
West Sussex County Council Executive-Scrutiny Protocol

Purpose

To describe the working arrangements between Cabinet (the Executive) and Scrutiny at the County Council, complementing the Code of Governance and the rules and procedures in the Constitution. A separate Scrutiny Guide (for councillors and staff) explains how scrutiny works.

The aims of the Protocol are to:

1. Set out good Scrutiny practice for achieving real impact.
2. Describe the roles and responsibilities of scrutiny committees and the Cabinet.
3. Enable open, trusting relations between the Cabinet and Scrutiny.
4. Support focused, transparent and timely scrutiny of council business.
5. Facilitate effective scrutiny work planning and objective setting.
6. Enable scrutiny committees to influence Council business in a meaningful way.

Context – roles and responsibilities

The Cabinet is the political executive of the Council, sets policy and takes all significant decisions collectively or individually. Scrutiny provides a political check and balance on that authority. It helps ensure robust decision-making by examining the process and information that support decisions. Scrutiny is integral to democracy in ensuring the Council meets its priorities for the residents of West Sussex by influencing the planning and delivery of outcomes and by monitoring performance. There are five scrutiny committees. They are politically proportionate and meet in public. Scrutiny is member-led, holds the Cabinet to account and should see and comment on all significant proposals before they are finalised.

Cabinet engages with Scrutiny for work planning to identify where scrutiny might add value. Scrutiny exercises influence and persuasion but does not take decisions and cannot override Cabinet.

Scrutiny should be open and transparent, but may decide to work in private, outside the formal committee meeting when this helps address sensitive matters or enables more thorough analysis or a frank exchange of views.

The scrutiny process is informed and driven by members. Whilst Scrutiny is political and led by politicians, committees should aim for consensus in their work.

National guidance¹ defines effective scrutiny as:

- Providing constructive 'critical friend' challenge
- Amplifying the voices and concerns of the public
- Being led by independent people who take responsibility for their role
- Driving improvement in public services

To be effective Scrutiny needs an organisational culture which supports and recognises its value and purpose and a constructive relationship with the Cabinet where roles and responsibilities are understood. Communication and engagement must work well. Areas of disagreement should be managed with respect and there should be a shared understanding of the principles underpinning the relationship and the ways of working that support it.

Principles

a) Scrutiny should:

1. Provide purposeful challenge to the Cabinet and service performance.
2. Be objective, evidence-based and constructive.
3. Act as a critical friend to help sound decision-making.
4. Take a strategic perspective, focussing on the wider community outcomes.
5. Aim for consensus, drawing on political insight.
6. Work collaboratively with the Cabinet and recognise that it will not always agree with scrutiny conclusions and recommendations.
7. Be well informed, members being fully prepared for meetings with a good understanding of the issues before them.

b) Cabinet should:

1. Recognise and value Scrutiny and be open to constructive challenge.
2. Respect the independence of scrutiny committees and their chosen work programmes.
3. Identify opportunities for scrutiny committees to support and influence its work.
4. Properly and fully consider Scrutiny conclusions and findings.
5. Feedback and explain its response to Scrutiny recommendations.
6. Engage with Scrutiny early to enable it to add value in a timely way.

c) Together, Scrutiny and Cabinet should:

1. Communicate and engage early on plans and activities.
2. Foster a climate of trust, openness, honesty and integrity, sharing timely information including that which may be confidential or sensitive.
3. Be positive and respectful in their interactions with each other.

¹ Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities, May 2019

4. Manage any areas of disagreement in a constructive way.

Ways of working together

Communication and engagement	<ul style="list-style-type: none"> • Cabinet will engage with scrutiny committees early on policy and plans, to enable meaningful and timely scrutiny input. • Cabinet members and Scrutiny chairman will liaise regularly to update on plans and activities. • Scrutiny will communicate on its work and its work programme regularly to the Cabinet and all members.
Scrutiny work programme planning	<ul style="list-style-type: none"> • The work programme will be in line with Council priorities and balanced between policy development, decision preview and performance monitoring. • All committee members own the work programme, are updated on the work of Business Planning Groups (BPG) and work programmes are shared at each committee meeting. • Any councillor (not just scrutiny members) may raise issues for the scrutiny work programme. • Cabinet members will assist scrutiny work programme planning at committee meetings and by attending BPG meetings. • An overview of scrutiny plans is provided in the Mine (members' Intranet).
Scrutiny committee chairmen	<ul style="list-style-type: none"> • Chairmen should ensure Scrutiny is member-led and independent, setting the tone for constructive challenge to the Cabinet. • Chairmen are responsible for managing meetings enabling debate and maintaining focus of Scrutiny. They ensure effective work programme planning. • Collectively, they monitor the overall Scrutiny function to ensure best practice and learning are embedded.
Task and finish groups (TFGs)	<ul style="list-style-type: none"> • Scrutiny TFGs enable flexibility, the ability to 'deep dive' and an opportunity for early engagement. They may meet in private or in public, as determined by the relevant committee. • They may preview key decisions when the calendar of formal committees and decisions are not aligned. • They can assist policy development, including where informal early engagement is required. • Cabinet members may attend Scrutiny TFG meetings to observe or contribute. • Executive TFGs may be used by Cabinet to involve non-executive councillors in policy development. They may involve scrutiny members, but scrutiny chairmen should avoid being members of Executive TFGs on issues relevant to their committee.
Key decision preview	<ul style="list-style-type: none"> • Cabinet members will invite scrutiny of planned decisions and inform scrutiny of proposals before publication in the Forward Plan.

	<ul style="list-style-type: none"> • Scrutiny committees will examine the Forward Plan to identify priority proposals for scrutiny. • Members and BPGs will monitor the Plan between meetings to identify matters for timely scrutiny.
Policy development	<ul style="list-style-type: none"> • Cabinet members and officers should draw to the attention of scrutiny committees any key policy plans at the earliest opportunity. • Cabinet members should discuss with scrutiny committees how and when scrutiny can best influence policy development. • The approach to scrutiny of policy development will be agreed by the relevant committee but may be carried out informally by a task and finish group. • Sometimes internal or business sensitivities may require policy development scrutiny to take place in private sessions. Reasons for this will be clear.
Performance monitoring	<ul style="list-style-type: none"> • Scrutiny committees will monitor performance and resources quarterly, their findings/recommendations to be reported to public Cabinet if possible. • Scrutiny committees and cabinet members should share views about the usefulness of performance data. • Scrutiny committees may use performance data to identify issues for further scrutiny.
Scrutiny Meetings	<ul style="list-style-type: none"> • Cabinet members will aim to attend all relevant scrutiny committee meetings where possible. • Questions will be directed to the cabinet member but may be referred to an officer if need be. • Scrutiny questioning will aim to be outcomes focused and in line with the agreed 'Focus for Scrutiny'. • Members should be respectful of each other and of officers/those presenting at meetings.
Scrutiny recommendations	<ul style="list-style-type: none"> • Scrutiny recommendations will be clear, reasoned and outcomes focused to assist response and monitoring and to help evidence the impact scrutiny has on Council business. Recommendations should be SMART (specific, measurable, achievable, realistic and timebound). • Cabinet will give due consideration to Scrutiny recommendations and views. • Cabinet responses to recommendations will be reported to the next meeting of the committee. • Responses will include an explanation for why any recommendations have not been accepted. • Scrutiny Chairmen will attend public Cabinet to give feedback from their committee on relevant matters. • Scrutiny committees will record recommendations and responses for ongoing monitoring, to include assessment of Scrutiny impact.

Information	<ul style="list-style-type: none"> • Scrutiny should have the information that underpins policy and decision-making to be able play its role and for assurance regarding the evidence used. • Cabinet and officers will be open and transparent and will provide the information scrutiny committees need to do their job effectively. Information will be provided in a timely way to enable meaningful input. • Information may be shared informally with scrutiny committees, on a confidential basis (e.g. proposals not possible to be shared publicly). This may be prior to determining whether and how a matter should be scrutinised or as part of scrutiny of policy development. • Reports to scrutiny committees will include information on factors driving proposals, internal or external. • Information will be provided in line with scrutiny committees' and members' rights of access to information (as set out in <u>Standing Orders</u> and in <u>Members' Rights to Information</u>, an Appendix to the <u>Member-Officer Relations Protocol</u>). • The overriding principle is transparency. When information cannot be made available the reasons will be clearly explained. • Scrutiny committees will have background information on issues being scrutinised through pre-meetings, focused briefings and advice from Democratic Services or service leads. • Where possible all members should have briefings on significant policies and proposals under development. • Members will keep themselves informed through research (via service leads or the Mine) and will prepare for meetings by reading papers in advance.
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Officer Support

There is dedicated support within Democratic Services for the Scrutiny function and all officers of the Council are available to provide impartial advice to scrutiny committees. Of particular importance is the role played by statutory officers: the Director of Law and Assurance (Monitoring Officer), the Director of Finance and Support Services (the Section 151 Officer) and the Chief Executive (the Head of Paid Service). They have a particular role ensuring that timely, relevant and high-quality advice is provided to scrutiny committees. The Head of Democratic Services is the Statutory Scrutiny Officer who must:

- promote the role of Scrutiny at the Council;
- provide support to scrutiny committees and its members; and
- provide support and guidance to members and officers relating to the functions of the scrutiny committee.

Awareness of the role and responsibilities of Scrutiny is included in officer political management training.

Review

This Protocol was agreed by the Governance Committee on 27 September 2022 and will be reviewed after one year. The Head of Democratic Services and the Director of Law and Assurance will be responsible for overseeing compliance with the Executive-Scrutiny Protocol. It will be monitored on a regular basis by scrutiny chairmen and the Cabinet so that any issues can be highlighted at an early stage and acted upon. The success of the Protocol will be determined by reference to evidence of:

- Recognition of the value of Scrutiny
- Collaborative business planning
- A record of constructive challenge and impact
- Timely scrutiny reviews that achieve identified outcomes
- An open and reasoned decision-making process
- Effective performance monitoring
- Scrutiny work programmes balanced between policy development, decision preview and performance monitoring

A full review of the Protocol will be carried out by Governance Committee after one year. This will be informed by input from the Performance and Finance Scrutiny Committee as part of its annual review of Scrutiny.