

<b>Meeting:</b>	Audit and Governance Committee
<b>Meeting date:</b>	03/09/2025
<b>Report of:</b>	Director of Governance and Monitoring Officer
<b>Portfolio of:</b>	Cllr Douglas, Leader of the Council, Policy, Strategy and Partnerships

## **Audit and Governance Committee Report:**

### **Executive / Scrutiny Protocol for City of York Council**

#### **Subject of Report**

1. This report presents the Committee with a proposed constitutional change to Article 8 – Scrutiny, to incorporate an Executive / Scrutiny Protocol for City of York Council. The Protocol has been developed as part of work towards fulfilment of the recommendations in respect of the Council's Scrutiny function agreed by Council in March 2025.
2. The Protocol has been drafted and developed by the cross-party Scrutiny Review Working Group appointed by Council, and approved by the Leader and Deputy Leader in consultation with the Working Group.

#### **Policy Basis**

3. Overview and scrutiny committees were established in English and Welsh local authorities by the Local Government Act 2000. They were intended as a counterweight to the new executive structures created by that Act. Their role was to develop and review policy and make recommendations to the council. Relevant councils must have at least one overview and scrutiny committee.
4. The legislative provisions for overview and scrutiny committees for England are set out in Section 9F of the Act as amended by Localism Act 2011. These state:

‘Executive arrangements by a local authority must ensure that its overview and scrutiny committee has power (or its overview and scrutiny committees, and any joint overview and scrutiny committees, have power between them)—

- to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,
  - to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,
  - to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,
  - to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,
  - to make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of that area.’
5. Overview and scrutiny committees must have the power to ‘call in’ decisions made by their executives but not yet implemented. The statutory minimum requirement is that “call in” enables the scrutiny committee to recommend that the decision be reconsidered by the person who made it.
6. Local authorities also have limited powers of ‘external scrutiny’, where their committees look at issues which lie outside the council’s responsibilities, with specific powers to scrutinise health bodies, community safety partnerships, and Police and Crime Commissioners.

## **Recommendation and Reasons**

7. It is recommended that Members endorse the proposed revision to Article 8 of the Council’s Constitution to incorporate the Executive / Scrutiny Protocol for City of York Council, and remit this change to the next ordinary meeting of Full Council for approval.

Reason: To strengthen the scrutiny function and to fulfil the recommendation endorsed by Council in March 2025 in relation to a refreshed Executive / Scrutiny Protocol.

## Background

8. Following the February 2024, Local Government Association (LGA) Peer Challenge of the City of York Council, the subsequent report presented to the Council's Executive in May 2024 stated: "Scrutiny arrangements at CYC would benefit from review. As a function of governance, it can be hugely beneficial for quality of decision-making if it is fully supported and empowered to be a positive and integral part of policy development. It is clear that this is recognised by the administration as an area where a fresh look at how improvements can be made would also be a good use of time and effort."
9. The Centre for Governance and Scrutiny (CfGS) was therefore commissioned to undertake a Scrutiny Impact Review of City of York Council. This review was conducted in November and December 2024.
10. The final CfGS recommendations were reported to the Corporate Services, Climate Change and Scrutiny Management Committee on 10 March 2025, with a proposed action plan to address each of the recommendations in full. All Scrutiny Chairs and Vice Chairs were invited to attend the meeting and contribute to the debate.
11. The CfGS's Recommendation 4, as reported to the above meeting, stated: 'Revisit and refresh the Cabinet/Scrutiny protocol, including the establishment of regular structured meetings between Scrutiny Chairs and Vice Chairs and relevant Cabinet Member(s) to discuss collaboration and future mutual priorities and upcoming decisions and projects.' The action plan proposed that this work be taken forward by a cross-party working group for discussion and agreement with the Leader and Deputy Leader once proposals had been developed.
12. Following agreement by the Committee, the recommendations, action plan and the comments of the Committee were then presented to Executive on 11 March 2025.

13. Following approval by Executive, the recommendations and action plan were then presented to Full Council on 27 March 2025. Council endorsed the proposed actions, including the establishment of a cross-party working group, consisting of all Chairs and Vice-Chairs of Scrutiny Committees, to lead and oversee work to implement the recommendations.
14. This group was then established as the Scrutiny Review Working Group and held its first meeting on 16 April 2025, with Cllrs Fenton and Merrett respectively elected Chair and Vice-Chair of the Working Group. Following the introduction of a revised scrutiny committee structure in May 2025, new scrutiny Chairs and Vice-Chairs who were not already members of the Working Group were co-opted to its membership.
15. At its meeting on 5 June 2025, the Scrutiny Review Working Group considered guidance published by the CfGS to help inform the development of a Scrutiny / Executive Protocol. A draft Executive / Scrutiny Protocol for City of York Council was then developed and considered at the Working Group's meeting on 30 June 2025, and revised to take members' comments into account.
16. A revised draft of the Executive / Scrutiny Protocol was then considered by the Chair and Vice-Chair of the Working Group in consultation with the Leader and Deputy Leader and agreed on 14 July 2025.
17. The agreed draft was then approved by the Working Group at its meeting on 23 July for referral to Audit and Governance Committee, with the recommendation that the Protocol be approved for inclusion in the Council's Constitution.

## **Consultation Analysis**

18. Consultation on the Protocol has been undertaken by the cross-party Scrutiny Review Working Group, with the Leader and Deputy Leader of the Council, with Democratic Services, and with the Director of Governance.

## **Contact details**

For further information please contact the authors of this Report.

## Co-Authors

<b>Name:</b>	James Parker
<b>Job Title:</b>	Scrutiny Officer
<b>Service Area:</b>	Democratic Governance
<b>Telephone:</b>	01904 553659
<b>Name:</b>	Bryn Roberts
<b>Job Title:</b>	Director of Governance and Monitoring Officer
<b>Report approved:</b>	Yes
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## Background papers

- Centre for Governance and Scrutiny, Scrutiny Impact Report: City of York Council,  
<https://democracy.york.gov.uk/documents/s182228/Annex%20A%20York%20Scrutiny%20Impact%20Report.pdf>
- City of York Council Scrutiny Impact Review Action Plan,  
<https://democracy.york.gov.uk/documents/s182229/Annex%20B%20Scrutiny%20Impact%20Review%20Action%20Plan.pdf>

## Annexes

- Annex A: Executive / Scrutiny Protocol for City of York Council
- Annex B: Suggested revision to City of York Council Constitution, Article 8: Scrutiny, clean.
- Annex C: Suggested revision to City of York Council Constitution, Article 8: Scrutiny, tracked.

### Abbreviations used in this report

CfGS – Centre for Governance and Scrutiny

LGA – Local Government Association