



Council name	<b>COTSWOLD DISTRICT COUNCIL</b>
Name and date of Committee	<b>OVERVIEW &amp; SCRUTINY COMMITTEE 18 OCTOBER 2022</b>
Report Number	<b>AGENDA ITEM 12</b>
Subject	<b>DRAFT EXECUTIVE SCRUTINY PROTOCOL</b>
Wards affected	ALL
Accountable member(s)	Cllr Joe Harris - Leader of the Council Email: <a href="mailto:joe.harris@cotswold.gov.uk">joe.harris@cotswold.gov.uk</a>
Accountable officer(s)	Angela Claridge, Director of Governance & Development Tel: 01282 623219 Email: <a href="mailto:angela.claridge@cotswold.gov.uk">angela.claridge@cotswold.gov.uk</a> <u>Andrew Brown, Business Manager, Democratic Services</u> Tel: 01993 861634 Email: <a href="mailto:Andrew.brown@publicagroup.uk">Andrew.brown@publicagroup.uk</a>
Summary/Purpose	Modernising the Constitution.
Annexes	Annex A – Draft Executive Scrutiny Protocol
Recommendation/s	The Overview and Scrutiny Committee are recommended to: <ul style="list-style-type: none"><li>• Endorse the Executive/Scrutiny Protocol attached at Annex A</li><li>• Recommend to the Council that the Protocol be approved for inclusion in the Constitution.</li></ul>
Corporate priorities	Ensure that all services provided by the Council are delivered to the highest standard
Key Decision	No
Exempt	No
Consultees/ Consultation	Elected Members of the Constitution Working Group (Cllrs J Harris, Evely, Andrews, Spivey, Ind, Neill, Coleman & Theodoulou) Chair & Vice-Chair of Overview & Scrutiny Committee (Cllrs Andrews & Selwyn) Chief Executive Interim Deputy Chief Executive/SI51 Officer Head of Legal Services Business Manager – Democratic Services

## REPORT

1. The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. The Council has a legal duty to publish an up to date Constitution and it should be reviewed annually with any necessary changes being considered at the Full Council.
2. The Constitution must contain:
  - the Council's Standing Orders/Procedure Rules;
  - the Members' Code of Conduct;
  - such information as the Secretary of State may direct;
  - such other information (if any) as the authority considers appropriate.
3. The Chair of Overview & Scrutiny Committee requested that the Constitution Working Group endorse the introduction of a new part to the Constitution – an Executive/Scrutiny Protocol (“the Protocol”). The Constitution Working Group at its meeting on 10 February 2022 endorsed the draft protocol for further consultation with the Cabinet, and Overview & Scrutiny Committee.
4. Cabinet, at their meeting on 9 May, 2022, considered the draft Protocol and commented:
  - within the policy, ‘policy development’ and ‘decision making’ needed to be clearly defined;
  - the timescale of 10 working days for responses to Overview & Scrutiny proposals may not be workable although accepted that this timescale had been defined in a statutory instrument.
  - proposed that the report be deferred for further consultation.
5. Overview & Scrutiny Committee, at their meeting on 24 May, 2022, also considered the draft Protocol and made the following observations;
  - policy development and decision making need to be clearly defined;
  - clarity in relation to the (para 3.2) term “Informal Setting”;
  - as Overview and Scrutiny Committee is not a decision making body, this should be reflected in the Protocol, words such as ‘approved’ should be replaced by ‘agreed’, and the output from the Committee should only ever be recommendations;
  - noted that the term ‘executive’ is intended to include both Cabinet and officers from the Senior Management Team.
  - the Chair recommended that following Annual Council, the Chair and Vice Chair of Overview and Scrutiny for the new year, together with relevant officers, should review the Protocol and make proposed amendments for further consideration.
6. The Chair and Vice-Chair of Overview & Scrutiny have subsequently met with

officers and an updated version of the draft Protocol is included at Annex A for members to review.

7. The Protocol is not a mandatory part of the Constitution, but is considered good practice. It sets out the basis for a positive relationship between the Cabinet and Overview & Scrutiny Committee.
8. Whilst the Protocol will form part of the Constitution and therefore requires Council approval. Consultation with the Cabinet and Overview & Scrutiny Committee is being sought prior to taking a report to a meeting of Council.

#### **FINANCIAL IMPLICATIONS**

9. None specific or arising from this report.

#### **LEGAL IMPLICATIONS**

10. There is no legal requirement for the Council to have a Protocol although it is considered best practice in the 'Overview and Scrutiny: Statutory Guidance for Councils and Combined Authorities (MHCLG)' document published in May 2019.

#### **BACKGROUND PAPERS**

11. Overview and Scrutiny: Statutory Guidance for Councils and Combined Authorities (MHCLG) document published in May 2019 available on the Centre for Governance & Scrutiny website.