

# TONBRIDGE & MALLING BOROUGH COUNCIL

## OVERVIEW AND SCRUTINY COMMITTEE

07 July 2022

### Report of the Director of Central Services & Deputy Chief Executive

#### Part 1- Public

#### Matters for Recommendation to Cabinet

### 1 EXECUTIVE – SCRUTINY PROTOCOL

#### 1.1 Introduction

1.1.1 Members of the Committee will be aware that changes to the Council's governance arrangements were made by the Leader on 27<sup>th</sup> April 2022, those changes taking effect on 10<sup>th</sup> May. These changes were introduced in light of the report of the Local Government Association Corporate Peer Challenge (March 2022), and in response to the recommendation from the Local Government Boundary Commission for England to reduce the number of Councillors from 54 to 44 with effect from the May 2023 elections.

1.1.2 One of the principal aims and objectives of the changes introduced by the Leader was to increase the scope, role, and responsibility of the Overview & Scrutiny Committee so that it can effectively discharge its functions. To that end the Leader created 3 new Scrutiny Select Committees as follows

Housing & Planning Scrutiny Select Committee

Finance, Regeneration & Property Scrutiny Select Committee

Communities and Environment Scrutiny Select Committee

1.1.3 To ensure that there is a constructive relationship between the Executive and the Overview and Scrutiny Committee, the joint report of the Leader and I to Council dated 27<sup>th</sup> April 2022 also proposed to introduce in due course an Executive-Scrutiny Protocol. In accordance with the 2019 statutory guidance on overview and scrutiny the protocol was to be the subject of initial dialogue between the Leader and the Chair of the Overview and Scrutiny Committee before coming to Members for approval.

1.1.4 A draft protocol has been prepared (attached as **Annex 1**) and agreed between the Leader and Chair of Overview and Scrutiny. The Leaders of the other groups have also been consulted on the terms of the draft. The protocol is now submitted to the Overview & Scrutiny Committee (and then to Cabinet) for approval.

1.1.5 A separate briefing has also been provided to the Chairs/ Vice-Chairs of the Overview and Scrutiny Committee/ Scrutiny Select Committees on the operation of the new Scrutiny Committees.

## 1.2 Draft Protocol

1.2.1 The statutory guidance highlights the benefits of adopting a protocol to clarify the relationship between the Executive and the Overview and Scrutiny Committee to support a framework of strong democratic transparency and accountability and to establish effective communication between Scrutiny and Executive Members. Such protocols can lead to more effective scrutiny of and support for the Executive, resulting in better outcomes for the residents of the Borough.

1.2.2 The draft protocol adopts the broad approach suggested in the statutory guidance and seeks to include the following areas: -

- **Principles** – setting out the principles underpinning the relationship between the Executive and Scrutiny
- **Development of Scrutiny Work Programme** - the way in which Portfolio Holders & senior officers will work with scrutiny chairs to ensure that the scrutiny committees can identify forthcoming policies that they may wish to scrutinize.
- **Expectations of Cabinet** e.g., specifying the nature and form of responses that scrutiny can expect when it makes recommendations to the Executive and when it makes recommendations that Cabinet Members and Senior Officers attend meetings
- **Expectations of the Overview and Scrutiny Committee** – clarifying that the Committee will provide constructive ‘critical friend’ challenge to the Cabinet’s proposals and decisions
- **Call-in** – how call-ins may be made together with the procedure to be followed at meetings
- **Compliance with Protocol** e.g., confirmation of the role of the statutory scrutiny officer

## 1.3 Legal Implications

1.3.1 In May 2019, the Ministry of Housing, Communities and Local Government issued statutory guidance under the Local Government Act 2000 and the Local Democracy, Economic Development and Construction Act 2009. Local Authorities must have regard to this guidance when exercising their functions.

1.3.2 At paragraph 11(d), the guidance states

**Managing disagreement** – effective scrutiny involves looking at issues that can be politically contentious. It is therefore inevitable that, at times, an executive will disagree with the findings or recommendations of a scrutiny committee.

*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.*

*One way in which this can be done is via an ‘executive-scrutiny protocol’ (see annex 1) 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 these protocols are reviewed on a regular basis.*

## **1.4 Financial and Value for Money Considerations**

1.4.1 None arising from this report.

## **1.5 Risk Assessment**

1.5.1 The agreement of a protocol between the Executive and Scrutiny will assist in defining the relationship between the two within our new governance structure. This will in turn assist in reducing the risks of disagreement and ensuring that the scrutiny function is effective in holding the executive to account.

## **1.6 Equality Impact Assessment**

1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## **1.7 Recommendations**

1.7.1 Members are requested to **RECOMMEND** to Cabinet that the draft protocol at Annex 1 be approved.

Background papers:

Nil

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