

Essex County Council

Protocol for working arrangements between Cabinet and Policy and Scrutiny Committees

The Protocol

Introduction

Legislation and statutory guidance establish the importance and legitimacy of the scrutiny function.

Scrutiny should enhance the Council's governance and decision-making process by ensuring that non-executive members are contributing to the improvement of services for residents and that the executive is subject to non-partisan constructive challenge.

Scrutiny is a member-led process. As the statutory guidance notes, councillors have a unique legitimacy derived from their being democratically elected. The insights that they can bring by having this close connection to local people are part of what gives scrutiny its value.

Scrutiny's success or otherwise will depend on its ability to establish and sustain an effective working relationship with the Cabinet and Cabinet Members. The relationship should be open, trusting and non-partisan in order to deliver focused and transparent policy development and scrutiny.

As government guidance has concluded, this working relationship and the prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails.

Effective scrutiny will:

1. Provide constructive 'critical friend' challenge
2. Amplify the voices and concerns of the public
3. Be led by independent people who take responsibility for their role, and
4. Drive improvement in public services.

The culture in which scrutiny conducts its work should be one where there is parity of esteem between the scrutiny and executive functions. Parity of esteem means that the scrutiny function deserves the same respect as executive, decision-making activities. Requests from scrutiny and attempts by scrutiny to engage with policies, plans and activities should be treated with the same

respect as if they came from a Cabinet Member.

As a part of this, all officers should be free to provide impartial advice to scrutiny committees. This is fundamental to effective scrutiny. Of particular importance is the role played by 'statutory officers' – the Monitoring Officer, the Section 151 Officer, Head of Paid Service, and the Statutory Scrutiny Officer. These individuals have a particular role in ensuring that timely, relevant, and high-quality advice is provided to scrutiny.

This protocol aims to support the scrutiny-executive working relationship. It highlights the key roles and responsibilities of the Policy and Scrutiny Committees (PSCs) and of Cabinet in relation to the scrutiny function.

~~The protocol will contribute to more effective PSC work programming and outcomes and, in doing so, enable the Committees to influence Council activity in a meaningful way.~~

The protocol will contribute to more effective PSC work programming and ensure that scrutiny is strategically focused on outcomes, contributing to policy development, and influencing Council activity in a meaningful way rather than merely receiving ad-hoc 'update' style reports on issues.

1. What the Cabinet can expect from Scrutiny

Scrutiny will offer constructive critical friend challenge to the Cabinet having regard to the Council's budget and policy framework, and provide non-partisan checks and balances to secure maximum benefits for the Essex community.

Scrutiny will ensure that its work programmes are targeted appropriately so that they are able to complement the Council's and partners' strategic goals and improvement processes in order to add value to them.

PSCs will engage with the Cabinet and other appropriate parties in determining items for inclusion in their work programme; however, PSCs will be ultimately responsible for what is included.

PSCs will engage with appropriate officers and portfolio holders when developing the methodology and scope of projects and work programme items, and will have a mind to the impact its work will have upon the resource commitments of the specific services.

Cabinet Members will be informed at an early stage about scrutiny reviews that are being established to look at issues within their portfolio, and about possible dates for attending a meeting for the purpose of giving evidence.

PSCs will ensure that at all times councillors and senior officers are kept informed of its deliberations in order to ensure that there are 'no surprises' as the result of

investigations and scrutiny work.

PSCs will endeavour to ensure that recommendations made to Cabinet are realistic and targeted. These recommendations will be discussed with appropriate officers and portfolio holders as part of the preparation of any final report.

PSCs will endeavour, while acting as a critical friend of the Cabinet, to provide an effective means of championing the interests of the council and residents through its activities.

PSCs accept that once a scrutiny report and recommendation is agreed by a Committee, it is for the relevant Cabinet Member to decide what further investigations, consultations and reports are required before being in a position to consider his/her response to a review's recommendations.

PSCs accept that on certain issues the Cabinet and Cabinet Members need to take urgent action and in such cases the opportunity for consultation with scrutiny will be limited. Where such a need arises the cabinet member will brief the appropriate scrutiny chairman.

2. What Overview and Scrutiny Committees can expect from the Cabinet

The Cabinet will respect the independence of Scrutiny. The Cabinet should not try to exercise control over the work of the PSCs either directly or indirectly, and respect that there is no group whip for scrutiny activity.

The Cabinet and senior officers will recognise the value that scrutiny can add to service improvement and will ensure that appropriate referrals are proposed for specific investigations.

~~The Cabinet will work with PSCs to facilitate timely involvement by scrutiny in emerging policy decisions and reflect the principle that scrutiny should be given adequate opportunity to comment before executive decisions are taken. Through regular dialogue, Cabinet Members will outline the plans for their portfolio and give early notice of new developments, policy reviews and decisions in order to determine the best way for the PSCs to add value.~~

The Cabinet will ensure the timely involvement by scrutiny in emerging policy decisions reflecting the principle that scrutiny should be given adequate opportunity to comment before executive decisions are taken.

Through regular dialogue, Cabinet Members will outline the plans for their portfolio and give early notice of new developments, policy reviews and decisions in order to determine the best way for the PSCs to add value. This dialogue could take the form of regular meetings between Scrutiny Chairmen and Cabinet Members.

At the invitation of a PSCs, Cabinet Members will participate in the evidence

gathering process, the consideration of emerging findings, and the deliberation on recommendations from scrutiny.

Cabinet Members will attend PSC meetings when invited to give evidence, respond to questions, respond to the outcomes of reviews, or update the committee on work falling within their executive portfolio. On issues of a sensitive or confidential nature, Cabinet Members should consider the use of private briefing sessions with PSCs.

Following approval of a scrutiny report it will be formally submitted to the Cabinet Member for consideration of any PSC recommendations. As specified in the Constitution, the Cabinet Member will, within one month of it being received, acknowledge its receipt, and give an indication of the likely timescale for the preparation of a response. In due course the Cabinet Member will provide a response to the Committee setting out the executive view of the recommendations made, the reasons for any recommendations being rejected or accepted and, where appropriate, the timescale for the implementation of any proposed action in respect of the topic considered.

Any representation made by a Scrutiny Committee, and the Cabinet Member's response, will be included in any subsequent report considered by the Cabinet or Cabinet Member.

Scrutiny members should have access to a regularly available source of key information about the management of the authority – particularly on performance, management, and risk.

While each request for information should be judged on its individual merits, the Cabinet and senior officers should adopt a default position of sharing the information they hold, on request, with scrutiny committee members.

3. Implementation and Supporting Activity

To secure the implementation of this protocol there will be regular meetings between PSC Chairmen, Vice Chairmen, and Cabinet Members to discuss development of the work programmes, to confirm progress on on-going projects, to discuss in-year referrals, and to identify problem areas.

To secure the implementation of this protocol, following Annual Council every year there will be a process whereby Cabinet Members and PSCs meet to discuss their priorities and programmes for the coming year. The Scrutiny Board will oversee this process in areas where executive portfolios cover more than one PSC.

Following this, there will be regular meetings between PSC Chairmen, Vice Chairmen, and Cabinet Members to discuss the development of the work programmes, to confirm progress on on-going projects, to discuss in-year

referrals, and to identify problem areas.

If difficulties arise in the operation of this protocol, they shall be referred by the Cabinet or the Scrutiny Board to the Corporate Governance Steering Group.

The Statutory Scrutiny Officer, and Monitoring Officer, will oversee compliance with the protocol, and ensure that it is used to support the wider aim of supporting and promoting a culture of scrutiny, with matters relating to the protocol's success being reported to full Council through the scrutiny Annual Report.