

<b>CABINET MEETING – 10 NOVEMBER 2022</b>  <b>EXECUTIVE SUMMARY SHEET – PART I</b>	
<b>Title of Report:</b> Cabinet/Scrutiny Protocol	
<b>Author(s):</b> Assistant Director of Law and Governance	
<b>Purpose of Report:</b> To present the findings of the Scrutiny Coordinating Committee's working group around the development of a Cabinet/Scrutiny Protocol.	
<b>Description of Decision:</b> To consider and agree the draft Cabinet/Scrutiny Protocol set out in Appendix 1 of the Report.	
<b>Is the decision consistent with the Budget/Policy Framework?</b> Yes	
<b>If not, Council approval is required to change the Budget/Policy Framework</b>	
<b>Suggested reason(s) for Decision:</b> Entering a Cabinet/Scrutiny Protocol was one of the recommendations from the recent independent review of scrutiny that was conducted by the Centre for Governance and Scrutiny and is considered to provide a framework for continued development of good working relationships between Cabinet and Scrutiny.	
<b>Alternative options to be considered and recommended to be rejected:</b> Not to agree a Cabinet/Scrutiny Protocol. This is not recommended as the benefits of entering a Protocol would not be realised.	
<b>Impacts analysed;</b> Equality <input checked="" type="checkbox"/> Privacy <input checked="" type="checkbox"/> Sustainability <input checked="" type="checkbox"/> Crime and Disorder <input checked="" type="checkbox"/>	
<b>Is the Decision consistent with the Council's co-operative values?</b> Yes	
<b>Is this a "Key Decision" as defined in the Constitution?</b> No	
<b>Is it included in the 28 day Notice of Decisions?</b> No	



**CABINET/SCRUTINY PROTOCOL****Report of the Assistant Director of Law and Governance****1. Purpose of Report**

- 1.1 The purpose of the report is to present the findings of the Scrutiny Coordinating Committee's task and finish working group established to develop a Cabinet/Scrutiny Protocol.

**2. Description of Decision (Recommendations)**

- 2.1 To consider and agree the draft Cabinet/Scrutiny Protocol set out in Appendix 1 of the Report.

**3. Background**

- 3.1 A review of the Council's scrutiny arrangements was commissioned to develop a clear and shared understanding of the role, purpose and objectives of scrutiny in Sunderland.
- 3.2 The Independent Review was conducted by the Centre for Governance and Scrutiny (CfGS), who engaged with all political parties and key officers before finalising their report with recommendations.
- 3.3 One of the recommendations was around strengthening the commitment from the executive to work with and actively support scrutiny's role, in particular through the development of a Cabinet/Scrutiny Protocol.

**4. Context to the Task and Finish Working Group**

- 4.1 The statutory guidance published on scrutiny, produced in May 2019 by the Ministry of Housing, Communities and Local Government (now known as the Department for Levelling Up, Housing and Communities), suggested that councils agreed a protocol between the executive and scrutiny to set out how relationships will work.
- 4.2 CfGS also notes that this should not be about identifying a generic protocol and applying it to the local situation; such efforts will probably not yield results. In their experience the value in protocols between scrutiny and the executive often lies in the conversations that need to precede them, rather than in the end result.
- 4.3 CfGS also highlighted that a Cabinet/Scrutiny protocol should deal with the practical workings of scrutiny as well as ensuring that mutual expectations are understood and managed well. They also suggested that it might be useful for feedback on scrutiny recommendations to be formalised within the protocol, in order for the scrutiny committees to be able to monitor the progress of their output/recommendations. Ultimately, the purpose of the Cabinet/Scrutiny Protocol is to support the Council, as a corporate entity, in promoting a spirit of "parity of esteem" between scrutiny and the executive.

## **5. The Aim and Terms of Reference of the Working Group**

- 5.1 The working group was established with the specific aim of looking at the development and application of a Cabinet/Scrutiny Protocol as part of the implementation of the recommendations from the Review of Scrutiny in Sunderland conducted by CfGS.
- 5.2 The working group consisted of Cllrs James Doyle, Paul Edgeworth, Antony Mullen, Pat Smith and Dianne Snowdon; the group selected Cllr Mullen as the Chair.
- 5.3 The following Terms of Reference for the working group were agreed:-
- (a) To consider the aim and purpose of a Cabinet/Scrutiny Protocol and what it should contain to achieve these aims:
  - (b) To assess examples of current Cabinet/Scrutiny Protocols employed by local authorities;
  - (c) To involve relevant cabinet member(s) in discussions to establish mutual objectives within the protocol.

## **6. Drafting the Protocol**

- 6.1 The task and finish working group gathered evidence from a number of sources and this was coordinated, on behalf of Members, by the scrutiny officer. Members gathered evidence from the following:
- Desktop research;
  - Cabinet Secretary;
  - Deputy Leader;
  - Assistant Director of Law and Governance.
- 6.2 Attached for Members information at **Appendix 1** is the draft Cabinet/Scrutiny Protocol developed by the working group. The protocol covers a number of issues relating to the relationship between Cabinet and Scrutiny Committees. Some of the key areas covered include:
- Relationships
  - Attendance and Expectations
  - Pre-Meetings
  - Managing Disagreements.
- 6.3 The intention is that the protocol will provide a framework to continue the development of good working relationships between Cabinet and Scrutiny that further enhance the work of both.

## **5. Reason for Decision**

- 5.1 The Cabinet/Scrutiny Protocol was one of the recommendations from the recent independent review of scrutiny that was conducted by the Centre for Governance and Scrutiny and is considered to provide a framework for continued development of good working relationships between Cabinet and Scrutiny.

## **6. Alternative Options**

- 6.1 Not to agree a Cabinet/Scrutiny Protocol. This is not recommended as the benefits of entering a Protocol would not be realised.

## **7. Financial Implications**

- 7.1 There are no direct financial implications arising from agreeing to the Cabinet / Scrutiny Protocol.

## **8. Background Papers**

Report to the Scrutiny Coordinating Committee on 13 October 2022  
Centre for Governance and Scrutiny Review of Scrutiny in Sunderland



## **SUNDERLAND CITY COUNCIL**

### **DRAFT CABINET/SCRUTINY PROTOCOL**

#### **AIM OF THE PROTOCOL**

The protocol aims to clarify the relationship between the Cabinet and the Overview & Scrutiny function in Sunderland, to ensure the efficient conduct of business and effective communication between Scrutiny and Cabinet Members. The protocol will promote good working relationships between Scrutiny and Cabinet and will be a guide for use by all elected Members.

The protocol will form part of the Overview and Scrutiny Handbook which remains a valuable resource for Members and Officers in relation to the Scrutiny function in Sunderland. The Protocol will also align, where required, with the Council's Constitution.

#### **RELATIONSHIPS**

To ensure and foster good relations between Scrutiny and Cabinet; the Leader of the Council, Chair of the Scrutiny Coordinating Committee, Chief Executive and the Assistant Director of Law and Governance will meet on a quarterly basis to discuss issues of mutual interest.

Scrutiny Chairs and relevant Cabinet Members can also meet informally to discuss specific concerns, issues or agenda items. This will be arranged through the relevant Scrutiny Officer.

The working relationship between Cabinet and Scrutiny will be conducted under an ethos of mutual respect and constructive challenge at all times.

#### **ATTENDANCE AND EXPECTATIONS**

The Leader of the Council and Cabinet Members will have a standing bi-annual invitation to attend the relevant Scrutiny Committee aligned to their portfolio to discuss performance issues and provide a general update on their portfolio. This will be programmed into the scrutiny committee work programmes and the relevant Scrutiny Chair and Scrutiny Officer will liaise with the Cabinet Member prior to attendance.

Where specific concerns arise outside the six-monthly meeting and a Scrutiny Committee would like the relevant Cabinet Member to attend, a specific invitation will be provided from the relevant Scrutiny Chair via the relevant Scrutiny Officer.

Cabinet Members may wish to attend a Scrutiny Committee meeting in relation to a particular matter that they feel they may usefully contribute information to the Committee to inform its considerations. This could also include, when relevant, requesting the views of Scrutiny before a decision is taken. Cabinet Members would liaise with the relevant Scrutiny Chair and/or Scrutiny Officer, seeking an invitation from the Scrutiny Chair to attend.

Cabinet Members may also wish the relevant Chief Officer or their representative to attend in order to provide a full response to the Scrutiny Committee. The relevant Scrutiny Chair should be notified of this intention, and this will be followed up with an invitation for the officer to attend.

In all instances of an invitation to attend, Scrutiny Committees will ensure that:

- A sufficient period of notice is given in all invitations.
- A clear explanation is provided for the reason of attendance and the likely areas upon which they are expected to answer questions.

- Details are provided on the information that is required to be included in any associated papers that are circulated prior to the meeting.

## **PRE-MEETINGS**

Pre-meetings should provide an opportunity for committee members to discuss the forthcoming agenda items. They will be utilised to assist in defining and clarifying the focus of those potential questions that will best meet the specific objectives and outcomes required by the committee. This will also determine if specific Cabinet Members are required to attend and the reasons for their attendance.

Pre-meetings should take place as soon as is practicable once the agenda has been published.

Pre-meetings may not always require the full involvement of the Committee, and this is left at the discretion of the relevant Scrutiny Committee Chair.

Pre-meetings can be conducted virtually or in-person and is left at the discretion of each committee. and Chair if an all-Committee Member pre-meeting is required.

## **WORK PROGRAMMING**

At the start of each Municipal Year, Scrutiny will hold a work planning session and Cabinet Members will be invited to attend and contribute to this annual event. Scrutiny Members will hold a constructive dialogue with Cabinet Members in relation to the delivery of priorities in the City Plan that are relevant to each committee's remit, areas of potential policy development and any other issues where it may be beneficial for Scrutiny to be involved.

Senior officers of the Council, key stakeholders, and partners will also be invited to attend annual work planning sessions.

It should be noted that the final scheduling and agreement of the work programme remains with the relevant Scrutiny Committee.

## **ACCESS TO INFORMATION**

In addition to their rights as councillors, members of a Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of the Constitution

Statutory Overview and Scrutiny guidance advises that Scrutiny Members should have access to a regularly available source of key information about the management of the authority – particularly on performance, management and risk.

The guidance also states that each request for information should be judged on its individual merits, authorities should adopt a default position of sharing the information they hold, on request, with scrutiny committee members. For instances where it is legitimate for Cabinet to withhold information Regulation 17(4) - Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 places a requirement on the executive to provide the scrutiny committee with a written statement setting out its reasons for that decision. The guidance also states before an authority takes a decision not to share information it holds, it should give serious consideration to whether that information could be shared in closed session.



## **CALL-IN**

The Chair of the Scrutiny Coordinating Committee or any seven members of Council have the power to call-in an executive decision that has been made and not yet implemented. The request for a call-in should be made to the Assistant Director of Law and Governance. Those members requesting a call-in should explain the reasons for the call in and why they consider that the principles of good decision-making outlined in Article 13 of the Constitution have not been satisfied. It should only be used in exceptional circumstances.

The full Call-In procedure is set out in the constitution - Overview and Scrutiny Procedure Rules Part 4 Section 5.

The relevant Cabinet Member will also be invited to attend the meeting of the Scrutiny Coordinating Committee held to call in the decision and given the opportunity to make comments they would like the Scrutiny Committee to consider. The representations of the Cabinet Member will be in addition to any presentations given by the relevant Senior Officer(s) responsible for the service that is subject to the call-in.

## **POLICY REVIEWS**

Evidence gathering from Cabinet Members will be built into the terms of reference for all policy review and task and finish work. Therefore, when Scrutiny Committees conduct policy review or task and finish work the Scrutiny Officer will invite the relevant Cabinet Member, on behalf of the Scrutiny Committee, to attend a meeting. This will ensure that any issues, concerns or information that the Cabinet Member would consider to be important are considered as part of the work that the Scrutiny Committee is undertaking. Cabinet Members should look to enhance policy by seeking and considering the views of the relevant scrutiny committee in relation to any major policy development or implementation.

## **MANAGING DISAGREEMENTS**

This protocol should ensure that scrutiny recommendations to Cabinet, take account of Cabinet Members' position on issues under review and facilitate Cabinet support for proposed recommendations. However, there may be instances where Cabinet may disagree with Scrutiny's findings or recommendations.

Disagreements in relation to Scrutiny reviews should become apparent at the draft reporting stage and provision should be made for the relevant Scrutiny Chair and Cabinet Member(s) to discuss these disagreements and seek a resolution that is agreeable to both parties.

Where it is not possible to find a consensus, and Cabinet is unable to support a particular recommendation or finding, then a full and clear response outlining Cabinet's reasoning should be provided to the relevant Scrutiny Committee.

## **COMPLIANCE WITH THE PROTOCOL**

The Assistant Director of Law and Governance will have responsibility for overseeing compliance with the protocol, as well as ensuring it is used to support and promote scrutiny across the council. The effectiveness of the protocol will be reported to full Council through the scrutiny annual report.

