are fundamental to scrutiny’s work, but is not a place for political point scoring
 - A focus on impact, recognising that impact can only come about with the active support of the executive.
 - A positive political and organisational culture will help resolve any challenges and tensions about scrutiny and its work.
- 3.4 A protocol was drafted based on the aims set out at para 1.3 and with reference to the national guidance, examples of such protocols in other councils and the CfGS guidance. This draft protocol sets out some of the practical expectations of Scrutiny as well as principles for ways of working, including:
- Communication, engagement and information sharing
 - Scrutiny work programme planning

- The role of scrutiny chairmen and task and finish groups
- Carrying out key decision preview, policy development and performance monitoring
- How scrutiny meetings and recommendations are managed

3.5 The protocol is not intended to replace the rules and procedures for scrutiny in the Constitution or the guidance provided to members in the Council's Scrutiny Guide. It should not seek to cover or duplicate these.

3.6 Following input from a cross-party member workshop in May, the draft protocol was revised to reflect members' comments (at Appendix 2). The Committee is asked to review this draft and identify any points or issues. Members may also wish to comment on the member engagement process (as set out at para 4).

3.7 The protocol is due to be considered by Governance in September 2022, but it will be important for it to be reviewed on a regular basis to assess its impact. It is proposed that the protocol will be monitored by scrutiny chairmen and the Cabinet so that issues can be highlighted and acted upon, but with a full review to be carried out by Governance Committee after one year. This will be informed by input from PFSC as part of its annual review of scrutiny.

4 Other options considered (and reasons for not proposing)

4.1 The development of an Executive-Scrutiny Protocol is not a statutory requirement and is not essential to the operation of the scrutiny function, but the adoption of a protocol should enhance scrutiny arrangements and member working.

5 Consultation, engagement and advice

5.1 County councillors have input into the Scrutiny Annual Report as follows:

- End of year reviews by each scrutiny committee (March/April 2022)
- All-member scrutiny work programme planning session (March 2022)

5.2 Engagement in the development of the protocol is as follows:

- A cross-party member workshop of 15 councillors (May 2022)
- A link to this report sent to all councillors to feed comments through the Chairman or other committee members.
- A workshop of Cabinet Members and Scrutiny Chairmen in July.
- Draft to be shared with group leaders and all members for input and comment prior to consideration by the Governance Committee in September 2022.

6 Finance

6.1 There are no financial implications directly arising from this report.

7 Risk implications and mitigations

Risk	Mitigation
Ineffective Scrutiny processes fail to provide check and balance to executive	An annual review of Scrutiny allows members to identify areas for improvement to ensure effective scrutiny
Lack of defined relationships or mechanisms for engagement or for dealing with differences leads to ineffective scrutiny of executive authority	The protocol will provide a framework for interaction which sets out principles for ways of working and will be monitored and reviewed

8 Policy alignment and compliance

- 8.1 Effective scrutiny plays a part in ensuring the Council meets the priorities set out in [Our Council Plan](#) through its role in monitoring performance. There are no social value, equalities, public health, crime and disorder, human rights, Climate Change or legal implications arising from this report, save the need to ensure that scrutiny arrangements are in line with statutory requirements.

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Appendices

Appendix 1 Scrutiny Annual Report 2021/22

Appendix 2 Draft Executive-Scrutiny Protocol

Background Papers

None