

# EXECUTIVE SCRUTINY PROTOCOL FOR COUNCILLORS OF COTSWOLD DISTRICT COUNCIL

November 2022

## 1. Introduction

1.1 Overview & Scrutiny must be located at the strategic heart of the authority and is a key element of the decision making process acting as a 'critical friend'.

1.2 This Protocol applies to Scrutiny (all members of the Overview & Scrutiny Committee, including substitutes and any Member who sits on an Overview & Scrutiny Task & Finish Group), and the Executive (all Members of Cabinet and executive officers with delegated authority to undertake executive functions).

## 2. Trust

2.1 All Members should promote an atmosphere of openness at Overview & Scrutiny meetings and should strive to ensure that questioning and debate takes place within a climate of mutual respect and trust.

2.2 Overview & Scrutiny Members need to trust that Members of the Executive are being open and honest.

2.3 Executive Members need to trust Overview & Scrutiny Members with information and to trust in their views.

## 3. Policy Development and Pre-Decision Scrutiny

3.1 "Policy Development" refers to the development of the Budget and Policy Framework, which is defined in Article 4 of the Constitution as comprising the following plans and strategies (as agreed by Full Council 14 July 2021):

- Corporate Strategy/Corporate Plan
- Community Strategy
- Crime and Disorder Reduction Strategy
- Plans and strategies which together comprise the Development Plan (the Cotswold District Local Plan and the Council's input into the Gloucestershire County Structure Plan)
- Housing Strategy
- Pay Policy
- Licensing Policy Statements (Licensing Act 2003 and Gambling Act 2005)

3.2 The Budget and Policy Framework also includes a number of budgetary policies which may be more appropriately developed in conjunction with Audit Committee - The Medium-Term Financial Strategy; Capital Programme; Setting the Council Tax; Decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits, and The Capital, Treasury Management and Investment Strategies.

3.3 The importance of early input from Overview & Scrutiny into policy development is recognised. Scrutiny can act as a sounding board and a think tank in investigating issues coming up on the horizon, bringing in added value. Cabinet Members and Executive Officers should draw to the attention of Overview & Scrutiny Committee any key policy in addition

to those in the Budget and Policy Framework that is being developed or is due for review to ensure timely input.

3.4 The development of the Budget and Policy Framework needs to be an inclusive process involving both Cabinet and Overview & Scrutiny Committee. The Cabinet and relevant lead Officer will consider the views of Scrutiny in the development of the policy and provide a response to the recommendations of Scrutiny within 28 days or earlier should the report of the Cabinet require publication. The detail of Scrutiny's involvement shall also be included within the body of the Cabinet report. The Cabinet/Full Council will continue to be responsible for approving and adopting policy.

3.5 Cabinet Members may wish to request views from Scrutiny on a decision before it is taken. The Cabinet Member will be responsible for circulating the details to the relevant Scrutiny Committee Members, through Democratic Services. Utilising this as an option does not exclude the decision from being subject to call-in. However, it will give the Cabinet Member the ability to consider different views and perspectives of a decision to be taken before it is taken.

3.6 Scrutiny may review the Forward Plan and select upcoming decisions for pre-decision scrutiny.

#### **4. Holding Decision Makers to Account**

4.1 A key role of Scrutiny is in holding the Cabinet to account for decisions taken and performance of services. In holding the Cabinet to account Scrutiny Members will:

- Consider decisions taken by the Cabinet, individually and collectively and items on the Forward Plan through formal Overview & Scrutiny Committee meetings;
- Review service performance and performance against policy and targets;
- Be prepared to ask searching questions that provide a constructive challenge;
- Be positive and respectful in their interactions with Cabinet Members and Executive Officers;
- Represent the voice of the public;
- Listen to the responses provided and assist the Cabinet in identifying areas for further consideration and improvement.

4.2 In return, Cabinet Members will:

- Be willing to be open, honest and engaged in providing a response to constructive challenge;
- Value the importance of Scrutiny;
- Be supportive of the scrutiny process and invite and seek opinion from Scrutiny on decisions to be taken, where appropriate;
- Provide a positive contribution to Scrutiny meetings;
- Attend meetings when invited to do so to answer questions and present information:
  - By way of a direct answer
  - By reference to published publications
  - By referring a matter to an Officer in attendance, if they are not able to respond
  - If an answer cannot immediately be given, by providing a written answer within five working days unless it is not reasonable to do so. If considered unreasonable, an explanation as to why will be given.

- A combination of the above four options.

4.3 The Chair of the Overview & Scrutiny Committee has a legal role in respect of any key executive decision that has not been notified on the Council's Forward Plan for 28 clear days prior to the date of decision. In exceptional circumstances the Council may need to operate alternative decision making arrangements for a period of time e.g. in response to an emergency. In any such situation it is expected that the Chair of the Overview & Scrutiny Committee would be consulted on any urgent key decisions in the normal way.

## **5. Scrutiny Work Planning**

5.1 Prior to the start of each Municipal Year, Scrutiny will hold a Work Planning Workshop. As part of this Workshop the views of the relevant Cabinet Member(s) will be inputted, as will the views of Overview & Scrutiny Members, Officers, any external guests who are invited to contribute, and any members of the public who submit suggestions to the Council. The advice of the Cabinet Member(s) may be sought regarding the priorities of the Council, areas of planned policy development and they will be asked to highlight any areas of conflict and instances where Scrutiny may be invited to assist in work. The Workshop will inform the development of a draft Scrutiny Work Programme. At the beginning of the Municipal Year the views of any new Overview & Scrutiny Committee Members and Cabinet Members will be sought before the draft work plan is presented to the first meeting of the Overview & Scrutiny Committee for their endorsement.

5.2 The Chair & Vice-Chair of the Overview & Scrutiny Committee will informally meet periodically with the Leader and Cabinet Members in order to:

- Discuss upcoming issues and provide for ongoing Cabinet input into Scrutiny work plans;
- Ensure liaison between Scrutiny and the Cabinet over Council priorities, targets and performance;
- Continue to build on the positive working relationship between the two functions.

5.4 In setting and reviewing its work plan, Scrutiny will be mindful of the constraints of the organisation and will take advice from officers on prioritisation, which may be informed by the following considerations (TOPIC criteria):

**Timeliness:** Is it timely to consider this issue?

**Organisational priority:** Is it a Council priority?

**Public Interest:** Is it of significant public interest?

**Influence:** Can Scrutiny have meaningful influence?

**Cost:** Does it involve a high level of expenditure, income or savings?

## **6. Overview & Scrutiny Recommendations to Cabinet**

6.1 Scrutiny may make recommendations to the Cabinet about functions for which the Council is responsible or about issues that affect the district and its people through a report arising from a formal Committee meeting or by way of an Overview & Scrutiny Committee Task & Finish Group report.

6.2 Once Scrutiny has agreed a recommendation, the views of the relevant Cabinet Member(s) will be sought within 10 working days (if not already provided at a meeting) and will be included within the report. The Chair and Vice-Chair of the Overview & Scrutiny Committee will have the opportunity to meet with the relevant Cabinet Member(s) to

discuss the recommendation and the response before the final report is submitted to the Cabinet for consideration. Upon formal receipt of a recommendation from Scrutiny, Cabinet will:

- Give due consideration to any recommendations or views expressed and respond to recommendations in writing within 2 months of receipt of the recommendations;
- Provide an explanation for the reasons why recommendations made by Scrutiny have not been pursued (where applicable).

## **7. What Scrutiny Can Expect From Senior Officers.**

7.1 Whilst Scrutiny undertakes to deliver effective outcomes for local people, it will only be able to do this if senior officers make a commitment to work with and respond to Scrutiny in a constructive manner. The following are proposed as the roles and responsibilities that will govern the Council and Publica's relationship with Scrutiny. Senior Officers will:

- Provide professional advice to Scrutiny;
- respect the independence of Scrutiny;
- recognise the value that Scrutiny can add to service improvement;
- co-operate positively with Scrutiny in developing and undertaking its work programme;
- participate in the monitoring of the implementation of recommendations made by Scrutiny that are agreed by Cabinet;
- Contribute to a positive culture that values constructive scrutiny.

## **8. Call-in**

8.1 Decisions may be called in in accordance with the procedure rules set out in Part 4.13 of the Constitution. Cabinet Members will be expected to attend any meetings of Scrutiny at which a call-in request in relation to their area of responsibility is being considered. If the relevant Cabinet Member cannot attend, the Leader or a Deputy Leader should attend in their absence. The purpose of their attendance will be to answer questions of fact not to present the item. The following procedure will take place where call-ins are being considered:

- i. The Member who called in the decision will speak first;
- ii. The Chair will invite the Cabinet Member (decision maker) to respond;
- iii. The Committee will then ask questions of the decision maker, who may ask a relevant Officer to supply further information if necessary;
- iv. Scrutiny debates the issue and votes on the outcome. The Committee will either agree with the decision, in which case it can be implemented immediately, or agree to refer the decision back to the decision maker with comments. Alternatively the Committee could refer the call in to Full Council.

## **9. Scrutiny Consideration of Confidential or Exempt Decisions**

9.1 Scrutiny Members have a right to access exempt information pertaining to their engagement with policy development or decisions that have been taken or are yet to be taken in order to allow effective scrutiny. Should a Scrutiny Member wish to ask questions pertaining to exempt information at a public Committee meeting, the press and public will

be excluded from the meeting in accordance with the Council's Constitution and the Cabinet Member will be expected to answer in an open and transparent manner. The exempt information will remain confidential and all elected Members and Officers who receive that information shall maintain that confidentiality in line with the Codes of Conduct for Elected Members and Officers.

## **10. Ensuring Compliance with the Protocol**

10.1 The Monitoring Officer and the Business Manager (Democratic Services) will be responsible for overseeing compliance with the Cabinet/Scrutiny Protocol which should be used by Members to support the wider aim of supporting and promoting a culture of scrutiny. The success of the Protocol will be determined by:

- Recognition of the value of scrutiny;
- A clear record of constructive challenge;
- Valuable scrutiny reviews that achieve impactful outcomes;
- An open and accountable decision making process.

10.2 An Annual Report may be submitted to Full Council each year with the aim of demonstrating the impact of Scrutiny and the effectiveness of the Protocol. The report may also include the draft Scrutiny Work Programme for the following year.