

# **Improvement and Scrutiny Protocol**

## **1.0 Purpose of the Protocol**

1.1 This protocol is designed to guide the working relationship between Derbyshire County Council's Improvement and Scrutiny and Executive functions. The purpose of the protocol is:

- To define the roles of the Executive and Improvement and Scrutiny in dealing with matters relating to the Scrutiny function.
- To establish operational guidelines on how Scrutiny work will be conducted.

1.2 The protocol is intended for use by officers and Members supporting the County Council's Executive and Improvement and Scrutiny Officers and Members.

## **2.0 Background**

2.1 The legislation governing Improvement and Scrutiny is:

- The Local Government Act 2000
- The Health and Social Care Act 2001
- The Local Government and Public Involvement in Health Act 2007

2.2 In general terms the role of Scrutiny is to scrutinise, report and make recommendations on:

- decisions made or decisions to be taken by the Executive including the call-in of decisions
- County Council services
- Partners in terms of their work with the Local Area Agreement
- Health services commissioned or provided by local NHS organisations
- The development of documents comprising the Council's policy framework
- County Council performance and the performance of partners
- Requests made as a Councillor Call for Action.

## **3.0 Improvement and Scrutiny Work Programmes**

- 3.1 Generally, Scrutiny can examine any issue which affects the area and/or its inhabitants.
- 3.2 Each Improvement and Scrutiny Committee will develop an annual work programme.
- 3.3 Some matters will however, inevitably arise during the course of the year which will be added to work programme.
- 3.4 Chief Officers and Cabinet Members will be consulted on all matters to be included in work programmes.
- 3.5 The final decision as to whether a matter should be included in the work programme rests with the appropriate Improvement and Scrutiny Committee.
- 3.6 A separate more detailed protocol on the Scrutiny work programmes has been developed. Please refer to this document.

#### **4.0 Conduct of Scrutiny Work**

- 4.1 Each Department will nominate a departmental Scrutiny Lead who will be the primary point of contact on general matters affecting Scrutiny.
- 4.2 The conduct of individual reviews will as far as possible be agreed at the scoping report stage. Chief Officers, departmental scrutiny leads and Cabinet Members will be advised of any significant variations to the original scope of the review which arise during the review process.
- 4.3 The conduct of other review work such as dealing with call-ins will be determined on an individual basis following consultation with Chief Officers, departmental Scrutiny contacts and Cabinet Members.
- 4.4 Scrutiny will usually conduct its business through the Improvement and Scrutiny Committees or working groups established to oversee specific reviews.
- 4.5 The final decision on the conduct of Scrutiny work rests with the Improvement and Scrutiny Committee.

#### **5.0 Attendance at Improvement and Scrutiny meetings**

- 5.1 Officers requested to attend Scrutiny meetings will under normal circumstances be given at least 28 days notice of the meeting. There may be circumstances however, such as a review of a called-in decision, where it may not be possible to give this length of notice.
- 5.2 Under normal circumstances the officers requested to attend meetings to give evidence on Scrutiny reviews will be identified at the scoping report stage. There may be circumstances where this is not possible however. In all circumstances, Chief Officers and

departmental Scrutiny leads will be notified when it is intended to talk to an officer from their department.

- 5.3 Officers attending meetings will be briefed by the Scrutiny Team regarding the purpose of the meeting, its format and the subject matter.
- 5.4 Improvement and Scrutiny Committee meetings are open to the public to attend except on rare occasions when the business under discussion is confidential.
- 5.5 Review working group meetings are generally not public meetings, although there may be occasions when the public and other interested parties are present. In these circumstances, those attending will be notified in advance.
- 5.6 It is accepted that there may be occasions when officers are unable to give full answers to questions at meetings without seeking advice or further information. In such instances either another meeting will be convened or a written response will be acceptable.

## **6.0 Information in support of Scrutiny Work**

- 6.1 An Improvement and Scrutiny Committee and its working groups will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to any business transacted at a meeting of the Executive or its committees or any decision taken by an individual member of the Executive.
- 6.2 An Improvement and Scrutiny Committee will not be entitled to:
  - (a) any document that is in draft form;
  - (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.
- 6.3 Under normal circumstances, the Improvement and Scrutiny Committee would expect to receive information within 20 days of the request being made. There are circumstances however, such as a call-in, where the decision may be required at shorter notice. Similarly where the request is for a large amount of information or for information which is not readily available, timescales will need to be extended by agreement.
- 6.4 Written reports requested by a Scrutiny Working Group should be available 7 days prior to the meeting.

## **7.0 Reports by Scrutiny**

- 7.1 At the outset of Scrutiny reviews, all scoping reports will be circulated by the Improvement and Scrutiny Team to relevant Chief Officers, departmental Scrutiny leads, the Equality Officers and Cabinet Members.
- 7.2 Final Scrutiny reports will be circulated by the Improvement and Scrutiny Team to relevant Chief Officers, departmental Scrutiny leads, Cabinet Members and others who have contributed to the review process.
- 7.3 Under normal circumstances, a minimum 20 days will be allowed for comment on all Scrutiny reports.
- 7.4 For both scoping reports and final reports, comments on matters other than accuracy will be considered but the final say regarding the wording of reports rests with the Improvement and Scrutiny Committee.
- 7.5 Once final Scrutiny reports have been agreed by Committee they will usually be submitted to the next available meeting of Cabinet or Council (Subject to the Chairs availability to present the report).
- 7.6 Final reports will be presented to Cabinet or Council for them to receive and to report back to a future meeting of the Improvement and Scrutiny Committee usually within 2 months, as to whether they accept the report, either in full or in part, giving reasons where appropriate. An action plan shall accompany the report which will be used as the basis for future implementation reports. There may be occasions however, where the matter under consideration requires an urgent response from Scrutiny and in such cases the response will be agreed by the appropriate Scrutiny Committee.
- 7.7 Implementation reports detailing progress against agreed actions will be presented to the appropriate Improvement and Scrutiny Committee every six months or at such period as is agreed by the Committee.

## **8 Reports to Scrutiny**

- 8.1 Reports to Scrutiny Committees are generally public and are subject to the Access to Information rules on publication and notice.
- 8.2 Under normal circumstances at least 28 days notice will be given of the need for a report to be produced for a Scrutiny Committee. There may be exceptions however, when this is not possible and where reports need to be produced at shorter notice or as a matter of urgency.

## **9 Call-in**

- 9.1 The call-in process as set out the Council's Constitution allows Members to request that decisions be reviewed where it is considered that there is evidence which suggests that issues have not been handled in accordance with the decision-making principles set out in Article 13 (decision-making). Call-in should however, only be used in exceptional circumstances.
- 9.2 The procedures for dealing with call-in are detailed in the Council's Constitution in the Improvement and Scrutiny Rules section. Procedural advice on matters relating to the call-in process should be taken from the County Secretary.
- 9.3 The reason against which a call-in request will be judged as valid is if a member(s) has good reason to believe that the Executive or officer did not take the decision in accordance with the principles set out in Article 13(2) of the Council's Constitution namely:
- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
  - (b) due consultation and the taking of advice from officers;
  - (c) respect for human rights;
  - (d) a presumption in favour of openness; and
  - (e) clarity of aims and desired outcomes.
- 9.4 If a decision is called in Chief Officers will be notified as soon as possible by the County Secretary. **No** action should be taken on the matter until the Improvement and Scrutiny Committee has completed its review of the decision.
- 9.5 Any Cabinet or Cabinet Member report can be called in at any time and where this happens, the implementation of the decision will be delayed. Authors of reports should have regard to this when timetabling reports for approval.
- 9.6 The Improvement and Scrutiny Team will discuss the conduct of the review of the decision including timescales, with the Chief Officer, departmental Scrutiny lead and the report author and will endeavour to complete its review as soon as is reasonably practicable. The final decision on the conduct of the review rests with the Improvement and Scrutiny Committee.

## **10.0 Waiving of Call-in**

- 10.1 The Council's Constitution allows for the call-in period to waived in cases where it is important that a decision taken by the Executive is acted on immediately or before the end of the call-in period to avoid seriously prejudicing the Council's or the public interest.
- 10.2 The procedures for dealing with waiving call-in are detailed in the Council's Constitution in the Improvement and Scrutiny Rules

section. In addition to contacting the Improvement and Scrutiny Committee Chair, authors of reports should also inform the County Secretary and the Improvement and Scrutiny Team of the request. Ideally, the reasons given by the Committee Chair for agreeing to waive call-in should be included in the report although there will be circumstances where this is not possible. Procedural advice on matters relating to the waiving of call-in should be sought from the County Secretary.

- 10.3 To waive call-in, the Chair of the appropriate Improvement and Scrutiny Committee should agree that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions taken as a matter of urgency should be reported by the County Secretary to the next available meeting of the Council, detailing the reasons for urgency.
- 10.4 All Executive reports should detail whether or not call-in is requested to be waived.
- 10.5 It is the expectation of the Improvement and Scrutiny Committee Chairs that the majority of decisions should be planned sufficiently in advance to ensure that such requests are kept to a minimum.

## **11.0 Forward Plan of Key Decisions**

- 11.1 The Council's Constitution sets out the procedure for including items on the Forward Plan including those relating to general exceptions and special urgency.
- 11.2 Again, it is the expectation of the Improvement and Scrutiny Committee Chairs that the majority of decisions should be planned sufficiently in advance to ensure that such requests are kept to a minimum.

## **12.0 Budget and Policy Framework**

- 12.1 The Constitution details the procedures to be followed in developing plans, strategies or the budget which makes up the Council's policy framework. This allows for a minimum 6 week consultation period for Improvement and Scrutiny.
- 12.2 The Improvement and Scrutiny Committees would request that to enhance the Member involvement in the development process, that Scrutiny Committees be engaged wherever possible, from the outset of the process.

## **13.0 Councillor Call for Action**

- 13.1 Separate detailed guidance on the operation of CCfA has been produced. For a copy of the guidance or for advice, please

contact the Democratic Services Section or the Improvement and Scrutiny Team.

- 13.2 It is important that the procedures for recording CCfAs are followed.

#### **14.0 Press and publicity**

- 14.1 It is important that the Scrutiny function receives publicity. Publicity may be in relation to the operation of the Scrutiny function in general or to specific projects under review.
- 14.2 Chairs of Scrutiny Committees are able to issue press releases in their own right on matters relating to the Scrutiny function.
- 14.3 All Scrutiny press releases should be issued through the Press Office.
- 14.4 On matters which have been the subject of Scrutiny reviews, once Scrutiny reports have been received by Cabinet, responsibility for press releases on the subject will lay the appropriate Cabinet Member(s). References should be made however, to the role of Scrutiny where appropriate.

#### **15.0 Review of the Protocol**

- 15.1 The protocol will be reviewed annually.

5 May 2009.