

Overview & Scrutiny – Cabinet Protocol

This protocol sets out the relationship between the Council's Cabinet and its Overview & Scrutiny Committee/ Scrutiny Select Committees. This includes the processes that these bodies will follow, where they will interact with each other, and how they expect the other to conduct itself. The Protocol is in addition to requirements set out in the Council's Code of Conduct and the Officer/ Councillor Protocol.

This Protocol will promote an effective role for Scrutiny and foster a good working relationship between the Overview & Scrutiny Committee and the Cabinet that will ensure the Committee makes a valuable contribution to the effective running of the Council.

In seeking agreement to this protocol, it is acknowledged that there are different rights and roles of both Overview and Scrutiny and Cabinet Members but that both are committed to developing an effective relationship. This will involve but not be limited to:

- Frequent and honest dialogue between Cabinet Members and Overview and Scrutiny Members, either individually or collectively,
- Regular discussions regarding Cabinet and Overview and Scrutiny work programmes/activities including establishing joint activities/projects where possible,
- Establishing effective and formal reporting structures, and
- Respecting the confidential nature of the discussions that may from time to time take place.

Principles

The following principles set out how the working relationship between the Cabinet and the Overview and Scrutiny Committee should operate.

- (a) The Cabinet and members of the Overview and Scrutiny Committee recognise that they each have different functions and responsibilities that contribute to securing the best outcomes for the people who live and work in the borough.
- (b) All participants in the working relationship between Cabinet and the Overview and Scrutiny Committee will do so in a spirit of mutual respect and constructive challenge.
- (c) Meetings of the Overview and Scrutiny Committee should be conducted in accordance with the statutory guidance (Annex 1)
- (d) The Cabinet recognises that the Overview and Scrutiny Committee has several rights, for example requiring Portfolio Holders to attend its meetings or calling-in Cabinet decisions which have not yet been implemented should they consider a decision to be reviewed. The Overview and Scrutiny Committee will exercise those rights responsibly.
- (e) One of the principal responsibilities of the Overview and Scrutiny

Committee is to hold the Cabinet to account. This enables non-Cabinet members to fully scrutinise important decisions made by the Cabinet whilst also allowing routine decision making to take place in a responsive manner. An important method to ensure accountability is through examining performance and decisions taken by the authority. To facilitate this challenge the Overview and Scrutiny Committee may:

- a. The Agenda for Overview and Scrutiny will include as an early standard item, Non-Key Decisions made by members of Cabinet and officers since the last Overview and Scrutiny Meeting.
 - b. Challenge the Cabinet about decisions (whether key or non-key) which have been taken by Cabinet
 - c. Require and consider Key Performance Indicators.
 - d. Query or ask for information about any item on the Notice of forthcoming Key Decisions.
- (f) In addition to their rights as councillors, members of the Overview and Scrutiny Committee and its working groups have additional rights of access to documents as included in the Access to Information rules in the Constitution. This allows the committee access to copies of any documents which are in the possession, or control, of the Cabinet or its committees. There are a few limits on this access, and these are identified in the rules.
- (g) Members of the Cabinet cannot be members of the Overview and Scrutiny Committee.
- (h) The Overview and Scrutiny Committee will report annually to Full Council to evaluate their work during the previous year and to summarise the programme for the forthcoming year.

Development of the Scrutiny Work Programme

Individual Portfolio Holders and Overview and Scrutiny Chairs should consider meeting regularly to identify and plan for policy development work in which all members can participate.

The intention should be to programme such work at an early stage in the development of a policy.

Each meeting of the Committees will include an opportunity to consider forthcoming key decisions. The relevant committee shall identify any forthcoming key decisions which are (i) relevant to the functions of that committee and that (ii) it may wish to scrutinise.

The Chair of the relevant committee will inform the Leader or relevant Cabinet portfolio holder and the Chief Executive of the matters which it may wish to scrutinize.

The Chief Executive in consultation with Management Team will determine the appropriate lead officers for the matter in question.

The relevant Chair, Leader and Chief Executive/ lead officers will discuss the parameters for scoping that matter and any appropriate timescales for the matter to be reported to the Committee, taking into account any key milestones for decision making, including time needed to obtain any advice which is required.

The Scrutiny Work Programme will also have the following standing items (Scrutiny Select Committee identified in brackets where relevant):

Development of the Annual Budget (Overview and Scrutiny Committee)

Corporate Plan (Overview & Scrutiny Committee)

The Medium-Term Financial Strategy (Finance, Regeneration and Property Scrutiny Select Committee)

Any Treasury/Investment/Capital Strategies (Finance, Regeneration and Property Scrutiny Select Committee)

Any property acquisition and/or Disposal Strategy (Finance, Regeneration and Property Scrutiny Select Committee)

Development of the statutory Development Plan (Housing and Planning Scrutiny Select Committee)

Key Performance Indicators (relevant Scrutiny Select Committee)

In accordance with paragraph 8 of the Overview and Scrutiny Procedure Rules, a request may be made for other agenda items relevant to the functions of the Overview and Scrutiny Committee/ Scrutiny Select Committee(s) to be included on the agenda for the next meeting of the Committee/ Scrutiny Select Committee. Any such requests will be considered against the criteria attached to this Protocol at **Annex 2** in order to ensure that the scrutiny function is as effective as possible.

Expectations of the Cabinet

It is expected that Cabinet Portfolio Holders should attend meetings of the Overview and Scrutiny Committee in person, when requested, to present reports relevant to their portfolio and answer any relevant questions. Where a Portfolio Holder is unable to attend on a particular date it is expected that another Portfolio Holder or the Leader will attend on their behalf

All Members should promote an atmosphere of openness at Scrutiny Committee Meetings and should strive to ensure that questioning and debate takes place within a climate of mutual respect and trust between Scrutiny Committee Members, the Cabinet Member and other participants.

In order to notify Scrutiny Members of upcoming business and potential items to be added to the Committee's Work Programme, the Principal Democratic Services Officer will ensure that the Scrutiny Officer is kept updated of all new items that are added to the Cabinet Work Programme.

If necessary, the Leader will meet with the Scrutiny Officer, Principal Democratic Services Officer and the Chair of the Overview & Scrutiny Committee to consider the best way to deal with any forthcoming items of business.

Where the Overview and Scrutiny Committee (or Scrutiny Select Committee) has

made recommendations to a decision-making body or person, that body or person will provide a written response to those recommendations setting out whether the recommendations are accepted or not, and the reasons for that decision.

Overview and Scrutiny Committee and the Scrutiny Select Committees are entitled to such information as is necessary to properly perform their functions. If the Overview and Scrutiny Committee or Scrutiny Select Committee request information from the Cabinet, the Cabinet will respond within 10 working days confirming whether the information requested exists and, if so, provide the committee with access to that information.

Expectations of the Overview & Scrutiny Committee

The Committee will provide constructive 'critical friend' challenge to the Cabinet's proposals and decisions.

The Committee will remain non-political and be effectively led by Members who take responsibility in their role to drive service improvements.

The Cabinet's response to Scrutiny's recommendations will be published in the agenda of the next scheduled Overview & Scrutiny Committee meeting.

The Overview & Scrutiny Committee will monitor the effectiveness of services and undertake regular reviews of performance in relation to the Council's services.

Call-in

Call-in is the exercise of the Overview & Scrutiny Committee's statutory power in section 21(3) of the Local Government Act 2000, to review a Cabinet decision that has been made but not yet implemented.

Once made, Cabinet decisions will ordinarily be published by the Democratic Services Team within two working days of the meeting, with date of publication included. Five clear working days are given before the decision can be implemented, in which time the Call-in must be made.

Requests for Call-in can be made by any 5 Members of the Overview and Scrutiny Committee.

Cabinet Members will be expected to attend any meeting of a Scrutiny Committee at which it is intended to consider a call-in request in relation to his/her area of responsibility. Where the relevant Cabinet Member cannot attend a call-in meeting, the Leader of the Council or Deputy Leader should attend in their absence. In the event of both the Leader and Deputy Leader also being unavailable, they should nominate another Cabinet Member to attend and be accountable for the decision.

The following procedure shall take place at call-in meetings:

- The Members who called in the decision should speak first.
- The Chair will then invite the Cabinet Member (decision maker) to respond.
- The Committee can then ask questions of the decision maker who may ask a relevant officer to supply further information if necessary.

The Committee will debate the issue and vote on the outcome.

The Overview & Scrutiny Committee cannot overturn the decision that has been called in. It may either agree with the decision/ decide to make no recommendations to the Decision Maker (in which case it will take immediate effect) or refer it back to the Cabinet/ Leader/ Portfolio Holder (as applicable) for further consideration, including any recommendations from Scrutiny Members.

It is the aim of the Council that call-ins should only be used as a last resort for resolution, and that other less-confrontational means should always be pursued prior to this option.

Compliance with this protocol

The Scrutiny Officer is responsible for overseeing compliance with the protocol and ensuring that it is used to support the wider aim of supporting and promoting a culture of scrutiny. Matters relating to the protocol's success will be reported to full Council through the scrutiny annual report. The role also includes promoting the role of the authority's scrutiny committee, providing support and guidance to members and officers relating to the functions of the scrutiny committee and providing a link between the Cabinet and the Overview and Scrutiny Committee/ Select Committees.

Annex 1 – Statutory guidance

Overview and scrutiny: statutory guidance for councils and combined authorities - GOV.UK (www.gov.uk)

Annex 2 - Criteria for assessing scrutiny requests

Topics are suitable for scrutiny when	Topics are not suitable for scrutiny when
-scrutiny could have an impact and add value	-the issue is already being addressed elsewhere and change is imminent
-the topic is of high local importance and reflects the concerns of local people	-the topic would be better addressed elsewhere (and will be referred there)
-the resources are available that would be required to conduct the review, in terms of manpower and budget	-scrutiny involvement would have limited or no impact upon outcomes
-it avoids work duplication elsewhere	-the topic may be sub-judice or prejudicial to the council's interest
-the issue is one that the committee can realistically influence	-the topic is too broad to make a review realistic
-the issue is related to an area where the council, or one of its partners, is not performing well	-new legislation or guidance relating to the topic is expected within the next year
-the issue is relevant to all or large parts of the local area	-the topic area is currently subject to inspection or has recently undergone substantial change.
-the review would be in the council's interests	