

A NEW APPROACH TO SCRUTINY

Cabinet	13 June 2019
Report Author	Director of Corporate Governance
Portfolio Holder	Leader of the Council
Status	For Information
Classification:	Unrestricted
Key Decision	No
Ward:	All wards affected

Executive Summary:

This report is to advise Cabinet of a proposed new approach to working with the Overview and Scrutiny Panel following discussions with the Leader and taking into account the new statutory guidance on scrutiny.

Recommendation(s):

Cabinet is asked to note the intention to build a new formalised working relationship between the Cabinet and the Overview and Scrutiny Panel which will include a new Cabinet-Scrutiny Protocol. This will reflect their separate but complementary roles in the operation of the Council.

CORPORATE IMPLICATIONS

Financial and Value for Money	There are no additional costs related to this new approach to scrutiny. However it is hoped that this new method of working may improve value for money indirectly.
Legal	The requirement for local authorities in England to establish overview and scrutiny committees is set out in the Local Government Act 2000 as amended by the Localism Act 2011. In May 2019 the MHCLG issued statutory guidance on scrutiny. The Council must have regard to it when exercising their functions.
Corporate	The proposed new approach to scrutiny should improve the role of Overview and Scrutiny which is: <ul style="list-style-type: none"> ● Provide constructive 'critical friend' challenge; ● Amplify the voices and concerns of the public; ● Be led by independent people who take responsibility for their role; ● Drive improvement in public services.
Equality Act 2010 & Public Sector Equality Duty	Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do

	<p>not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p>								
	<table border="1"> <tr> <td colspan="2">Please indicate which aim is relevant to the report.</td> </tr> <tr> <td>Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,</td> <td style="text-align: center;">X</td> </tr> <tr> <td>Advance equality of opportunity between people who share a protected characteristic and people who do not share it</td> <td style="text-align: center;">X</td> </tr> <tr> <td>Foster good relations between people who share a protected characteristic and people who do not share it.</td> <td style="text-align: center;">X</td> </tr> </table>	Please indicate which aim is relevant to the report.		Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	X	Advance equality of opportunity between people who share a protected characteristic and people who do not share it	X	Foster good relations between people who share a protected characteristic and people who do not share it.	X
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	<p>The pre-decision scrutiny and policy development role of scrutiny will allow closer consideration of the equality duties.</p>								

CORPORATE PRIORITIES (tick those relevant) ✓	
A clean and welcoming Environment	
Promoting inward investment and job creation	
Supporting neighbourhoods	X

CORPORATE VALUES (tick those relevant) ✓	
Delivering value for money	X
Supporting the Workforce	
Promoting open communications	X

1.0 Introduction and Background

- 1.1 Following the election of the new administration the Leader of the Council has expressed an intention to set out a new framework for the relationship between the Cabinet and the Overview and Scrutiny Panel. In particular to encourage the development of the pre-decision scrutiny and policy development role by the Panel.
- 1.2 Coincidentally in May 2019, the Government published statutory guidance on Overview and Scrutiny in Local Government. This report also implements that statutory guidance where it affects the Cabinet.

2.0 Proposals

2.1 Ensuring early and regular engagement between the cabinet and scrutiny

- 2.1.1 The Cabinet should ensure that early and regular discussions take place between the Cabinet and Overview and Scrutiny. To this end, meetings are being arranged between the Chair of the Overview and Scrutiny Panel and the Leader to discuss the Cabinet's future work programme and the progress of existing pre-decision scrutiny reviews.
- 2.1.2 The Leader has already agreed that the Cabinet should provide topics for pre-decision scrutiny to the Overview and Scrutiny Panel. In addition, the Overview and Scrutiny Panel are considering other options for pre-decision scrutiny and wider policy reviews.

2.2 The Cabinet/Scrutiny working relationship

2.2.1 Effective scrutiny involves looking at issues that can be politically contentious. It is therefore inevitable that, at times, the Cabinet will disagree with the findings or recommendations of the Overview and Scrutiny Panel. It is the job of both the Cabinet and Scrutiny Panel to work together to reduce the risk of this happening, and it is recommended that steps should be taken to predict, identify and act on disagreement.

2.2.2 The statutory guidance suggests this can be done via a ‘cabinet-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. Often, the value of such a protocol lies in the dialogue that underpins its preparation. It is important that the protocol is reviewed on a regular basis.

2.2.3 Officers have been requested to draft such a protocol (in consultation with the Chair of the Overview and Scrutiny Panel and the Leader) to include sections on:

- The way the Overview and Scrutiny Panel will develop its work programme (including the ways in which senior officers and Cabinet members will be kept informed);
- The way in which senior officers and Cabinet will keep the Scrutiny Panel informed of the outlines of major decisions as they are developed, to allow for discussion of scrutiny’s potential involvement in policy development. This involves the incorporation of safeguards to mitigate risks around the sharing of sensitive information with scrutiny members;
- A strengthening and expansion of existing parts of the code of conduct that relate to behaviour in formal meetings, and in informal meetings;
- Specification of the nature and form of responses that the Overview and Scrutiny Panel can expect when it makes recommendations to the Cabinet, when it makes requests to the Cabinet for information, and when it makes requests that Cabinet members or senior officers attend meetings; and
- Confirmation of the role of the Monitoring Officer, in overseeing compliance with the protocol, and ensuring that it is used to support the wider aim of supporting and promoting a culture of scrutiny, with matters relating to the protocol’s success being reported to full Council through the Overview and Scrutiny Panel Annual Report.

2.2.4 The protocol could be developed through workshops with scrutiny and cabinet members, and then be presented to Cabinet and the Overview and Scrutiny Panel for them to adopt.

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Reporting to:	Madeline Homer, Chief Executive

Background Papers

Title	Details of where to access copy
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Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities	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
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Corporate Consultation

Finance	
Legal	Director of Corporate Governance and Monitoring Officer