



# SCRUTINY and CABINET

## Roles and Responsibilities

### Protocol



April 2021

[www.valeofglamorgan.gov.uk](http://www.valeofglamorgan.gov.uk)

## Contents

1	Principles of Effective Scrutiny	3
2	Purpose of the Protocol	3
3	Objectives	4
4	Role of the Scrutiny Committees	5
5	Holding the Cabinet to Account	6-7
6	Relationship Between Cabinet and Scrutiny	8
7	Work Programmes and Agendas	9-10
8	Ethos of a Scrutiny Committee Meeting	11
9	Attendance by Cabinet Members at Scrutiny Committee Meetings	12-13
10	Attendance by Officers at Scrutiny Committee Meetings	14
11	Responses of Cabinet Members to Questions from Scrutiny Committees	15
12	“Call-In” of a Cabinet Decision	16
13	Recommendations made by Scrutiny Committees	17
14	Meetings Between Scrutiny Committee Chairmen	17
15	Public Speaking at Scrutiny Committee Meetings	18

## I Principles of Effective Scrutiny

- 1.1 The **Centre for Governance and Scrutiny (previously known as the Centre for Public Scrutiny (CFPS))** has identified the following four principles which were **updated on 08th September, 2020** which underpin effective scrutiny:
- **Provide a constructive ‘critical friend’ (challenge to the Executive (“Cabinet”))**
  - **Amplify the voice and concerns of the public**
  - **Be led by independent people who take responsibility for their role**
  - **Drive improvement in public services.**

## 2 Purpose of the Protocol

- 2.1 This Protocol is designed to assist all Members of the Council’s 5 Scrutiny Committees any Member who may sit on a Scrutiny Task and Finish Group and all Members of the Cabinet (which comprises the Leader and 6 other Cabinet Members). It provides guidance on the various ways in which Members are required to interact to enable the Authority to carry out an effective Scrutiny function.
- 2.2 The Protocol also outlines the framework and procedures underpinning the operation of Scrutiny and provides guidance on the role of Officers who support this process.
- 2.3 The Protocol can be periodically updated in order to take into account recommendations from Audit Wales.
- 2.4 Audit Wales has recommended that Local Authorities should explore different and more innovative methods for undertaking scrutiny activity and should be more innovative in how it engages the public in its scrutiny activity.

## 3 Objectives

3.1 The objectives of this Protocol are:

- (i) to establish a positive framework and build upon the procedures laid out in the Council Constitution, which exist to enable the Scrutiny Committees to work effectively;
- (ii) to maximise the personal effectiveness of Scrutiny Members, Cabinet Members and Officers by enabling them to fully understand their powers, roles and responsibilities in relation to the Scrutiny function;
- (iii) to promote and maintain an ethos of mutual respect, trust and courtesy in the inter-relationships between Scrutiny Members, Cabinet Members and Officers and a climate of openness that leads to constructive, yet challenging, debate;
- (iv) to create a culture of holding the Cabinet 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, with a view to ensuring service improvements;
- (v) to define and clarify the role of the Cabinet as an integral component of the Scrutiny process; and
- (vi) to achieve an appropriate level of alignment between the work of Scrutiny and the policies and priorities of the Cabinet and also to the work of the various Audit, Regulatory and Inspection bodies.

## 4 Role of the Scrutiny Committees

- 4.1 Detailed information on the Scrutiny process can be found in **Section 7 of the Council's Constitution**. In summary, within their terms of reference, Scrutiny Committees may:
- (i) review or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions, whether by the Executive or another part of the Council, but with the exception of any matter which is specifically identified in the terms of reference of any other Scrutiny Committee;
  - (ii) make reports or recommendations to the Council or the Cabinet in connection with the discharge of any functions;
  - (iii) Assist the Council and the Cabinet in the development of the policy framework and budget;
  - (iv) consider any matter which affects the Council's area or its inhabitants; and
  - (v) exercise the right to "Call-In", for reconsideration of decisions made, but not yet implemented, by the Executive and Officers.
- 4.2 In undertaking the above, Scrutiny Committees shall, in particular, have regard to:-
- compliance with Council policy;
  - consideration of the need for changes to policy and/or practice;
  - Continuous Improvement.

## 5 Holding the Cabinet to Account

### What does it mean and how does it work?

- 5.1 One of the fundamental principles of Scrutiny is the ability to hold the Executive (i.e. the “Cabinet”) to account. The principle of the “Cabinet” style of local government is that, by having a small Executive responsible for decision-making, the decision-making process will be quicker and more efficient. However, local people need to be assured that this small group of Members are making decisions effectively and acting in the best interests of the local community they serve.
- 5.2 Holding the Cabinet to account can involve scrutinising executive decisions at a number of different stages of the decision-making process:
- before decisions are made;
  - before they are implemented; and
  - after they are implemented.

Holding the Cabinet to account shouldn't be about confrontation – it is more about non-Executive Members providing a "critical friend" challenge to the Cabinet and individual Cabinet Portfolio Holders. It should be remembered that Scrutiny is not about challenging individuals or personalities but is about challenging decisions and securing improvement where possible. Neither should holding the Cabinet to account be about party political loyalties.

There are a number of ways in which the Scrutiny process can operate:

- using the “Call-in Procedure”, whereby any individual Member can, within 5 days of publication of a Cabinet decision, challenge or "call in" the decision. This usually leads to the relevant Scrutiny Committee meeting reviewing the decision and the Committee may make specific recommendations to the Cabinet.

The Call-In form can be found at:

<https://staffnet.valeofglamorgan.gov.uk/Documents/MemberNet/Democratic-Services/2017/Call-in-Proforma.doc>

- “Requests for Consideration” – any Member can request the inclusion of an item on any Scrutiny Committee by submitting a “Request for Consideration” form.

The Request for Consideration form can be found at;

<https://staffnet.valeofglamorgan.gov.uk/Documents/MemberNet/Democratic-Services/2017/Request-for-Consideration-of-Matter-by-Scrutiny-Committee.doc>

- All Members routinely receive an electronic link to all Cabinet agendas;

- Examining the Cabinet’s Forward Work Programme, which will be published annually and updated quarterly. The Work Programme will (as far as is possible to do so) give advance notice of issues to be considered by the Cabinet and the date upon which this will take place. This provides an early opportunity for Scrutiny Members to identify forthcoming issues and to review whether it is considered Scrutiny should play a part in the process. It is also essential that the Cabinet Work Programme is taken into account when Scrutiny committees are drawing up their own Work Programmes;
- Calling the Cabinet Portfolio Holder to give evidence – this may be in relation to an item being considered by the full Scrutiny Committee or the work of a single-issue Task and Finish Group;
- Specific meetings with Cabinet Portfolio Holders **to be held and on a bi-annual basis the Leader, Deputy Leader, Cabinet Members and Scrutiny Chairs’ and Vice Chairs’ to meet to allow both the Cabinet and Scrutiny Forward Work Programmes to be developed and agreed.**
- Receiving updates on Cabinet responses to Scrutiny Committee - recommendations (known as “decision-tracking”).

## 6 Relationship Between Cabinet and Scrutiny

- 6.1 The relationship between Cabinet and Scrutiny is governed in part by law and in part by the Council's Constitution. The purpose of this section of the Protocol is to set out the principles which will be followed by Cabinet and Scrutiny Members.
- 6.2 Cabinet and Scrutiny have very different functions and responsibilities. However, the aim of both should be to secure the best outcomes for the people who live and work in the Vale of Glamorgan.

The following five principles set out how the working relationship between Cabinet and Scrutiny should operate:

1. Cabinet and Scrutiny recognise that they each have different functions and responsibilities and the contribution that both can make to securing the best outcomes for the people who live and work in the Vale of Glamorgan.
2. Cabinet and Scrutiny will work alongside each other in a positive manner. Cabinet recognises that Scrutiny has a number of rights, such as "Call-In" and requiring Cabinet Members to attend its meetings and will respect those rights. Scrutiny Committees will exercise those rights responsibly.
3. All participants in the working relationship between Cabinet and Scrutiny will look to work within a spirit of mutual respect and constructive challenge.
4. The relationship between Cabinet and Scrutiny will be open and transparent.



## 7 Work Programmes and Agendas

- 7.1 Scrutiny is most effective when it is focused on a limited number of in-depth topics and priorities. When considering agenda items, Scrutiny Committees should have regard to the likely value and impact gained from any report or review. This will need to be carefully balanced against the time and resources required to undertake the activity.
- 7.2 Forward Work Programmes are a series of documents which list the subject matters of decisions that (a) the Council and (b) the Cabinet intend to take and (c) what business the Scrutiny Committees will be considering and when those matters will be discussed. This does not prevent urgent or unforeseen matters being considered. Each of these bodies will be responsible for their own Work Programmes. Annual Forward Work Programmes will be prepared from the beginning of the Municipal Year. They will be supplemented by quarterly updated Work Programmes. Regard should be paid by Scrutiny Committees to the need to take into account alignment with the Work Programmes of Audit, Regulatory and Inspection bodies (also see Section 7).
- 7.3 The Cabinet may also request a Scrutiny Committee to assist in undertaking a review to help policy development.
- 7.4 The Cabinet Forward Programme will include details (as far as is known) of those areas which it is intended will be subject to “Pre-Cabinet Scrutiny” prior to a formal decision being made. The Work Programme should, in turn, form a key element, when the Work Programmes of the Scrutiny Committees are being drawn up.
- 7.5 Consideration of what items are intended to be subject to “Pre-Cabinet Scrutiny” should be carefully undertaken by the Leader and Cabinet Members. A consistent approach should be adopted when deciding on such items.
- 7.6 Usually at the first meeting in the Municipal Year, each Scrutiny Committee will consider and determine its priorities for the coming year, which are to be included in the Work Programmes. Again, it is essential that the Cabinet Work Programme is taken into account when Scrutiny Committees are drawing up their own Work Programmes.
- 7.7 The appropriate Cabinet Member(s) may be invited to attend to comment on the Committee’s proposed priorities within the Work Programme. This will inform the selection process and the Cabinet Member(s) may be invited to assist the Committee by providing advice on potential conflict between proposed Scrutiny topics and areas of planned policy development.
- 7.8 Scrutiny Committees’ Work Programmes will be monitored on a regular basis, with advice provided by Officers as to when reports will be presented. This will also allow the Members of the Committees to regularly review and update their work programmes.

- 7.9 The Work Programmes of Audit, Regulatory and Inspection bodies should be closely aligned to the Scrutiny Committees' Work Programmes, with relevant reports presented to Members in a timely and consistent manner.
- 7.10 Scrutiny Committee agendas will, at regular intervals, include any relevant performance management information available. The purpose of this item will be to assist Members with monitoring the performance of services within its remit against key targets and to make recommendations.
- 7.11 Agenda planning for individual meetings of Scrutiny Committees will revolve around a system of "agenda conferences". Agenda Conferences have been recognised as an invaluable mechanism in the Scrutiny process. In attendance will be the Chairman and the Vice-Chairman and the relevant Senior Officers.
- 7.12 Reports may be submitted to a Scrutiny Committee by one of the following routes:
- (i) Report referred to a Scrutiny Committee by Cabinet for consideration;
  - (ii) Report submitted directly to a Scrutiny Committee as part of its Work Programme;
  - (iii) As a result of the 'Call-In' procedure;
  - (iv) As a result of a "Request for Consideration" item submitted by a Member;
  - (v) In the form of a reference from another Scrutiny Committee or other Committee (e.g. Audit committee).
- 7.13 Reports which are "for information" should be disseminated to Members outside of the formal Cabinet and Scrutiny Committee agenda arrangements via the Democratic and Scrutiny Services Team.

## 8 Ethos of a Scrutiny Committee Meeting

- 8.1 Scrutiny Committees should seek to promote an atmosphere of openness 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(s), Officers and other participants.
- 8.2 Scrutiny Committee Members should normally be prepared to ask searching and challenging questions of Cabinet Members and Officers, who, in turn, should be willing to respond to any question put. However, Scrutiny Committee Members should be aware of, and show an understanding, of the fact that Cabinet Members and Officers may not always be in a position to answer every question immediately or in detail.
- 8.3 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 and should respond in an appropriate and professional manner.
- 8.4 The Chairman of the meeting (**whether being held in person or remotely**) shall at all times ensure that the conduct of the meeting shall be fair and that all participants are treated courteously.
- 8.5 Officers will be asked questions by Committee Members in a dignified and respectful manner. Responses should be clear and concise with Officers mindful that members of the public, who may be present, may not have a full in-depth knowledge of the topic being discussed.
- 8.6 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.
- 8.7 Meetings of Cabinet and Scrutiny Committees are subject to the relevant provisions in the Council's Constitution, including that they must normally be held in public, unless factors allowed for by law and the Council's Constitution are judged to require consideration of a matter with the public and press excluded.
- 8.8 Meetings should be carried out in a business-like, non-aggressive and non-confrontational manner, with courtesy extended to all participants. Members should have regard to the Members' Code of Conduct and the Protocol on Member/Officer Relations as set out in The Council's Constitution.
- 8.9 Scrutiny Committee meetings should be held using a room layout appropriate for the business to be conducted, **when not being held remotely**.
- 8.10 Scrutiny Committees should keep in mind the statutory guidance that Scrutiny work should be conducted in a non-party political manner.

## 9 Attendance by Cabinet Members at Scrutiny Committee Meetings

- 9.1 Each Scrutiny Committee Chairman will have discretion when deciding upon whether a Cabinet Member is required to attend a Committee meeting. However, Cabinet Members are routinely invited to attend Scrutiny Committee meetings as standard for the purpose of being held to account in relation to decisions taken.
- 9.2 Cabinet Members are encouraged to attend meetings to gauge the views of Scrutiny Members on any issues falling within their remit.
- 9.3 An open discussion and exchange of views will be of importance to the Cabinet Member(s) and Scrutiny Members, particularly where consideration is being given to the development of the Council's budget or policy framework.
- 9.4 Depending on the nature of the agenda item, either the Cabinet Member or Senior Officer will be asked to present the item. Members of the Committee should be aware that although Officers can reply to specific questions regarding the operational performance of a service, the reasoning behind why a decision was made should be directed to the Cabinet Member(s).
- 9.5 If a Cabinet Member is required to attend a Scrutiny Committee for a specific reason, then he / she should receive sufficient notification of why they are being invited to the meeting. This should be, if possible, notified to them in writing, and copied to the Committee Members so everyone understands the basis on which they are attending.
- 9.6 If there is confusion regarding the reasons why a Cabinet Member is attending a particular meeting, it would be useful for the Chairman to provide clarification to the Committee at the beginning of the meeting. This is in order to ensure that a meeting is effective and makes the best use of all Members' time.
- 9.7 It is accepted that, although the Cabinet Member may be invited to report on a particular agenda item, given the fact that he / she is at the meeting, questions may stray into other areas (subject to them remaining relevant to agenda items). It should be understood by all parties that the Cabinet Member will respond to the best of his / her ability and knowledge on particular questions. However, if the Cabinet Member has been invited for a specific topic, then he / she may need to undertake further research in order to provide answers to questions on other subjects.
- 9.8 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.

**9.9 If required, the Chairman / Vice-Chairman of the Scrutiny Committee may be requested to attend a Business Cabinet meeting to discuss any recommendations from the Committee relating in the main to any Task and Finish recommendations or proposed changes to Policy.**

## 10 Attendance by Officers at Scrutiny Committee Meetings

- 10.1 Meetings of Scrutiny Committees will normally be attended by Senior Officers with responsibility for any agenda item under discussion. The role of the Senior Officer will be to assist the Committee through the provision of professional advice and to ensure access to relevant information and personnel. However, where the agenda item relates to a “Call-In”, the relevant Cabinet Member will respond in the first instance.
- 10.2 Senior Officers will be expected to proactively contribute to a debate on an agenda item. Officers can be required to attend a Scrutiny Committee to present an agenda item report and to answer questions or provide advice regarding operational aspects of a particular service. This will allow Members to question Officers on the likely impact of any decisions made by the Cabinet and for Members to gather a greater appreciation of reasons why a course of action was agreed upon.
- 10.3 Members of a Scrutiny Committee will also regularly question Officers about issues affecting the performance of a specific service and to ask for more detail around the level resources available within a service area.
- 10.4 Officers in attendance at Scrutiny Committee meetings should also be prepared to assist the Cabinet Member in the provision of information to the Committee in response to any question raised.
- 10.5 The attendance of other relevant Officers at either Scrutiny Committee or Task and Finish Group meetings will generally be at the request of the Chairman, who will have regard to the appropriate level of seniority.
- 10.6 An Officer in receipt of a request to attend a Scrutiny Committee 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 relevant Officer within Democratic and Scrutiny Services) as soon as possible, in order to agree the most appropriate course of action, which may include the attendance of an alternative representative.
- 10.7 Relevant Senior Officers 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 their service.
- 10.8 Officers will be permitted to leave a Scrutiny Committee meeting once discussion on the relevant item has ended. However, in certain circumstances, Officers may wish to remain for other agenda items, should they feel that they may be able answer any questions and if they can constructively contribute to the debate. This should only be from an operational service perspective and for a service area that the Officer has responsibility for.

## 11 Responses of Cabinet Members to Questions from Scrutiny Committee Meetings

- 11.1 Following a question raised during a Scrutiny Committee meeting, the Cabinet Member may respond in the following ways:-
- (i) by way of a direct oral answer;
  - (ii) where the desired information is in a publication of the Council or other published work, by reference to that publication;
  - (iii) 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;
  - (iv) where the reply cannot conveniently be given orally, by way of a written answer circulated to all Members of the Committee within five working days; and
  - (v) 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 all Members of the Committee.

## 12 “Call-In” of a Cabinet Decision

- 12.1 When a decision is made by the Cabinet, the decision shall be published normally within two working days of the date when the decision was made. The relevant ‘Call-In’ period will expire on the fifth working day after the publication of the decision.
- 12.2 If the “Call-In” is accepted by the relevant Scrutiny Committee Chairman, the relevant Scrutiny Committee will have the opportunity to discuss and evaluate the merits of the decision. This shall take place within twenty working days of receipt of the ‘Call-In’ request, not counting the month of August.
- 12.3 Unless there are extenuating circumstances, the relevant Cabinet Member would be expected to attend a Scrutiny Committee meeting when a ‘Call-In’ is being considered. 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.
- 12.4 The following procedure will be followed when a ‘Call-In’ is being considered:
- (i) The Chairman outlines the nature of the request;
  - (ii) The Member who “called-in” the decision will be invited to explain the reasons for the request;
  - (iii) The Chairman will then invite the Cabinet Member to respond;
  - (iv) The Committee can then ask questions of the Cabinet Member, who may ask a relevant officer to supply further information if necessary;
  - (v) The Committee debates the issue and may form recommendations for consideration by the Cabinet or to Full Council, who may, in turn, refer the matter back to Cabinet for further consideration.
- 12.5 In the event where the relevant Cabinet Member cannot attend a meeting when a ‘Call-In’ is being considered, another Cabinet Member will seek to attend and be accountable for the decision.



## **13 Recommendations made by Scrutiny Committee**

- 13.1 The minutes of each Scrutiny Committee will include any recommendations made during a Committee meeting and the reasons for those recommendations. On a quarterly basis, Scrutiny Committees will monitor progress of each recommendation, with updates provided by the relevant Officers.
- 13.2 Recommendations from the Scrutiny Committees will be referred to Cabinet at the earliest possible opportunity.
- 13.3 Where Cabinet has decided not to implement a specific recommendation made by a Scrutiny Committee, the reason for not doing so should be minuted. This will be reported back to the Committee on a quarterly basis when the Committee considers its “decision tracking”.

## **14 Meetings between Scrutiny Committee Chairmen and Cabinet Members**

- 14.1 Whilst the Scrutiny process is essentially a public one, it is recognised that the development of an informal dialogue between the Scrutiny Committee Chairmen and the relevant Cabinet Member(s) will enhance the interaction between the two functions. Informal dialogue will be encouraged in order to allow the Cabinet Member(s) to understand the Scrutiny Committee Chairmen’s viewpoints and vice versa.
- 14.2 Such dialogue will also allow the relevant Scrutiny Committee Chairman and the Cabinet Member(s) to discuss major policies and key decisions that are likely to be progressed over the forthcoming months and provide an opportunity for further input into the strategic elements of the work programme.
- 14.3 Such dialogue could also allow consideration of Audit, Regulatory and Inspection work programmes to take place to ensure that reporting arrangements are well-planned and fully “joined up” (particularly within the context of Forward Work Programming for both Cabinet and Scrutiny).

## 15 Public Speaking at Scrutiny Committee Meetings

- 15.1 The Council has published a Guide to Public Speaking at Scrutiny Committee Meetings, intended to enhance the ability of members of the public to speak at meetings of the Council's Scrutiny Committees. A copy of the Guide is available on the Council's website via the following link

**(INSERT LINK WHEN AVAILABLE) -**