

Practice guide 11

Engaging with council officers and the executive

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This is one of a series of practice guides produced by the Centre for Public Scrutiny to assist those working in the overview and scrutiny functions of local authorities.

What is this guide about?

This guide is about working with council officers and the council's executive. It should be read in conjunction with [Guide 9](#) on engaging with partners, and [Guide 8](#) on sources of corporate information . It focuses on scrutiny's relationship with senior officers (ie Chief Officers) rather than frontline officers (although the latter are discussed briefly).

Why is it important to examine how scrutiny engages with council officers and the executive?

The effectiveness of scrutiny is not a matter for scrutiny councillors and officers alone. It is as much the responsibility of the executive. The executive has a duty to ensure that the way that it and its members act does not undermine and denigrate scrutiny; responsibility for a failing or ineffective scrutiny function very often rests as much if not more with the executive as it does with scrutiny members and their support officers.

This shared responsibility for ensuring that scrutiny works as well as it can means that a good scrutiny/executive relationships is one of the most critical criteria for success.

What does the law say about what officers and the executive must do?

The [Local Government Act 2000](#) (at s9F onwards) says that Cabinet members and officers of the council must:

- Attend meetings, where required to do so. The word "require" is not defined in the Act but it can be assumed that it does not confer a choice as to whether or not to attend;
- Provide information, where required to do so. Again, this must be complied with. The usual exclusions apply for confidential and exempt information, although councillors are entitled to see certain kinds of information which cannot be published;
- Respond to recommendations. Scrutiny committees may set out the way in which they expect their recommendations to be responded to. This may include the requirement to provide reasons when a recommendation is rejected.

While the law does not specify the seniority of officers who should be invited to give evidence, it will usually be most appropriate for senior officers to attend, even where questions are being asked about operational delivery.

What are some of the common problems relating to the scrutiny function's engagement with senior officers and the executive?

Disagreements will often coalesce around one or more of the following:

- A feeling that scrutiny is being combative or “meddling” in areas where it is not needed. Cabinet members and senior officers might describe this as scrutiny being “political”, or as members “misbehaving”. A strong Leader or majority party may politically resist engagement with scrutiny, which can lead to a vicious cycle where scrutiny members themselves respond in a party political manner, damaging scrutiny's credibility. These disagreements can also see scrutiny being marginalised,
 - Disagreements about the way in which executive/scrutiny relationships should be managed. The executive might resist the idea of having frequent informal meetings to discuss scrutiny work – scrutiny members may also resist this, seeing it as a way for executive members to unduly influence scrutiny work. This feeling can be particularly acutely felt if such meetings happen informally, and if all the councillors involved are from the same party;
 - Topics being considered by scrutiny. The executive may disagree with the logic underpinning what will be subject to a scrutiny review. There should be clarity about how decisions about work programming are made. While the executive should not direct scrutiny's priorities, scrutiny work will need to reflect at least some of the executive's priorities in order to ensure that it is adding value. We discuss work programming in more detail in “[A cunning plan](#)” (2011), <http://ow.ly/wVpAF>, and in Guide 3;
 - Attendance at committee. A scrutiny committee might require a certain executive councillor to attend, but they may be unavailable; a councillor may be invited but an officer's name suggested as a substitute. Where invitations are submitted far enough in advance (and where the work programme makes future meeting agendas clear) this should be avoided, but an unwillingness to attend may suggest more fundamental problems, which should be separately addressed. Below, we talk about how an executive/scrutiny protocol might help to resolve some of these issues;
 - Disagreements about how and when information will be shared. Sometimes the executive will be unwilling to give scrutiny members access to (for example) real time management information; sometimes, where given, information is carefully couched in language which makes it difficult for scrutiny members to draw their own conclusions, which can result in frustration and disengagement. We discuss these issues in more depth in [Guides 3 and 8](#). Conversely, there can be unwillingness on the part of scrutiny members to share drafts of scrutiny reports and recommendations with the executive ahead of their formal adoption, which can lead to problems when they come to be formally tabled. While it will not always be appropriate, as a matter of routine scrutiny reports and recommendations should be shared in draft form, both in the interests of making sure that there are no unpleasant surprises for anyone, and to allow the executive to highlight where it feels that recommendations may require alteration for practical reasons. A number of councils specifically allow for this in their executive/scrutiny protocols, such as [Derbyshire](#) and [Newcastle under Lyme](#);
 - Responses to recommendations. Sometimes a response to a scrutiny review may be unacceptably vague or recommendations may be rejected without reasons being given. Scrutiny
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committees have the power to define the content and format of the executive's response to their recommendations, a power which should be used in the interests of clarity around mutual expectations. We have written more about recommendations below, and in [Guide 1](#).

What are the specific issues relating to the officer-to-officer dynamic?

We cover officer relationships in the context of the Monitoring Officer and "statutory scrutiny officer" / "Head of Democratic Services" roles in [Guide 5](#).

Scrutiny officers (or whoever has the responsibility of supporting the scrutiny function at the council) will often hold positions in the organisation's hierarchy that give them little power or influence, other than the fact that they are working directly with councillors. The process of carrying out scrutiny will involve them speaking to chief officers and other senior members of staff (and to councillors on Cabinet). While discussions between scrutiny and Cabinet members will often be led by scrutiny councillors themselves, the responsibility of liaising with senior officers will often fall to scrutiny officers themselves.

This can often raise real challenges. The position of scrutiny officers can, in some councils, be quite isolating (see, for example, "[Understanding and developing the role of the professional scrutiny officer](#)" (CfPS/Warwick Business School, 2009), <http://ow.ly/wVuUy>). Chief officers unwilling to engage with scrutiny can seek to exert undue pressure on scrutiny officers, using the difference in seniority to their advantage. Senior officers can also seek to use scrutiny for their own purposes – either to promote a "good news" story about the services they provide, or to secure an advantage in financial or organisational terms. Scrutiny officers can therefore find themselves being "managed" by such people to deliver objectives which may not align with members' objectives. This can be difficult to resist.

This can be difficult to deal with on a case by case basis (and is in any case a management issue). It may however be appropriate for scrutiny members to lead more discussions with senior officers (alongside scrutiny officers), and for agreements or protocols to exist which set out the expectations of behaviour when senior officers engage with scrutiny.

How can the executive be better engaged in work programming?

Cabinet and senior officers can be involved in work programming by:

- Discussion and dialogue, informally, as the work programme is put together. Where councils have an annual scrutiny work programme (for the whole function, or for individual committees), these discussions can happen in January or February. They will involve officers, and Cabinet members, informing scrutiny councillors and officers of interested and relevant forthcoming work where scrutiny might be able to add value, and may offer a useful sounding board for both Cabinet and scrutiny in considering where scrutiny's resources might be focused.
 - Ensuring that information about current and prospective decisions is shared in a timely manner. Traditionally, a Forward Plan will have been prepared, although rules around the notification of forthcoming decisions were loosened in 2012. Ensuring that the Forward Plan is accurate and that lines of communication exist between scrutiny and responsible officers to talk about decisions, and whether scrutiny might add value to their development (see [Guide 2](#)), will be useful;
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- Ongoing discussions around performance and finance issues which crop up in-year. Most councils have quarterly performance and finance reporting arrangements, and in many cases scrutiny committees receive updates on these issues. It can make sense to combine these updates with informal discussions at Cabinet level about particular causes of concern arising from these reports, and how (if at all) scrutiny might be able to contribute to improvements.

How can scrutiny work with the executive to secure outcomes and impacts from its work?

Ensuring impact from scrutiny work hinges on making recommendations which are accepted by Cabinet, and which go on to be implemented. This will involve liaison and dialogue over work being carried out, and recommendations being prepared. Formally, liaison will be between the relevant Cabinet member (or possibly the Leader) and the relevant scrutiny chair, but in practice it may sit in the context of ongoing discussions between the relevant Head of Service/chief officer and the scrutiny officer responsible for the work.

It does not mean that the executive and scrutiny need to operate “hand in glove”. But liaison will need to happen, and it will include:

For scrutiny reviews

- Ensuring that Cabinet’s viewpoint is fully understood and reflected in scrutiny review reports;
- Sharing key findings with Cabinet before scrutiny reports are prepared;
- Talking to Cabinet about likely recommendations will be framed and drafted (and possibly sharing them in draft);
- Liaising with Cabinet over how success in implementing recommendations will be judged (and agreeing timescales).

For committee meetings

- When Cabinet members and/or senior officers are asked to attend, being clear what the aims and objectives are of the session (including clarity over the content of any reports and presentations);
- Discussion beforehand over who should attend to give evidence;
- Trying to discuss beforehand what recommendations the committee might make on the day, and how Cabinet might respond to them.

Some councils, like **Wokingham** (<http://ow.ly/wzr2b>) provide guidance notes for officers who are invited to speak at scrutiny meetings.

Could a scrutiny/executive protocol be the answer?

A number of councils have sought to develop a protocol to manage the scrutiny/executive relationship. Councils such as **Blackpool** (<http://ow.ly/wVwTP>), **Charnwood** (<http://ow.ly/wVvsw>), **Huntingdonshire** (<http://ow.ly/wVx55>), **Haringey** (<http://ow.ly/wVxbT>), **Newcastle-under-Lyme** (<http://ow.ly/wVxiF>) and **Derbyshire** (<http://ow.ly/wVxrG>) provide a variety of examples of this kind of protocol in practice. In particular, **Monmouthshire** (<http://ow.ly/wzsG6>) has recently agreed a detailed protocol which sets out a wide range of common expectations, but some are less specific. However, common contents include:

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- Expectations of certain behaviours when officers and members are questioned at committee (eg, in **West Norfolk**, <http://ow.ly/wVw0k>);
 - Expectation that Cabinet members rather than officers will give evidence to scrutiny committees as a matter of course (eg in **Boston**, <http://ow.ly/wVwfd>);
 - Systems for agreeing what issues will be included in the scrutiny work programme (eg in **Tameside**, <http://ow.ly/wVwpS>);
 - Timescales (providing more detail than that contained in the legislation) (eg, in **Ealing**, <http://ow.ly/wVwBc>);
 - Information (such as in **Leicestershire**, where there is a specific protocol covering information sharing, <http://ow.ly/wVuWR>)

Other councils, such as **Merton** (<http://ow.ly/wVwM3>) have gone further and produced a more detailed handbook for overview and scrutiny, which incorporates guidance on the relationship with Cabinet and council officers.

Councils which have adopted protocols have tended to find that the act of developing the protocol in the first place is more valuable than the finished product. As far as CfPS has been able to ascertain, many examples of protocols date back some years and have not been amended for some time.
