

Protocol on Portfolio Holders' Involvement in the Scrutiny Process

1. The attendance of Portfolio Holders at meetings of Overview and Scrutiny Panels is governed formally in Overview and Scrutiny Panel Procedure Rules 14 and 15 which state as follows:-

“Rule No. 14 - Members And Officers Giving Account

14.1 Any Overview and Scrutiny Panel or Sub-Panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service and/or any Director or Head of Service to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council Policy; and/or
- (c) their performance.

and it is the duty of those persons to attend if so required.

14.2 Where any Member or Officer is required to attend an Overview and Scrutiny Panel under this provision, the Chair of that Panel will inform the Proper Officer. The Proper Officer shall inform the Member or Officer in writing giving at least 5 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the panel. Where the account to be given to the panel will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that document.

14.3 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Overview and Scrutiny Panel shall in consultation with the Member or Officer arrange an alternative date for attendance to take place within a maximum of 15 working days from the date of the original request.

Rule No. 15 - Portfolio Attendance at Meetings and Question Time

15.1 Cabinet Portfolio Holders, or a nominated alternative Cabinet Member in the event that the Portfolio Holder is unable to attend, are required to attend Overview and Scrutiny Panel meetings whenever the Panel is carrying out the Overview and Scrutiny function for their portfolio responsibilities or when questions are raised on them.

15.2 An item will be programmed into the overview and scrutiny agenda at the start of each meeting to allow the Portfolio Holder to be questioned on business for which they are responsible.

- 15.3 *Questions which require a researched response must be submitted two clear days before a Panel meeting, to allow any preparation before a response is presented. Portfolio Holders may be questioned during the course of the meeting upon any general matters relating to their portfolio which may arise from items under consideration.*
- 15.4 *The answer to a question may be given orally and directly, or by reference to published material, or in writing which shall be circulated to all members of the Panel.*
- 15.5 *The Questioner may be entitled to ask two further questions at the discretion of the Chair.*
2. Procedure Rule No. 14 relates to a situation whereby the Portfolio Holder is required under that rule to attend the relevant Panel Meeting to provide an explanation of matters within their remit on which the Panel has requested further clarification. The rule gives an Overview and Scrutiny Panel the ability to require a Member or Officer to attend and would be more likely to be applied if a Panel were carrying out a specific investigation whereby it could “summon” the Member or Officer as a witness.
3. Procedure Rule No. 15 stipulates that Portfolio Holders or a nominated alternative Cabinet Member are required to attend Overview and Scrutiny Panel meetings “*whenever the Panel is carrying out the Overview and Scrutiny function for their portfolio responsibilities or when questions are raised on them*”. Provision is made for questions to be required two clear days before a Panel meeting to allow any preparation before a response is presented. However, there is an item on the agenda at each Overview and Scrutiny Panel ‘*Questions to Portfolio Holders*’, whereby Portfolio Holders may be asked questions at the meeting; they may be able to answer if they feel they have sufficient information, if not, may suggest a written response be provided.
4. Therefore, under the terms of the Council’s Constitution, Portfolio Holders should be in attendance at meetings of Overview and Scrutiny Panels which carry the scrutiny function for their portfolio area. The role of the Portfolio Holder at a meeting of a Panel is to attend for the purposes specified in the Constitution. S/he is not an ex-officio member of the Panel and may only participate in the Panel’s discussions if invited to do so by the Chair. However, Portfolio Holders may be able to assist the Panel’s deliberations by providing information or clarifying certain points, rather than just being in attendance and waiting to be questioned or ‘scrutinised’. Much depends on how the meeting of the Panel is chaired, avoiding the formality of a Committee or Council meeting. For example, during a discussion when an issue or line of argument may develop on a mistaken or misunderstood premise, other members of the Panel may indicate their wish to speak and the Chair would normally take each one in turn. However, this line of action (as though in a formal committee) may compound the situation to the detriment of the debate. If an Officer present or Portfolio Holder is able to provide information or clarification at an earlier stage in the discussion, this may prove to be a better means of helping the Panel. It does not alter the Panel’s ability to scrutinise the actions of the Cabinet or call Portfolio Holders to account; rather it is a means of making better use both of the Panel’s time as well as the Portfolio Holder’s and assisting the scrutiny process for the benefit of the Council overall.

5. The provisions laid down in the Constitution are there to ensure that a Portfolio Holder cannot ignore or disengage from an Overview and Scrutiny Panel. The Procedure Rules provide the 'legislative' framework for the operation of the Council's function. They cannot govern every aspect to control how a particular body may operate to obtain the best result.
6. Notwithstanding the formal provisions of the Constitution, the scrutiny process and Overview and Scrutiny Panels will benefit from engaging with Portfolio Holders to obtain the benefit of their expertise in any particular area. Similarly, the Portfolio Holder can benefit from obtaining feedback from Overview and Scrutiny Members. This could be particularly relevant if Overview and Scrutiny Panels were carrying out a specific scrutiny review, for example, through one of the working groups. If the panel/working group considered it appropriate, the Portfolio Holder could be invited to participate in the review and aid the working group. This could be identified in the scope of a review. S/he would not be a member of the working group but, in a similar manner to relevant Officers, would be assisting it in its endeavours.
7. The final outcome of a working group's investigations would normally result in a report being presented through the relevant Overview and Scrutiny Panel to the Cabinet.
8. Portfolio Holders are encouraged to hold regular meetings with Overview and Scrutiny Panel Chairs and/or Vice-Chairs. These can be arranged either on a formal basis with all Portfolio Holders and all Scrutiny Chairs or on a one-to-one basis between Portfolio Holders and Scrutiny Chairs for the relevant scrutiny/portfolio area to discuss either matters of concern, scrutiny reviews, items on the Forward Plan, matters for future consultation or scrutiny input, etc.