

Cabinet-Scrutiny Protocol

Guidance for overview and scrutiny was released by the Ministry for Housing, Communities and Local Government in May 2019. It provides advice for senior leaders, overview and scrutiny committee members and support officers.

This is statutory guidance which all councils 'must have regard' to. This means it does not need to be followed in every detail but that it should be followed unless there is a good reason not to.

The guidance recognises that the prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails. After considering the guidance, the Scrutiny Overview Committee identified a Scrutiny-Cabinet Protocol as one method of embedding a positive culture between the Executive and the Overview and Scrutiny function. As such, this protocol has been developed in consultation with all of the Overview and Scrutiny Members and the Executive.

1. Conduct and tone of meetings - working together

1.1 Both Scrutiny Members and Cabinet Members commit to working together in a positive way for the benefit of the Borough.

1.2 The conduct and tone of meetings will, at all times, seek to be constructive. It is noted that the role which a scrutiny committee plays is to be that of a 'critical friend' not a de facto 'opposition'. There should be an ethos of constructive challenge, an executive open to influence and a focus on delivering the best possible outcomes.

1.3 It is recognised that meetings will often deal with challenging issues. Scrutiny Members are encouraged to scrutinise these objectively and to challenge the issue but not to make scrutiny unnecessarily personal or adversarial.

1.4 The preferred question style will be to understand the issues in more detail, to gather more information as appropriate, and to persuade the Cabinet of the merits of alternative courses of action.

2. Attendance and role of Cabinet Members at meetings

2.1 Cabinet Members are welcome to attend any meetings of the Council's Overview and Scrutiny Committees.

2.2 Where there is an item on an OSC agenda that is within their portfolio, invited Cabinet Members will sit at the table, introduce the report and answer questions from Scrutiny Members. All such questions will be directed to the portfolio holder in the first instance. It will be acceptable for points of detail to be clarified by the Officers present on the invitation of the Portfolio Holder, if required.

- 2.3 When an issue is within their portfolio, Cabinet Members will be able to speak and contribute to any debate at an OSC meeting.
- 2.4 It is acceptable for a Cabinet Member to leave the OSC meeting after the discussion of the item that they were required for has concluded.
- 2.5 Other Cabinet Members attending an OSC meeting where there are no issues on the agenda relevant to their portfolio will be able to sit at the Committee table if space is available after all of the other invitees have been accommodated. They can be invited to contribute to the debate at the discretion of the Chair.

3. How to invite Cabinet Members to meetings

- 3.1 If there is an issue within their portfolio at an OSC meeting, the relevant Democratic Services Officer will email the Portfolio Holder(s) to confirm the arrangements for the meeting, inform them of the issue and what is required.

4. Engagement in drafting working programmes

- 4.1 It is recognised that Part 4.5 of the Constitution allows OSCs to agree their annual work programmes unilaterally and for any OSC Member to request that an item be included on an OSC agenda. Provision is also made for the Cabinet to ask an OSC to consider a matter. This protocol recognises that there is opportunity in both the OSCs and the Cabinet engaging with each other to identify items for scrutiny for mutual benefit.
- 4.2 At the first meeting of the municipal year, each OSC will invite those Cabinet Members whose portfolios fall within their remit, to set out their priorities for the year. In turn, the Cabinet Members will invite OSCs to consider this information and use it to inform the development of their work programmes for the year. It is expected that the Scrutiny Overview Committee, or its successor co-ordination committee, will meet first and invite the Leader of the Council to set out the programme for his/her administration.
- 4.3 The value of continued dialogue between Cabinet and OSCs is recognised and commended. Therefore, holding informal meetings between all OSC Members, particularly Chairs and Vice-Chairs, with Cabinet Members is encouraged.

5. Recommendations to Cabinet from Overview and Scrutiny Committees

- 5.1 When an OSC makes recommendations that are required to be considered by the Cabinet, a report should be prepared from the OSC setting out the Committee's recommendations along with a synopsis of any discussions.

- 5.2 The Chair of the OSC, or their nominated substitute, will be invited to attend the relevant meeting of the Cabinet. The Chair will be invited to sit at the table to present the OSCs recommendations. The relevant Cabinet Member will provide a formal response to the report and its recommendations at the next Cabinet meeting. The Overview and Scrutiny Chair will be invited to this meeting.

6. Working groups – consultation, reporting and response

- 6.1 Scrutiny working groups should provide detailed reports and recommendations on key issues of local importance. Due to this significance, and in the interests of working together and embedding a culture of co-operation, scrutiny working groups will share a draft of their final report with the parent Overview and Scrutiny Committee, the Leader of the Council and the relevant Cabinet Members prior to the report being considered by the Scrutiny Committee.
- 6.2 Cabinet Members will be invited to attend the OSC meeting where a working group report in their portfolio is being presented. Cabinet Members will be invited to provide an initial response to the report at this time.
- 6.3 Following the agreement of the Working Group report and its subsequent referral to Cabinet, the Chair of the Overview and Scrutiny Committee which approved the working group report will be invited to Cabinet to present the Working Group's findings and recommendations.
- 6.4 A response to the Working Group's report will be provided by the relevant Cabinet Member at the next meeting of Cabinet. The OSC Chair will be invited to attend this meeting.

7. Call-in procedure at meetings

The Constitution sets out that the calling of a Cabinet decision should only be used in exceptional circumstances. When an OSC meeting is called to consider a call-in, the following framework is recommended to ensure that all parties are given the opportunity to present:

1. Call-in Members to explain the reason for the 'call in' and what they would like the Cabinet to do differently from what is proposed in the decision;
2. Followed by any questions for clarification from the Scrutiny Committee Members (if required);
3. Invite the Portfolio Holder to respond to the 'call in';
4. Questions to the Portfolio Holder from the Scrutiny Committee;
5. Debate by the Scrutiny Committee and the formulation of any conclusions/recommendations to be submitted to the Cabinet.

8. Managing disagreements

- 8.1 Any disagreements between OSC Members and Cabinet Members that require mediation will be referred to and managed by the Council's Monitoring Officer.