

## POLICY REVIEW AND DEVELOPMENT PANEL REPORT

REPORT TO:	Regeneration and Development Panel		
DATE:	1 <sup>st</sup> September 2020		
TITLE:	Draft Scrutiny and the Executive Protocol		
TYPE OF REPORT:	Policy Development		
PORTFOLIO(S):	Leader of the Council		
REPORT AUTHOR:	Rebecca Parker, Democratic Services Officer		
OPEN/EXEMPT	OPEN	WILL BE SUBJECT TO A FUTURE CABINET REPORT:	Yes

### **REPORT SUMMARY/COVER PAGE**

<p><b>PURPOSE OF REPORT/SUMMARY:</b></p> <p>In May 2019 the Government published Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities. Which is available to view at <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/800048/Statutory_Guidance_on_Overview_and_Scrutiny_in_Local_and_Combined_Authorities.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/800048/Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities.pdf</a></p> <p>One of the suggestions within the guidance is that a protocol to define the relationship between the scrutiny and executive could be beneficial.</p> <p>This report presents the draft protocol (attached at Appendix 1) for consideration by the Panel.</p>
<p><b>KEY ISSUES:</b></p> <p>Local authorities and combined authorities must have regard to statutory guidance when exercising their functions.</p> <p>Part 2 (11(d)) of the Guidance states that “effective scrutiny involves looking at issues that can be politically contentious. It is therefore inevitable that, at times, and executive will disagree with the findings or recommendations of a scrutiny committee.</p> <p>It is the job of both the executive and scrutiny to work together to reduce the risk of this happening, and authorities should take steps to predict, identify and act on disagreement.</p> <p>One way in which this can be done is via an ‘executive-scrutiny protocol’ which can help define the relationship between the two and mitigate any differences of opinion before they manifest themselves in unhelpful and unproductive ways. The benefit of this approach is that it provides a framework for disagreement and debate, and a way to manage it when it happens.”</p> <p>This report will be presented to the Environment and Community Panel, Regeneration and Development Panel and Corporate Performance Panel so that all Members involved in the scrutiny process will have the opportunity to consider the report.</p>
<p><b>RECOMMENDATIONS:</b></p> <p>That the Panel consider and make comments on the draft protocol prior to its consideration by Cabinet and Council.</p>
<p><b>REASONS FOR RECOMMENDATIONS:</b></p> <p>To address the Statutory Guidance and define the relationship between scrutiny and the executive.</p>



# Scrutiny and the Executive Protocol

**A Guide to assist Members of the Council's Policy Review and Development Panels and Members of the Cabinet on the various ways in which Members are required to interact to enable the Authority to carry out an effective Scrutiny Function.**

This protocol should be read in conjunction with the Scrutiny and Overview Guide, Members Code of Conduct, Member/Officer Protocol and the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities published by the Ministry of Housing, Communities and Local Government (May 2019).

## 1. Purpose of the Protocol

This Protocol is designed to assist Members of the Council's Policy Review and Development Panels, Corporate Performance Panel and the Cabinet.

The Protocol aims to establish a positive framework and build upon the procedures laid out in the Constitution which exist to enable the Panels to work effectively. It aims to promote and maintain an ethos of mutual respect, trust and courtesy between Members, the Executive and officers and encourage openness and constructive, yet challenging when necessary, debates.

## 2. Role of the Panels in holding the Executive to account

One of the fundamental principles of Scrutiny is the ability to hold the Executive to account. Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities published by the Ministry of Housing, Communities and Local Government (May 2019) states that "Overview and Scrutiny Committees have statutory powers to scrutinise decisions the executive is planning to take, those it plans to implement, and those that have already been taken/implemented. Recommendations following scrutiny enable improvements to be made to policies and how they are implemented. Overview and scrutiny committees can also play a valuable role in developing policy".

### **What holding the Executive to account should be about:**

- Providing a "critical friend" challenge.
- Challenging decisions and securing the best outcomes for the residents of the Borough.
- Examining the Cabinet's Forward Decisions List to identify forthcoming issues for Scrutiny.
- Working with the Executive to develop and scrutinise Council policies.

### **What holding the Executive to account should not be about:**

- Confrontation
- Challenging individuals or personalities.
- Party politics
- Conducting a witch hunt
- Championing a personal agenda

More information on the role of the Panels is available in the Scrutiny and Overview Guide and the Council's Constitution.

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

The relationship between Cabinet and Scrutiny is governed in part by law and in part by the Council's Constitution. The purpose of this section is to set out the principles which should be followed by Cabinet and Panel Members.

The principles below set out how the working relationship between the Cabinet and the Panels should operate:

1. Cabinet and the Panels recognise that they each have different functions and responsibilities which can and should contribute to securing the best outcomes for the residents of the Borough.
2. Cabinet and Panel Members will work alongside each other in a positive manner.
3. Cabinet Members will recognise that Members have a number of rights such as call-ins.
4. All participants will look to work within a spirit of mutual respect and constructive challenge.
5. The relationship between Cabinet and the Panels will be open and transparent as far as possible.

### **4. The Executives Role in the Scrutiny Process**

#### **Call in**

On occasions when members have successfully secured a 'call in' to the Corporate Performance Panel of either a Portfolio Holder or a Cabinet decision the process should operate as follows:

1. The appropriate Portfolio Holder must be invited by the Chair to the Corporate Performance Panel meeting at which the call in is to be considered.
2. An officer report will be prepared which sets out the decision made and the grounds upon which the call in has been granted by the Chief Executive.
3. The Proposer of the call in and their supporters will address the Corporate Performance Panel regarding the call in and why it should be upheld.
4. The relevant Portfolio Holder will make their case/submission to the Panel.
5. Officers will be invited to make a submission to the Panel.
6. The Panel will receive any submission to from members attending under Standing Order 34 and at the discretion of the Chair other interested parties invited to attend the meeting.
7. The Panel will debate the call in during which they may question or seek further information (through the Chair) from the Proposer, Portfolio Holder, Officers and if applicable interested parties.
8. The proposer of the call in has right of reply to the debate.

Following the debate the Panel will make its decision to either support the original (Cabinet/Portfolio Holder) recommendations or to uphold the call in.

For the avoidance of doubt other Cabinet Members who may be in attendance at the meeting in relation to other items on the agenda will not participate in the call in debate.

#### **Scrutiny of decisions made, other than with regards to a call in**

1. The appropriate Portfolio Holder should be invited by the Chair to attend the meeting.

2. The purpose of the Portfolio Holder attending is to answer questions posed by Panel Members with regards primarily to policy and/or political matters underpinning the decision made.
3. Officers will be present to answer questions posed by the Panel Members concerning technical issues underpinning the report/decision made.
4. The Panel Chair may invite the Portfolio Holder to set out the rational and policy objectives which resulted in the report/proposal being brought forward.

For the avoidance of doubt the Portfolio Holder should not participate in the debate amongst Panel Members as it could be perceived that they were participating in the scrutiny of their own decisions.

### **The Executive role in the Policy Development Process of Panels**

The purpose of the Panels becoming involved in Policy development is to facilitate a wider member involvement at an early stage, in the formulation of new policy proposals which, if ultimately taken forward will be determined by Cabinet and/or Council.

1. The relevant Portfolio Holder will normally be invited by the Chair
2. The Portfolio Holder will not be expected to 'lead' the Panel discussion or to make a presentation to the Panel.
3. The Portfolio Holder may at the Chairs invitation, be invited to comment/contribute to Panel discussions and/or workshops sessions.
4. Officers will be in attendance to provide information/data/etc. to assist the Panel in their deliberations if invited to do so by the Chair.

### **5. Role of Cabinet Members other than the Relevant Portfolio Holder in relation to both the Scrutiny and Policy Development roles of Panels**

Any Cabinet Member wishing to speak on matters pertaining to another Cabinet Member's Portfolio responsibilities must have registered the interest to speak under S.O. 34 at least one clear day prior to the meeting in the same way as any other Members is required to do so

### **6. At the Meeting**

Panels should seek to promote an atmosphere of openness and should strive to ensure that questioning and debate takes place within a climate of mutual respect and trust between all participants.

Panel Members should be prepared to ask searching and challenging questions of Cabinet Members and officers when necessary, but acknowledge that participants may not always be in a position to answer every question immediately.

The Chair of the meeting shall at all times ensure that the conduct of the meeting shall be fair and that all participants are treated courteously whilst promoting the Council's role in striving to improve services and monitor the effectiveness of Council policies.

Questions and responses should be clear and concise where possible and meetings should be carried out in a professional and business like, non aggressive manner.

### **8. Contact Information**

Contact details for Cabinet Members and the Chair and Vice Chairs of the Panels are available on the Borough Council's website.

Democratic Services can be contacted at [democratic.services@west-norfolk.gov.uk](mailto:democratic.services@west-norfolk.gov.uk) or by telephoning 01553 616394.