

Havering London Borough Council

Cabinet/Overview and Scrutiny Protocol

“The Scrutiny Protocol”

1. Purpose of the Scrutiny Protocol

1.1. The purpose of this Scrutiny Protocol (‘the Protocol’) is to support effective working arrangements between the Cabinet and the Overview and Scrutiny Board (and its sub-committees) (‘Scrutiny’) to ensure good governance at the Council.

1.2. Ensuring good scrutiny in the Council is a whole council responsibility.

2. Aims of the Scrutiny Protocol

The aims of the Protocol are:

2.1 To ensure a mutual understanding of the roles and responsibilities of Scrutiny and the Cabinet;

2.2 To encourage open, trusting relationships between the Cabinet and Scrutiny;

2.3 To support focused, transparent and timely scrutiny of Council business;

2.4 To facilitate effective scrutiny work planning and

2.5 To enable Scrutiny to hold the Executive to account and influence Council business in a meaningful way.

3. Status of the Protocol and its relationship to the Constitution

3.1. The Protocol represents good practice in the arrangements between the scrutiny function and executive decision making in a local authority.

3.2. The Protocol is not a formal part of the Council’s Constitution but will be published on the Council’s website in the interests of transparency and accountability.

3.3. The Protocol will be owned by the Cabinet and the Overview and Scrutiny Board.

3.4. The Protocol will be reviewed annually by Cabinet and the Overview and Scrutiny Board and any changes must be agreed by both.

- 3.5. The Protocol is intended to add detail and practical ways of working to the operation of the scrutiny function in the Council but the Protocol does not replace or change any part of the formal Constitution of the Council.
- 3.6. If there is any inconsistency between this Protocol and the Constitution (including the Overview and Scrutiny Committee Procedure Rules [link here](#)) the Constitution will take precedence.

4. Principles underpinning the relationship between Cabinet and Scrutiny

The following principles will underpin the relationship between Cabinet and Scrutiny and will inform all interactions between the two:

- 4.1. Recognition of and respect for the respective roles of the Cabinet and Scrutiny in the good governance of the Council;
- 4.2. Acknowledgement that, whilst Cabinet is the body which makes the executive decisions at the Council, there is parity of esteem in these roles in relation to their respective contribution to good governance;
- 4.3. Mutual respect between Cabinet and Scrutiny and the expectation that both will deal with each other in good faith;
- 4.4. Acknowledgement that officers support both the Cabinet and Scrutiny and that officers' obligations and accountabilities are to the Council as whole (and not to either Cabinet or Scrutiny or to any particular party or member) and
- 4.5. Adherence to the standards required of members in the Council's Members' Code of Conduct ([link here](#)).

5. Interaction with officers

- 5.1. Officers support both the Cabinet and Scrutiny and that officers' obligations and accountabilities are to the Council as whole;
- 5.2. The roles of the statutory officers (in particular the s.151 officer, the Monitoring Officer and the Statutory Scrutiny Officer) should be respected and their advice reflected on in relation to the functioning of scrutiny and in the interpretation of this Protocol;
- 5.3. In setting the work programme and in any decision to set up task and finish groups or similar groups, members will actively consider and make provision for the resource implications for officers of the activity required and
- 5.4. The provisions of the Council's Protocol on Member-Officer Relations should be respected in all dealings between members and officers in relation to scrutiny and the operation of this Protocol ([link here](#)).

6. Overview & Scrutiny work programming

Developing an effective and realistic work programme is a key component of effective scrutiny and to achieve that, it is agreed as follows:

- 6.1. Scrutiny will set its own work programme (in accordance with the Constitution);
- 6.2. But it is essential that Scrutiny contributes to the development of key policies and addresses the most significant issues facing the Council;
- 6.3. To achieve this, Cabinet's views on the work programme should be invited and welcomed at a key stage in its initial development and through the year
- 6.4. There should be regular dialogue between Scrutiny and the Cabinet (supported by key officers) which should be informal and candid to ensure both have a clear sense of the other's work and priorities;
- 6.5. Items should come to Scrutiny at a time when Scrutiny's involvement can be meaningful and their recommendations and views can be taken fully into account and
- 6.6. Cabinet should support and facilitate where possible the timely production of reports for Scrutiny to enable Scrutiny to undertake its functions effectively and at an optimum time for its recommendations and views to be fully taken into account.
- 6.7. The provisions of paragraph 7 below apply in relation to pre-decision scrutiny items to be included on the work programme of Scrutiny.

7. Pre-decision scrutiny

- 7.1. It is recognised that Scrutiny can add value to key decisions which are to be taken by Cabinet by exploring them in advance.
- 7.2. In particular, Scrutiny can help the decision-making process by
 - 7.2.1. Providing an impartial perspective;
 - 7.2.2. Challenging assumptions and making evidence gathering more robust;
 - 7.2.3. Developing realistic plans and targets and
 - 7.2.4. Securing ownership and buy-in to the final decision.
- 7.3. Pre-decision scrutiny does not replace decision-making and is not the same as general service or policy development.

7.4. Pre-decision scrutiny will take place as follows:

- 7.4.1. Scrutiny will monitor and review the Council's Forward Plan of forthcoming key decisions (as standing items on agenda) to determine which items they would like an input into before decisions are made by the Cabinet or the individual decision maker with delegated responsibility.
- 7.4.2. Members will be notified by email when an item is added to the Forward Plan.
- 7.4.3. Members will have 5 calendar days to make a request for pre-decision scrutiny to the Chairman and Clerk of O&S Board.
- 7.4.4. It is permissible for the Leader or individual Cabinet Members to suggest topics for pre-decision scrutiny however the decision to accept rests with the Board.
- 7.4.5. The request, stating reasons, will be made in writing to the Chairman and Clerk of the Board within 5 calendar days of the item being added to the Forward Plan.
- 7.4.6. Where a request has been received in accordance with the requirements above, the Clerk of the O&S Board will write to O&S Board Members giving up to 5 working days for the suggestion to be accepted onto the agenda for the next scheduled meeting. A majority of Members from the committee is required to achieve this.
- 7.4.7. In the event of a tie, the Chairman will have a second and casting vote. That a suggestion is rejected does not prevent the use of call-in at a later date. The matter will progress for consideration by Cabinet or delegated decision maker and be available for call-in subject to any exemption.
- 7.4.8. Where pre-decision scrutiny of a forthcoming key decision is agreed by the Overview & Scrutiny Board, a draft copy of the Cabinet report or Executive Decision will be provided. Where necessary and following consultation with the Chairman, an extraordinary meeting of Board or committee will be convened in accordance with the procedure rules.
- 7.4.9. The relevant Cabinet Member, Director, Assistant Director and/or appropriate officer(s) will attend the Overview and Scrutiny meeting to present the draft report and answer any questions posed by members of the committee.
- 7.4.10. The Overview and Scrutiny Board will discuss the report and identify any points it would like addressed in the final report to be presented before Cabinet or the individual decision maker with delegated responsibility; this could include any alternative recommendations which the Board consider necessary.
- 7.4.11. Unless the proposal is different from that which the decision-maker is subsequently required to consider, the pre-decision scrutiny of the subject

prevents the opportunity for call-in once the decision is made by the Cabinet or the individual decision maker with delegated responsibility

8. Cabinet attendance at Scrutiny meetings

The Overview and Scrutiny Committee Procedure Rules cover the formal procedure for Cabinet attendance at Scrutiny meetings. In addition, to these rules (and the provisions in paragraph 7 above relating to pre-decision scrutiny) this Protocol agrees:

- 8.1. To recognise that everyone's time is valuable (members on Scrutiny and Cabinet, and officers) and all decisions on meeting arrangements, attendance etc will be made with this point acknowledged;
- 8.2. That the main aim of attendance by Cabinet members at Scrutiny is to ensure that Scrutiny can receive full answers to its questions to enable it to come to a considered view;
- 8.3. That it is not the purpose of Scrutiny to make political points but it is part of Scrutiny's function to be challenging and probing;
- 8.4. This approach will be reflected in the consideration of practical arrangements for Scrutiny including:
 - 8.4.1. formal invitations being issued in advance where Cabinet members' attendance is required;
 - 8.4.2. expectation of attendance by Cabinet members following an invitation, unless there are exceptional reasons and
 - 8.4.3. notification of key lines of enquiry in advance (reflecting that the aim of questioning is not to ambush or catch out, but to get the fullest possible answer).
- 8.5. That it is appropriate for Cabinet members to field questions jointly with lead officers (and to pass technical/operational questions to the officers), but that there is an expectation that Cabinet members will lead on questions about policy choices.

9. Call-ins

The Overview and Scrutiny Committee Procedure Rules cover the formal procedure for dealing with call-ins and take precedence. This Protocol agrees the following:

- 9.1. That call-in is an action of last resort;
- 9.2. That proactive work planning and pre-decision scrutiny should obviate the need for call-ins but that

9.3. Cabinet recognises that this is a statutory right of Scrutiny and may be exercised from time to time.

10. Cabinet's responses to Scrutiny's recommendations

10.1. When Scrutiny recommendations are presented to Cabinet, the Chair and/or Deputy Chair of the Overview and Scrutiny Board may present recommendations to the Cabinet either in person or via an officer.

10.2. Scrutiny recommendations and the responses of Cabinet will be tracked to enable review and analysis of their impact.

10.3. Cabinet should give formal, recorded responses to Scrutiny recommendations.

11. Training and development

11.1. Members of both Cabinet and Scrutiny recognise the importance of ensuring they are up to date and confident in how scrutiny operates and what best practice looks like.

11.2. They commit to regular training to ensure their skills are updated and the training plan will be reviewed at the annual review of the Protocol.

12. Sign off from the Leader and Chair of the O&S Board

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Leader (on behalf of Cabinet)

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Chair of the Overview and Scrutiny Board (on behalf of Scrutiny)

Dated