



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**Thursday, 13 June 2024**

**Report of the Executive Director - Corporate Services and Transformation**

**Executive Scrutiny Protocol**

**(Cabinet Member for Corporate Services and Budget)**

**1. Divisions Affected**

County-wide

**2. Key Decision**

2.1 This is not a Key Decision

**3. Purpose**

3.1 For Cabinet to adopt the Executive/Scrutiny Protocol as a framework for the relationship between the Executive and the scrutiny process.

**4. Information and Analysis**

4.1 In 2020 a member led review of the Council's Scrutiny function was undertaken in conjunction with the Centre for Governance and Scrutiny. This review brought about a positive cultural change in the way that scrutiny operates at the Council. As a result of the changes, the approach to scrutiny is far more collaborative between the various committee chairs and senior officers which has enabled far better work programming.

- 4.2 Separate to this the Government has published [Statutory Guidance on Overview and Scrutiny in Local Authorities](#) which promoted a formal working agreement between the executive and the scrutiny function in the form of a protocol. The guidance suggests that an Executive Scrutiny Protocol can help to define the relationship and expectations between the Cabinet and Scrutiny Committees to ensure that the two can work together in a positive and productive way. The guidance makes it clear the protocol may provide a framework, rather than a prescriptive set of rules, it “can deal with the practical expectations of scrutiny committee members and the executive, as well as the cultural dynamics.”
- 4.3 A protocol has been developed in conjunction with the five Scrutiny Committee chairs. The protocol has been discussed and endorsed by the Scrutiny Co-Ordination Group which consists of Scrutiny Chairs, the Managing Director, Executive Directors, Director of Legal and Democratic Services and Councillor Spencer as the relevant Cabinet member.
- 4.4 The protocol is being presented to Cabinet for formal adoption and will be used going forward to regularise the relationship between the Executive and scrutiny. The protocol will also be reported to each of the five scrutiny committees. It is also being recommended, in line with the statutory guidance, that the Scrutiny Co-ordination Group reviews the operation of the protocol after a 12-month period to ensure that it is operating effectively.

## **5 Consultation**

- 5.1 No formal public consultation is required for the protocol, but relevant members and officers have been consulted in its drafting.

## **6 Alternative Options Considered**

- 6.1 Not to agree the protocol. There is no statutory requirement to have an Executive Scrutiny Protocol, but it is considered a matter of good practice to establish such a framework which supports a collaborative approach to Scrutiny.

## **7 Implications**

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8 Background Papers**

8.1 None identified.

## **9 Appendices**

9.1 Appendix 1 – Implications

9.2 Appendix 2 – Executive/Scrutiny Protocol

## **10 Recommendation(s)**

That Cabinet:

- a) Approves the Executive Scrutiny Protocol at Appendix 2 to the report; and
- b) Notes that the Scrutiny Co-ordination Group will be reviewing the operation of the Protocol in 12 months' time.

## **11 Reasons for Recommendation(s)**

- 11.1 The Protocol has been developed in order to establish a joint approach between the Executive and Scrutiny in relation to the function of the Scrutiny process and its role in the decision-making structure of the Council. Cabinet is asked to formally approve the Protocol to demonstrate executive support.
- 11.2 A review is recommended to ensure the Protocol remains fit for purpose and up to date.

## **12 Is it necessary to waive the call-in period?**

12.1 No

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## **Implications**

### **Financial**

- 1.1 There are no financial or resourcing implications associated with this report.

### **Legal**

- 2.1 None directly arising from this report.

### **Human Resources**

- 3.1 None directly arising from this report.

### **Information Technology**

- 4.1 None directly arising from this report.

### **Equalities Impact**

- 5.1 None directly arising from this report.

### **Corporate objectives and priorities for change**

- 6.1 A healthy and successful relationship between the Executive and Scrutiny will contribute towards the delivery of High quality public services.

### **Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

- 7.1 No relevant implications

## **DERBYSHIRE COUNTY COUNCIL**

### **Executive-Scrutiny Protocol**

#### **Introduction**

1. The relationship between the Executive (Cabinet and Portfolio Holders) and the Scrutiny function is governed in part by legislation and the Council's Constitution, in particular the Scrutiny Committee procedures. The purpose of this protocol is to set out the principles which will be followed by both the Executive and the Improvement and Scrutiny Committees.
  - i. To enable Improvement and Scrutiny members and the Executive members to fully understand their powers, roles and responsibilities in relation to the Scrutiny function.
  - ii. To establish a framework and the necessary procedures to enable Scrutiny to work effectively.
  - iii. To define and clarify the role of the Executive in the Scrutiny process.

The Improvement & Scrutiny Committees have very different functions and responsibilities. However, the aim of both the Executive and Scrutiny is to secure the best outcomes for the people who live and work in Derbyshire.

It is the responsibility of the Executive to take decisions to implement the budget and the key policies set out in the policy framework agreed by Full Council.

The Improvement and Scrutiny Committees have a number of responsibilities. These include:

- i. Adding value to the work of Derbyshire County Council
- ii. Holding the Executive to account on behalf of the residents of Derbyshire County Council through the regular review of performance in relation to service delivery
- iii. Holding the Executive to account through scrutinising its decisions
- iv. Undertaking reviews of Council activities and those of other public bodies that affect the people who live and work in Derbyshire, leading to recommendations on improvements which can be made
- v. Calling-in Executive decisions which have not yet been implemented if there is a need for aspects of the decision to be reviewed
- vi. Assisting the Executive in policy formulation and developing recommendations on the budget and policy framework when examining
- vii. Undertaking research and consultation on behalf of the Executive and in advance of Cabinet decisions. This is known as Pre-Decision Scrutiny
- viii. Being engaged with major policy and strategy work at a very early stage. This is known as Pre-Strategy Scrutiny

#### **2. Culture**

A Member-led review of Scrutiny was undertaken during 2020 which recommended cultural change ensuring that Scrutiny has a stronger and clearer role, adds value to the work of the Executive and Derbyshire County Council and works closely with the Managing Director and Executive Directors.

### **3. Relationship between the Executive and Scrutiny**

The following principles set out how the working relationship between the Executive and Scrutiny should operate:

- i. The Executive and members of the Improvement and Scrutiny Committees recognise that they each have different functions and responsibilities that contribute to securing the best outcomes for the people who live and work in Derbyshire.
- ii. All participants in the working relationship between Executive and Scrutiny will do so in a spirit of mutual respect and constructive challenge.
- iii. Meetings of the Improvement and Scrutiny Committees should bear in mind the statutory guidance that scrutiny work should be conducted in a non-party political manner
- iv. The Executive recognises that the Improvement and Scrutiny Committees have a number of rights, for example requiring Cabinet Members to attend its meetings or calling-in Executive decisions which have not yet been implemented, should they consider a decision to be reviewed. The Improvement and Scrutiny Committees will exercise those rights responsibly.
- v. One of the principal responsibilities of the Improvement and Scrutiny Committees is the ability of non-executive members to hold the Executive to account. An important method to ensure accountability is through examining performance and decisions taken by the authority. To facilitate this challenge the Improvement and Scrutiny Committees may:
  - a. Challenge the Executive about decisions which have been taken by Cabinet;
  - b. Consider performance information;
  - c. Query or ask for information about items which are set out in the Forward Plan.
- vi. In addition to their rights as councillors, members of the Improvement and Scrutiny Committees and their working groups have additional rights of access to documents as included in the Access to Information rules in the Constitution. This allows the committees access to copies of any documents which are in the possession, or control, of the Executive or its committees. There are a few limits on this access, and these are identified in the rules.
- vii. There will be strong emphasis placed upon Improvement and Scrutiny adding value to the work of the Executive and the Council. In this vein, the Improvement and Scrutiny Committees will be engaged in policy and strategy development at a very early stage. The Executive may request that Improvement and Scrutiny Committees undertake Pre-Decision work and equally the Improvement and Scrutiny Committees may request that they undertake work to assist the Executive in its deliberations.

- viii. The Chairs of the Improvement and Scrutiny Committees, to maintain the independence of the committee, should declare an interest when presiding over the scrutiny of relatives who may be part of the Executive.
- ix. Members of the Executive cannot be members of the Improvement and Scrutiny Committees. Cabinet Support Members will not act as members of the Committee looking at portfolios to which their role relates to in order to maintain separation of roles between the Executive and Scrutiny function.

#### **4. Conduct of Meetings**

The following principles set out how meetings should be conducted in support of the general principles above.

- i. Meetings of the Improvement and Scrutiny Committees which are attended by Cabinet Members are subject to the relevant provisions in the Council's Constitution. They will usually be held in public unless exempt or confidential information will be discussed, and consideration needs to be given as to whether the public and press should be excluded.
- ii. Cabinet Members required to attend an Improvement and Scrutiny Committee will be given at least 10 working days' notice in writing by the Democratic Services Officer, together with an indication of the issues being raised and the expected focus of questioning.
- iii. Members of the Improvement and Scrutiny Committee are asked to notify the Democratic Services Officer of any factual information required in advance of the meeting.
- iv. When a Cabinet Member is required to attend a Committee, they may be accompanied by the relevant officer(s) to assist with explaining complex information.
- v. Attendance by Cabinet Members at task and finish working groups is to inform debate, clarify matters and contribute to a specific topic rather than to be held to account in respect of matters relating to the Cabinet Member's responsibilities.

#### **5. Developing Work Programmes for the Improvement and Scrutiny Committees**

The work programme is a flexible plan which outlines the programme for the coming municipal year and is usually developed at the first meeting after the Annual Council. The programme is drawn together by the Chair and members of the Committee and can include issues put forward by members, topics that arise during discussion with Cabinet Members, Executive Directors and senior officers, concerns generated from the Corporate Complaints Policy, the Council Plan, performance data and potential issues arising from corporate priorities or the Forward Plan.

The relevant Cabinet Member and senior officer will be informed of any reviews undertaken that fall within their remit and asked for observations on the final scoping document.

Cabinet Members can suggest items for inclusion in the scrutiny work programme; however, it is recognised that the Executive should not try to exercise control over the work of the Improvement and Scrutiny Committees. It is ultimately for the Improvement and Scrutiny Committee to determine whether to include such suggestions in the programme.

Once the work programme has been agreed the Improvement and Scrutiny Committee will endeavour to deliver it, however it is recognised that the programme needs to be flexible enough to be able to accommodate urgent, short term issues or emerging priorities that may arise during the year. On occasion there may be good reason why an ongoing review is not concluded, or planned review not commenced. This could be for a number of reasons including lack of capacity, insufficient evidence upon which to draft firm conclusions or decision by the Committee that it is no longer a priority. In such circumstances the relevant Cabinet Member and Executive Director will be informed prior to the Committee deciding to remove the review from the work programme.

It is important that the work of the Improvement and Scrutiny Committees receives broad publicity in order to ensure that residents and community groups are able to engage with the process. The Democratic Services Officer will work with the Council's Communications Team to publicise the work of the Committee.

## **6. Meetings with Scrutiny Chairs, the Cabinet Member, the Managing Director (MD) and Executive Directors (EDs)**

The purpose of such meetings is to:

- i. Strengthen rapport
- ii. Create a shared understanding
- iii. Discuss strategic matters at an early stage so that Scrutiny may maximise its input and add value to the Council and to enable Scrutiny to develop informed and focussed annual Work Programmes
- iv. Ensure the Executive and Officers are kept informed about the Work Programme

## **7. Meetings with the Scrutiny Chair and the relevant Cabinet Member(s)**

The purpose of such meetings is to:

- i. Strengthen understanding and rapport
- ii. Discuss a range of matters including the potential opportunities for pre-decision Scrutiny work.

## **8. The Health Scrutiny Committee**



Legislation sets out the requirements specifically in relation to the Health Scrutiny Committee. This Committee is different from the Council's other Improvement and Scrutiny Committees.

The Health Scrutiny Committee is responsible for scrutinising any major health service reconfigurations in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

The Health Scrutiny Committee is required to participate in Joint Health Scrutiny Committee arrangements with other local authorities. Currently, the Council is a member of the South Yorkshire, Derbyshire and Nottinghamshire Joint Health Scrutiny Committee (represented by the Chairman of the Council's Health Scrutiny Committee) and is an affiliate member of the Greater Manchester Joint Health Scrutiny Committee.

## **9. Scrutiny Review Recommendations**

- i. Following the conclusion of a scrutiny review the final report and recommendations will be presented to the relevant Improvement and Scrutiny Committee and when agreed submitted to Cabinet for consideration. The chair, or appropriate member if the chair is not available, will present the report and recommendations to the next scheduled meeting of Cabinet.
- ii. Cabinet will provide a written response to the recommendations from the responsible Cabinet Member and this will be presented to the relevant Improvement and Scrutiny Committee at the next appropriate opportunity.
- iii. The response will identify those recommendations that have been accepted and will be implemented, along with reasons for those that will not be taken forward.
- iv. The Improvement and Scrutiny Committees have a duty to monitor progress of implemented recommendations. After six months the Cabinet Member responsible will be invited to attend the relevant Improvement and Scrutiny Committee to explain to members the progress of the implementation of accepted recommendations.

## **10. Compliance with this Protocol**

The Monitoring Officer is responsible for overseeing compliance with the protocol and ensuring that it is used to support the wider aim of supporting and promoting a culture of scrutiny. Matters relating to the protocol's success may be reported to Council. The role also includes promoting the role of the authority's scrutiny function, providing support and guidance to Members and officers relating to the functions of the Improvement and Scrutiny Committees and providing a link between Cabinet, the Improvement and Scrutiny Committees and the Corporate Management Team.