

Part 5e

Protocol on Overview and Scrutiny Committee/ Cabinet Member Relations

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Effective from 7 July 2011

Approved by Council on 22 September 2010

Revised Protocol adopted by the Executive on 6 July 2011

1. Introduction

- 1.1 This Protocol applies to all members of scrutiny committees, any member who may sit on a scrutiny panel and all members of the Executive (comprising the Leader and the various Cabinet Members). 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.

2. Objectives

- 2.1 To enable 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, a scrutiny committee may challenge the Executive about decisions, which it has taken either collectively, or by way of Cabinet Member Decisions, or Officer Key Decisions. A scrutiny committee 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 Leader's Forward Plan.

3.3 The Executive will be required to consider any recommendations or views expressed by a scrutiny committee and to take such action it sees fit. Where any decision taken by the Executive is not in accordance with advice provided by the committee, 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 scrutiny committees

4.1 Section 3 of Part 3 (Responsibility for Functions) of the Council's Constitution, sets out the relevant powers of the scrutiny committees, which include, inter alia:

- 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 at Part 4 of the Constitution and
- the power to require members of the Executive to attend before it to answer questions.

4.2 Guidance on the extent and use of these powers in practice can be found in the Overview and Scrutiny Handbook. The principal areas of scrutiny activity covered in the Handbook include holding the Executive to account, policy development and review and external scrutiny.

5. Overview and Scrutiny Committee agendas

5.1 The agendas of scrutiny committees will normally contain an item listing all relevant decisions taken by the Executive, the relevant Cabinet Member and relevant key decisions taken by an officer, since the last meeting. The purpose of this item is to provide an opportunity for members to ask questions of the Cabinet Member about decisions taken, thereby ensuring that decisions fit within the budget and policy framework of the Council and that all relevant issues and information available have been taken into account.

5.2 The agenda for the first meetings of scrutiny committees following publication of the Forward Plan will normally contain an item on that matter. The purpose of this item is to provide an opportunity for members to ask questions or seek clarification about the nature of any key decisions due to be taken within the next four months and to raise with the Cabinet Member any fundamental issues concerning those proposals to ensure that all relevant views are taken into account.

5.3 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. 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. 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 Blackpool or its residents.

5.4 The agendas of scrutiny committees will normally include, at such regular intervals as the committees may determine, any relevant performance management information available. 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 committee meetings (including 'Call-In' meetings)

- 6.1 Cabinet Members will normally be expected to attend meetings of scrutiny committees, for the purposes of being held to account in relation to decisions taken and to answer questions in relation to proposed decisions that have been included within the Forward Plan.
- 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 meetings of scrutiny committees at which it is intended to consider a Call-In request in relation to his/her area of responsibility.
- 6.4 At meetings where call-ins are being considered, 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 decision maker (or the relevant Cabinet Member if the decision maker is the Executive) 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 where call-ins are being considered:
- (i) The Member who called in the decision should speak first.
 - (ii) The Chairman would then invite the Cabinet Member (decision maker) to respond.
 - (iii) The Committee can then ask questions of the decision maker who may ask a relevant officer to supply further information if necessary.
 - (iv) The Committee debates the issue and votes on the outcome.
- 6.7 In the event of a situation where the decision maker 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 the 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 a committee to speak upon any item on the agenda 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. Format for items requiring a Cabinet Member response

- 8.1 In respect of the agenda items referred to at Paragraphs 5.1 and 5.2, at scrutiny committee meeting, the Cabinet Member will either provide a brief outline of the decisions taken, or proposed to be taken, within his/her area of responsibility, or will indicate that any member of the scrutiny committee may raise a question upon the individual decisions reported.
- 8.2 No time limit shall apply to the questions put or responses given and there shall be no limit to the number of such questions which may be put by a member in respect of any particular decision, save in so far as the Chairman shall be responsible for the effective conduct of the business of the meeting.

9. Response of the Cabinet Member

- 9.1 The Cabinet Member may give an answer:
- by way of a direct oral answer
 - where the information is in a publication of the Council or other published work, by reference to that publication
 - where an officer is in attendance at the meeting, who can reasonably be expected to be in a position to give a reply, by referring the matter to the officer concerned
 - where the reply cannot conveniently be given orally, by way of a written answer circulated to the questioner within five working days, or to the whole committee, if the committee so request immediately after consideration of the matter and
 - where the reply cannot be given within the above timescale, a brief explanation for the delay and the likely timescale for response should be provided to the questioner.

10. Scrutiny review reports

- 10.1 The roles of key participants within the scrutiny process are defined as follows:
- 10.2 The Scrutiny Panel
- 10.2.1 The scrutiny panel is the body with responsibility for the compilation of a scrutiny report that is submitted to the relevant scrutiny committee. The scrutiny panel is accountable to the relevant scrutiny committee for the timely delivery of the report in accordance with the content of the scrutiny scoping document which should be completed by the Panel at the

start of the review and also submitted to the relevant scrutiny committee.

10.2.2 During the course of the review, the Scrutiny Panel should consider all relevant evidence and ensure that any recommendations are fact based and robust. It is not however the role of the Panel to obtain detailed costings around any recommendations that it makes. It should submit the completed report, in draft form, to the following personnel / departments:

- (i) The Chief Corporate Solicitor, in order for any comments to be provided regarding the legal implications of any of the recommendations contained within the report.
- (ii) The Statutory Finance Officer, in order for any comments to be provided regarding the financial implications of any of the recommendations contained within the report.
- (iii) The officer Corporate Leadership Team (CLT), in order for any comments to be provided from a corporate perspective in relation to the content of the report.

10.2.3 The process as described between 1 – 3 above should take no longer than 20 working days in total.

10.2.4 The comments provided by those officers should be considered by the Scrutiny Panel who will decide whether to make any changes to the report as a result. In any event the comments provided should go forward separately to the report for subsequent consideration by the Executive, alongside the main body of the report.

10.3 The lead member

10.3.1 Each Scrutiny Panel should be led by a member appointed by the relevant scrutiny committee. It is the responsibility of the lead member to ensure that the objectives of the review have been achieved in accordance with what had been agreed in the scoping document. The lead member must ensure that the draft scrutiny report, once completed, has considered evidence from all angles and is well balanced in terms of objectivity and fairness.

10.4 Scrutiny committees

10.4.1 Following a scrutiny report being approved by the lead member, it should then be forwarded to the relevant scrutiny committee for information purposes and for comment on the report from a management perspective. The scrutiny committee should then forward the report to the Executive for consideration.

10.4.2 The scrutiny committee's involvement as a management committee extend to it commenting on the procedural aspect of a scrutiny review, i.e. has the report been completed within agreed timescales and checking if the scrutiny protocol and agreed timescales have been adhered to. Given that a report will have received detailed input from Legal, Financial, the Corporate Leadership Team, in addition to the Scrutiny Panel, the scrutiny committee should not be able to comment on the factual content of a report, including the recommendations and should not be able to refer a report back to the Scrutiny Panel for additional work to be carried out.

10.4.3 The scrutiny committee should receive scrutiny scoping documents that have been prepared by the Scrutiny Panel. This will enable the committee to monitor the progress of scrutiny reviews from an overarching perspective and to request progress reports as to the timeliness of a review where appropriate.

10.5 Chief Officers

10.5.1 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 lead member will notify the relevant chief officer who will then contribute to the review in terms of supplying information and helping to identify suitable witnesses. The chief officer 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 Scrutiny Panel and the lead member.

10.5.2 The responsibility for the implementation of scrutiny recommendations that have been approved by the Executive will rest with the relevant chief officer who will also be responsible for providing regular updates on progress to the relevant scrutiny committee.

10.6 The Executive

10.6.1 A completed scrutiny report, together with any comments provided by either the Corporate Leadership Team and/ or the Statutory Finance Officer will be forwarded to the Executive who will consider whether or not to implement the recommendations contained within the report. In the event of a decision not to implement any of the recommendations, the relevant Cabinet Member must report the reasons for this to the relevant scrutiny committee as soon as possible. In certain cases, the Executive might agree to implement a recommendation in part, in which case any such variations to an original recommendation must be reported to the relevant scrutiny committee as soon as possible.

10.6.2 Prior to a completed report being formally considered by the Executive, the relevant Cabinet Member will have the opportunity to meet informally with the lead member of the scrutiny committee in order to discuss the report's findings in detail. This meeting will also afford the opportunity for the rationale behind the recommendations to be discussed in more detail and for any issues or concerns to be clarified and explained with a view to agreement being reached wherever possible. The meeting should take place within 10 working days of the report having been considered by the relevant scrutiny committee and the report should then go forward to the next meeting of the Executive.

10.6.3 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.

11. Attendance by officers at scrutiny committees and scrutiny panel meetings

11.1 Meetings of scrutiny committees will normally be attended by a chief officer with responsibility for any agenda item under discussion. The role of the chief officer will be to assist the committee through the provision of professional advice and to ensure access to relevant information and personnel.

11.2 The attendance of other relevant officers at either scrutiny committee or scrutiny panel meetings will be at the request of the Chairman or lead member, who will have regard to the appropriate level of seniority of attendees. In general the relevant officer should not be below the level of Head of Service.

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- 11.3 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 member as soon as possible, in order to agree the most appropriate course of action, which may include the attendance of an alternative representative.
- 11.4 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.
- 11.5 Relevant officers will normally be expected to attend any meetings of scrutiny committees at which it is intended to consider a Call-In request in relation to his/her service.