



**WATFORD
BOROUGH
COUNCIL**

OVERVIEW AND SCRUTINY COMMITTEE

Item 8 – Executive/Scrutiny protocol

18 October 2023

7.00 pm

**Rooms 201 and 202, Annexe, Town Hall,
Watford**

Contact

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Publication date: 13 October 2023

Committee Membership

Councillor A Grimston (Chair)

Councillor F Ezeifedi (Vice-Chair)

Councillors S Ahmed, M Devonish, P Hill, A Khan, P Kloss and T Osborn

Agenda

Part A - Open to the Public

5. Executive/Scrutiny protocol (Pages 3 - 11)

Report of the Senior Democratic Services Officer

Part A

Report to: Overview and Scrutiny Committee

Date of meeting: Wednesday, 18 October 2023

Report author: Senior Democratic Services Officer

Title: Executive/Scrutiny protocol

1.0 Summary

1.1 This report provides an overview of the draft Executive/Scrutiny protocol for approval. The protocol sets out the relationship between the Executive and Scrutiny and good practice for driving improvements in public services.

2.0 Risks

2.1 There are no risks associated with this report.

3.0 Recommendations

3.1 To approve the protocol, with any appropriate amendments.

Further information:

Jodie Kloss, Senior Democratic Services Officer
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Report approved by: Ben Martin, Associate Director of Planning, Infrastructure and Economy

4.0 Introduction

4.1 Overview and scrutiny has been a feature of local government in England for 20 years. Scrutiny is a strategic function of the authority; central to the organisation's corporate governance. Most importantly, it should provide councillors who are not in executive decision-making roles with the opportunity to publicly hold to account Cabinet – and, beyond the council, to investigate and inquire into issues of interest and relevance to local people.

4.2 The challenge of ensuring that scrutiny meets that ambition is not just the responsibility of scrutiny councillors and the officers who support them. Fundamentally, a successful scrutiny function hinges on the commitment of those in leadership positions. It is about the mindset and values of those in decision-making positions – about the council's political and organisational culture.

- 4.3 In May 2019 the Government published statutory guidance on overview and scrutiny, a key component of the guidance was the importance of culture to the success of scrutiny. Without an open, transparent and accountable culture within a council, the guidance notes that scrutiny will struggle.
- 4.4 The guidance further recommends that an executive/scrutiny protocol be agreed to deal with the practical expectations of scrutiny committee members and the executive, as well as the cultural dynamics. Noting that there is the potential for differences of opinion between the Executive and Scrutiny, a protocol can help define the relationship between the two and mitigate issues before they manifest themselves in unhelpful and unproductive ways.
- 4.5 Scrutiny also plays an important role in oversight of the authority's finances, therefore a productive and robust approach to finance scrutiny will assist in ensuring good value for money.

5.0 Draft protocol

- 5.1 Following an exercise to review published protocols in operation in other areas, a protocol has been drafted that reflects current arrangements in Watford.
- 5.2 The aims of the protocol are to:
- Describe the roles and responsibilities of scrutiny committees and Cabinet.
 - Set out good scrutiny practice for driving improvement in public services.
 - Promote an ethos of mutual respect, trust and courtesy in the interrelationships between Scrutiny members and Cabinet members and to foster a climate of openness leading to constructive debate, with a view to ensuring service improvements.
 - Support focused, transparent and timely scrutiny of council business.
 - Facilitate effective scrutiny work planning.
 - Enable scrutiny committees to influence council business in a meaningful way.
- 5.3 Much of what is in the protocol formalises current practices between the functions, there are however, a few areas where a more developed approach to co-operation is set out. These include:
- That the relevant portfolio holder(s) could meet the Scrutiny chair and officers at the outset of the review, when the task group is considering its scope, methodology and witnesses and as appropriate, during the process.
 - Cabinet responses to recommendations will be reported to the next meeting of Overview and Scrutiny Committee. A piece of work will be undertaken to ensure a more consistent approach to reporting back to Scrutiny.
- 5.4 The protocol is to be overseen by the Group Head of Democracy and Governance as the Monitoring Officer. The government guidance recommends that it remains under regular review. It is proposed that this be included in the Annual Scrutiny Report to full Council which is published each July.

5.5 The protocol has been reviewed and approved by the Corporate Management Board and Portfolio Holders with minor amendments incorporated.

5.6 Following the review and approval by Overview and Scrutiny Committee, the protocol will be taken to Finance Scrutiny Committee for noting.

6.0 Implications

6.1 Financial

6.1.1 The Shared Director of Finance comments that there are no direct financial implications arising from report. However, effective scrutiny supports the delivery of value for money, appropriate allocation of resources, and the financial sustainability of the Council.

6.2 Legal Issues (Head of Legal Shared Services)

6.2.1 The Head of Legal Shared Services comments that the legal issues have been considered in detail in the protocol and this report.

6.2.2 Having regard to the responsibilities, duties and obligations of the Overview and Scrutiny Committee as set out in the Council's Constitution and legislation, there are no further legal issues.

6.3 Equalities, Human Rights and Data Protection

6.3.1 Having had regard to the council's obligations under s149, it is considered that there are no equalities implications.

6.3.2 Having had regard to the council's obligations under the General Data Protection Regulation (GDPR) 2018, it is considered that officers are not required to undertake a Data Processing Impact Assessment (DPIA) for this report.

6.3.3 There are no human rights implications.

6.4 Staffing

6.4.1 No implications.

6.5 Accommodation

6.5.1 No implications.

6.6 Community Safety/Crime and Disorder

6.6.1 No implications. Overview and Scrutiny Committee fulfils its statutory requirement to undertake a review of the Community Safety Partnership each year.

6.7 Sustainability

6.7.1 No implications.

Appendices

Appendix 1 – Draft Executive/Scrutiny protocol

Background papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

- Overview and scrutiny: statutory guidance for councils and combined authorities, May 2019.
- The Good Scrutiny Guide, Centre for Governance and Scrutiny, June 2019.
- Taking scrutiny seriously, Parity of esteem between scrutiny and the executive: a short guide for local government Cabinet members and senior officers, Centre for Governance and Scrutiny, January 2020

Watford Borough Council Executive Scrutiny protocol

Purpose

To describe the working arrangements between the Executive and Scrutiny at Watford Borough Council.

The aims of the protocol are to:

- Describe the roles and responsibilities of scrutiny committees and Cabinet.
- Set out good scrutiny practice for driving improvement in public services.
- Promote an ethos of mutual respect, trust and courtesy in the interrelationships between Scrutiny and Cabinet members and to foster a climate of openness leading to constructive debate, with a view to ensuring service improvements.
- Support focused, transparent and timely scrutiny of council business.
- Facilitate effective scrutiny work planning.
- Enable scrutiny committees to influence council business in a meaningful way.

Context

The Cabinet is the political executive of the council and takes decisions within the policy framework agreed by Council. Scrutiny provides a political check and balance on that authority. It helps ensure robust decision-making by examining the process and information that support decisions. Scrutiny is integral to democracy in ensuring the Council meets its priorities for residents by influencing the planning and delivery of outcomes and by monitoring performance.

There are two scrutiny committees at Watford; Overview and Scrutiny Committee and Finance Scrutiny Committee. They are politically proportionate and meet in public. Overview and Scrutiny Committee also establishes time-limited task groups to undertake focused scrutiny on specific issues. Cabinet engages with Scrutiny for work planning to identify where scrutiny might add value. Scrutiny exercises influence and persuasion but does not take decisions and cannot override Cabinet. Scrutiny should be open and transparent, but does undertake some work in private, outside formal committee meetings, when undertaking task group reviews to support agile working, a more thorough analysis or a frank exchange of views.

[National guidance](#) defines effective scrutiny as:

- Providing constructive 'critical friend' challenge.
- Amplifying the voices and concerns of the public.
- Being led by independent people who take responsibility for their role.
- Driving improvement in public services.

To be effective, Scrutiny needs an organisational culture which confers the same respect and has the same importance in the governance system as executive decision-making activities. It requires a constructive relationship with the Cabinet where roles and responsibilities are understood. Good communication, engagement and mutual respect are vital in this relationship. There should be a shared understanding of the principles underpinning the relationship and the ways of working that support it.

Principles

Scrutiny should:

1. Provide purposeful challenge to the Cabinet and service performance.
2. Be objective, evidence-based and constructive.
3. Act as a critical friend to help sound decision-making.
4. Take a strategic perspective, focussing on the wider community outcomes.

5. Aim for consensus, drawing on political insight.
6. Work collaboratively with the Cabinet and recognise that there will not always be full agreement with scrutiny conclusions and recommendations.
7. Be well informed, with members being fully prepared for meetings with a good understanding of the issues before them.

Cabinet should:

1. Recognise and value Scrutiny, and its rights, and be open to constructive challenge.
2. Respect the independence of scrutiny committees and their chosen work programmes.
3. Identify opportunities for scrutiny committees to support and influence its work.
4. Properly and fully consider Scrutiny conclusions and findings.
5. Feedback and explain its response to Scrutiny recommendations.
6. Engage with Scrutiny early to enable it to add value in a timely way.

Together, Scrutiny and Cabinet should:

1. Communicate and engage early on plans and activities.
2. Foster a climate of trust, openness, honesty and integrity, sharing timely information including that which may be confidential or sensitive.
3. Be positive and respectful in their interactions with each other.
4. Manage any areas of disagreement in a constructive way.

Scrutiny's rights

Scrutiny members have a number of rights set out in legislation:

- The right to refer a relevant matter to the committee. This provision does not apply to planning and licensing, or to matters which are vexatious, discriminatory or not reasonable to be included in the agenda.
- The right to review called-in key decisions, within the parameters set out in the constitution.
- The right to require executive members and officers to appear before them.
- The right to have access to information about the authority particularly on performance, management and risk and have broader rights than other councillors in relation to access to information. This relates particularly to:
 - an action or decision that a member is reviewing or scrutinising; or
 - any review contained in any programme of work of a scrutiny committee / task group
 - a document or part of a document containing advice provided by a political adviser or assistant.

Scrutiny committees cannot oblige either the executive, the council or external bodies to act upon their findings.

Ways of working together

Communication and engagement

- Cabinet will engage with scrutiny committees at an early stage in the development or review of relevant strategies, policies and plans, to enable meaningful and timely scrutiny input.
- Cabinet members and Scrutiny chairs will liaise regularly to update on plans and activities.
- Scrutiny will communicate about its work and its work programme regularly to the Cabinet, and all members, both informally and through the annual scrutiny report to Council.

Scrutiny work planning

- The work programme will reflect council priorities and be balanced between policy and strategy development, service reviews and performance monitoring.
- Any member (not just scrutiny councillors), as well as officers and members of the public, may raise issues for the scrutiny work programme.

Scrutiny committee chairs

- Chairs should ensure Scrutiny is member-led and independent, setting the tone for constructive challenge to the Cabinet.
- Chairs are responsible for managing meetings, enabling debate and maintaining focus of Scrutiny. They ensure effective work programme planning.
- Collectively, they monitor the overall Scrutiny function to ensure best practice and learning are embedded.

Task groups

Portfolio Holders can assist task group reviews in a number of ways including:

- Meeting the Scrutiny chair and officers at the outset of the review, when the task group is considering its scope, methodology and witnesses and as appropriate, during the process.
- Attending task group meetings and providing context and the executive's perspective, as invited by the task group.
- Giving evidence, as required, during the course of the review.

Key decisions

Overview and Scrutiny Committee will examine the Notice of Executive Decisions and the Council's Delivery Plan to identify areas where there is potential for scrutiny to review a topic as well as noting the progress of key decisions.

Policy development

- Cabinet members and officers should draw to the attention of Scrutiny key strategy and policy plans at the earliest opportunity.
- Cabinet members and officers should discuss with scrutiny committees how and when scrutiny can best influence strategy and policy development.
- The approach to scrutiny of strategy and policy development will be agreed by Overview and Scrutiny Committee but may be carried out informally by a task group.

Performance monitoring

- Scrutiny committees will monitor the progress against the Council and Delivery Plans and the performance report.
- Scrutiny committees and Cabinet members should share views about the performance measures that are in place.
- Scrutiny committees may use performance data to identify issues for further scrutiny.

Scrutiny meetings

- Cabinet members will aim to attend all scrutiny meetings which relate directly to their individual portfolio, where possible.
- Questions will be directed to the Cabinet member but may be referred to an officer if need be. It is the role of the Cabinet member to respond to questions on behalf of the executive, rather than asking their own questions.
- Members should be respectful of each other and of officers and guests presenting at meetings.

Scrutiny recommendations

- Scrutiny recommendations will be clear, reasoned and outcomes focused to assist response and monitoring and to help evidence the impact scrutiny has on Council business. As far as possible, recommendations should be SMART (specific, measurable, achievable, realistic and timebound).
- Cabinet will give due consideration to Scrutiny recommendations and views.
- Cabinet responses to recommendations will be reported to the next meeting of Overview and Scrutiny Committee.
- Responses will include an explanation for why any recommendations have not been accepted.
- The relevant Scrutiny chair will attend Cabinet to present scrutiny reports and give feedback from their committee on the review.

Information

- Scrutiny should have the information that underpins policy and decision-making to be able play its role and for assurance regarding the evidence used.
- Cabinet and officers will be open and transparent and will provide the information scrutiny committees need to do their job effectively. Information will be provided in a timely way to enable meaningful input.
- The overriding principle is transparency. When information cannot be made available the reasons will be clearly explained.
- Scrutiny committees will have background information on issues being scrutinised through pre-meetings, briefings and advice from officers.
- Where possible, all members should have briefings on significant strategies, policies and proposals under development. It is understood that some initiatives will necessarily remain confidential in accordance with the Local Government Act 1972 Schedule 12 A and will not be shared until they are fully worked up and ready for formal consultation or implementation.
- Members will keep themselves informed through research and be well prepared for meetings by reading papers in advance.
- The constitution requires that members sitting or substituting on a scrutiny committee undergo relevant scrutiny training every other year.

Officer Support

There is dedicated support within Democratic Services for the Scrutiny function and all officers of the Council are available to provide impartial advice to scrutiny committees. Of particular importance is the role played by statutory officers: the Group Head of Democracy and Governance (the council's Monitoring Officer), the Director of Finance (the Section 151 Officer) and the Chief Executive (the Head of Paid Service). They have a particular role ensuring that timely, relevant and high-quality advice is provided to scrutiny committees.

Within the Corporate Management Team, there is a dedicated lead for the scrutiny function. The role of the CMT lead is to provide senior support and strategic direction to Scrutiny and to ensure that the function aligns well with corporate priorities.

Review

This Protocol was agreed by XXXX and XXXXX on XXXXXX and will be reviewed after one year by Overview and Scrutiny Committee. The Group Head of Democracy and Governance will be responsible for overseeing compliance with the Executive Scrutiny Protocol. It will be monitored on a regular basis by scrutiny chairs and the Cabinet so that any issues can be highlighted at an early stage and acted upon. The success of the protocol will be determined by reference to evidence of:

Draft

- Recognition of the value of Scrutiny.
- A record of constructive challenge and impact.
- Timely scrutiny reviews that achieve identified outcomes.
- An open and reasoned decision-making process.
- Effective performance monitoring.
- Scrutiny work programmes balanced between policy development, service review and performance monitoring.

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