



Appendix 3

PROTOCOL ON CABINET - OVERVIEW AND SCRUTINY RELATIONS



Boston - A Great Past and a Bright Future

Protocol on Cabinet – Overview and Scrutiny Relations

1. Introduction

- 1.1 The aim of the protocol is not intended to change the respective constitutional positions, roles or responsibilities of either the Cabinet or the Overview and Scrutiny Committees.
- 1.2 It is to clarify relationships between the two and help ensure the smooth conduct of overview and scrutiny business and encourage effective communication between overview and scrutiny and the Cabinet.
- 1.3 This Protocol applies to all Members of the Overview and Scrutiny Committees, any Member who may sit on a Scrutiny Task and Finish Group, Working Group or Inquiry Session and all Members of the Executive (comprising the Leader and the various Cabinet Members).
- 1.4 It provides guidance on the way in which both types of Members interact to enable the Authority to carry out the Overview and Scrutiny function. The Protocol also outlines the framework and procedures underpinning the operation of scrutiny and provides guidance on role of officers who support this process.
- 1.5 The key responsibilities of overview and scrutiny at the Council are to:
 - Hold the Cabinet and Corporate Management Team to account for their decisions;
 - Review Council policy, the way policies are implemented and their impact on local people;
 - Scrutinise decisions before they are made and before they are implemented; and
 - Contribute to the development of policy by investigating issues of local concern and making recommendations to the Cabinet (and Council's partners).

2. Objectives

- 2.1 To enable Overview and Scrutiny Members, Officers and Cabinet Members to fully understand their powers, roles and responsibilities in relation to the Overview and Scrutiny function, so as to maximise their personal effectiveness.
- 2.2 To establish a positive framework and the necessary procedures to enable scrutiny to work effectively.
- 2.3 To promote an ethos of mutual respect, trust and courtesy in the interrelationships between Scrutiny Members and Cabinet Members and to foster a climate of openness leading to constructive debate, with a view to ensuring service improvements.

- 2.4 To create a culture of holding the Executive to account on behalf of the electorate, by monitoring the effectiveness of the Council's policies and through the regular review of its performance in relation to service delivery.
- 2.5 To define and clarify the role of the Executive as an integral component of the scrutiny process.

3. Holding the Executive to Account

- 3.1 One of the underpinning principles of Overview and Scrutiny is the ability of non-Executive Members to hold the Executive to account. A key method of ensuring accountability is through critically and routinely considering the performance and decisions taken by the Executive.
- 3.2 To facilitate this approach, the Scrutiny Committees may challenge the Executive about decisions, which it has taken collectively, or Officer Key Decisions. The Scrutiny Committees may also consider any relevant performance information in respect of the delivery of services. In addition, the Committee may query or make recommendations in relation to decisions which the Executive is proposing to take, as set out in the Forward Plan.
- 3.3 The Executive will be required to consider any recommendations or views expressed by the Scrutiny Committees and to take such action it sees fit. Where any decision taken by the Executive is not in accordance with advice provided by the Committees, the relevant Cabinet Member should be prepared to provide an explanation of the reasons for that decision to the Committee concerned.

4. Powers of the Overview and Scrutiny Committees

- 4.1 Section 3 of Part 3 (Responsibility for Functions) of the Council's Constitution, sets out the relevant powers of the Overview and Scrutiny Committees, which include:-
 - The power to review or scrutinise decisions made, or other actions taken, in connection with the discharge of Executive functions;
 - The power to make reports or recommendations to the Executive with respect to the discharge of any Executive functions;
 - The power to assist the Council and the Executive in the development of the policy framework and budget, subject to the limitations set out in the Budget and Policy Framework Procedure Rules; and
 - The power to require Members of the Executive to attend before it to answer questions.

5. Overview and Scrutiny Committee Agendas

- 5.1 The agenda of each Scrutiny Committee meeting will include an item on the Committee's Work Plan to enable the Committee's priorities for scrutiny for the remainder of the Municipal Year to be included and prioritised.

- 5.2 The Cabinet Member may be invited to comment on the Committee's proposed priorities within the Work Plan to inform the selection process and to undertake a co-ordinating role by providing advice to the Committee about any potential conflict between proposed scrutiny topics and areas of planned policy development.
- 5.3 The Cabinet Member may also advise the Committee about instances where it may be requested by the Executive to assist in policy development. Members may at any time propose items for inclusion in the Committee's Work Plan. Such topics may include not only Council Services, but also any relevant item, which affects the Borough or its residents.
- 5.4 The agendas of the Scrutiny Committees will include quarterly performance monitoring information at relevant times during the municipal year. The purpose of this item is to assist Members to monitor the recent performance of services within its remit against key targets and to make recommendations or to implement a more detailed scrutiny review in relation to those areas of identified weakness.

6. Attendance by Executive Members at Scrutiny Committees (including 'Call-In' meetings)

- 6.1 Cabinet Members will normally be expected to attend meetings of the Scrutiny Committees, for the purposes of being held to account in relation to decisions taken and to answer questions in relation to proposed decisions.
- 6.2 Cabinet Members are encouraged to avail themselves of every opportunity to gauge the views of non-Executive Members on any issues falling within their remit. A close working relationship and an open exchange of views will be of particular importance to the Cabinet Member and Scrutiny Members, where consideration is being given to the development of the Council's budget or policy framework.
- 6.3 Cabinet Members will normally 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.
- 6.4 At Call-In meetings, the purpose of the Cabinet Member's attendance is to answer questions of fact and not to present the item. Cabinet Members need to be careful not to be drawn into the debate, so as to avoid any possible allegations of becoming involved in the scrutiny of their own decisions which may bring them into conflict with the Code of Conduct. It is therefore important to draw the distinction between answering questions of fact and becoming involved in the Committee debate into the issue in question.
- 6.5 Unless there are extenuating circumstances, the relevant Cabinet Member should always attend a Call-In meeting. It is accepted however that Officers are often better placed to present greater detailed information that led up to the decision and this is deemed to be acceptable although it should always be the decision maker that is held to account.

- 6.6 The following procedure should take place at Call-In meetings:
- The Members who called in the decision should speak first.
 - The Chairman would 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 debates the issue and votes on the outcome.
- 6.7 In the event of a situation 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 being unavailable, they should nominate another Cabinet Member to attend and be accountable for the decision.

7. Ethos of the Meeting

- 7.1 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.
- 7.2 Scrutiny Committee Members should be prepared to ask searching questions of Cabinet Members, who in turn should be willing to respond to any question put. It should however be stated that Scrutiny Committee Members should be aware of and show an understanding of the fact that Cabinet Members may not be in a position to answer every question immediately or in detail.
- 7.3 Cabinet Members should, in so far as possible, anticipate and be prepared to answer questions on decisions taken, or proposed to be taken, which fall within their remit. Cabinet Members should also value the contribution of Scrutiny Committee Members who raise questions under these headings and respond in an appropriate and professional manner.
- 7.4 Cabinet Members should normally be authorised by the Committee to speak upon any item on the agenda which falls into their portfolio area of responsibility and may at any time offer to assist the Scrutiny Committee by the provision of factual information or advice in relation to the matters under discussion.
- 7.5 The Chairman of the meeting shall at all times ensure that the conduct of the meeting shall be fair and that all participants are treated courteously.
- 7.6 The Chairman, supported by the officers, should provide leadership and guidance to the Committee on all scrutiny matters and should promote the Committee's role to improve services and monitor the effectiveness of Council policies.

8. Supporting Overview and Scrutiny Reviews

8.1 These are reports with recommendation that have resulted from the work of a Task and Finish Group, Working Group or Inquiry Session who will have spent time considering background information, witness evidence, and formulating their recommendations.

8.2 The Chairman or Vice-Chairman of the parent scrutiny committee will be invited to present the final report at a Cabinet meeting.

The Cabinet can expect a report that:

- Has clear, concise recommendations;
- Identifies potential areas for improvement; and
- Highlights implications including financial, legal, equality, policy, of the recommendations and where possible identify solutions as appropriate.

8.3 The relevant Portfolio Holder(s) can assist the review in a number of ways including:

- At the outset of the review, when the Task and Finish Group is considering the scope, methodology and witnesses to give evidence;
- During the review when the Portfolio Holder can be invited to give evidence;
- At the end of the review after the Task and Finish Group has produced the first draft of the report.

8.4 During the review period the Chairman of the Task and Finish Group is recommended to meet with the Portfolio Holder and Officers:

- To discuss the proposed scope, methodology and sources of evidence for the review and ascertain if the Portfolio Holder has any suggestions to make;
- To highlight and examine areas of potential agreement or disagreement in relation to the report's findings and recommendations to ascertain if any areas of disagreement can be resolved at the draft report stage, or identify if any further work needs to be done by the Task and Finish Group.

8.5 Although this dialogue is encouraged, it is recognised that the overview and scrutiny committees and their Task and Finish Groups are independent of the Cabinet and as such agreement may not be possible on all the findings and conclusions in a draft report.

8.6 It is recognised that senior officers have a valuable role to play in the scrutiny process in terms of the provision of factual evidence for a review. At the commencement of an internal review, the Chairman of the Task and Finish Group will notify the relevant Head of Service who will then contribute to the

review in terms of supplying information and helping to identify suitable witnesses.

- 8.7 The Head of Service will be given the opportunity to comment and/or make recommendations on a completed draft report in terms of any factual errors. The decision as to whether to incorporate any suggested amendments will remain with the Task and Finish Group.
- 8.8 The responsibility for the implementation of scrutiny recommendations that have been approved by the Executive will rest with the relevant Head of Service who will also be responsible for providing regular updates on progress to the Scrutiny Committee.
- 8.9 A completed scrutiny report, together with any comments provided by Officers will be forwarded to the Executive who will consider whether or not to implement the recommendations contained within the report.
- 8.10 If the content of a report, including any recommendations, is likely to impact on any external organisation, the Executive will have the opportunity to pass comment, including whether or not it endorses the recommendations, before the report is passed to the external body.

9. Attendance by Officers at Scrutiny Committee and Task and Finish Group meetings

- 9.1 Meetings of the Scrutiny Committees will be attended by the assigned Lead Officer and Heads of Service or Service Managers with responsibility for any agenda item under discussion. The role of the Lead Officer will be to assist the Committee through the provision of professional advice and to ensure access to relevant information and personnel.
- 9.2 The attendance of other relevant officers at either Scrutiny Committees, Task and Finish Group or Working Group meetings, or Inquiry Sessions will be at the request of the Chairman, who will have regard to the appropriate level of seniority of attendees. In general the relevant officer should not be below the level of Service Manager.
- 9.3 An officer in receipt of a request to attend a Scrutiny meeting should make reasonable efforts to do so. Where an officer is unable to attend on a particular date he/she should notify the Chairman or Lead Officer as soon as possible, in order to agree the most appropriate course of action, which may include the attendance of an alternative representative.
- 9.4 Officers in attendance at Scrutiny Committee meetings should be prepared to assist the Cabinet Member in the provision of information to the Committee in response to any question raised.
- 9.5 Relevant Officers will normally be expected to attend any meeting of the Scrutiny Committee at which it is intended to consider a Call-In request in relation to his/her service area.