

Local Protocol – Relations between Overview and Scrutiny and the Cabinet

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1. Introduction

- 1.1 The function overview and scrutiny has in holding an authority's decision-makers to account, remains fundamentally important to local democracy. Effective, efficient and lawful decision-making by a local authority is crucial, and this Protocol has been developed having regard to the '[Overview and Scrutiny: statutory guidance for councils, combined authorities and combined county authorities](#)' published on 22 April 2024 and reinforces the role that overview and scrutiny has in making such decisions.
- 1.2 This Protocol sets out relationships between Torbay Council's Cabinet and Overview and Scrutiny Board, its Sub-Boards and Review Panels. This includes the processes that these bodies will follow, where they will interact with each other, and how they expect the other to conduct themselves. The Protocol is in addition to requirements set out in the Council's Code of Conduct and the Member and Officer Local Protocol.
- 1.3 This Protocol promotes an effective role for Overview and Scrutiny and fosters a good working relationship between the Overview and Scrutiny bodies and the Cabinet which in turn provides a valuable contribution to the effective running of the Council.
- 1.4 There are different roles and responsibilities of Overview and Scrutiny and Cabinet Members, and an effective relationship includes (but is not limited to):
 - a. frequent and honest dialogue between Cabinet Members and Overview and Scrutiny Members, either individually or collectively; and
 - b. regular discussions regarding Cabinet and Overview and Scrutiny Work programmes/activities, including establishing joint activities/projects where possible (via the Council Leadership Group and Overview and Scrutiny Leadership quarterly meetings with the Leader of the Council, Group Leaders, Overview and Scrutiny Co-ordinator, Vice Chair of Overview and Scrutiny Board, Chair of Audit Committee, Director of Corporate Services and Democratic Services Team Leader).

2. Guiding Principles

- 2.1 The general role of the Overview and Scrutiny Bodies is set out in Article 5 – Overview and Scrutiny. However, the following principles set out how the working relationship between the Cabinet and the Overview and Scrutiny bodies will operate:
 - a. the Cabinet and Members of Overview and Scrutiny bodies recognise that they each have different functions and responsibilities that contribute to securing the best outcomes for the people who live and work in Torbay;
 - b. whilst the membership of Overview and Scrutiny bodies reflect the Council's political proportionality, their meetings should reflect the statutory guidance that scrutiny work be conducted in a non-party political manner;
 - c. all participants in the working relationship between Cabinet and Overview and Scrutiny will do so in a spirit of mutual respect, trust and courtesy, with constructive challenge; and

- d. Cabinet recognises that the Overview and Scrutiny bodies have several rights, for example requiring Portfolio Holders to attend its meetings or calling-in Cabinet decisions which have not yet been implemented, should they consider a decision needs to be reviewed. The Overview and Scrutiny bodies will exercise those rights responsibly.

2.2 To facilitate this challenge the Overview and Scrutiny bodies will:

- a. hold the Cabinet to account - this enables non-Cabinet Members to fully scrutinise important decisions made by the Cabinet whilst also allowing routine decision making to take place in a responsive manner. An important method to ensure accountability is through examining performance and decisions taken by the authority;
- b. challenge the Cabinet about any decisions (key or non-key) which have been taken by Cabinet;
- c. require and consider Key Performance Indicators and Budget Monitoring information; and
- d. query or ask for information about any item on the Forward Plan, notice of forthcoming Key Decisions.

2.3 In addition to their rights as Councillors, Members of Overview and Scrutiny Boards/Sub-Boards and their working groups have additional rights of access to documents, in accordance with Access to Information Rules set out in the Council's Constitution and that provided for in Statutory Guidance.

3. Expectations of the Cabinet

3.1 It is expected that Cabinet Portfolio Holders will attend meetings of Overview and Scrutiny Board and Sub-Boards, when requested via the Clerk, on behalf of the Chairman/woman, to present reports relevant to their Portfolio and answer any relevant questions with support from their Director.

3.2 All Members will promote an atmosphere of openness at Overview and Scrutiny meetings and strive to ensure that questioning and debate takes place within a climate of mutual respect and trust between Overview and Scrutiny Members, Cabinet Members and other participants.

3.3 Where the Overview and Scrutiny Board and Sub-Board has made recommendations to a decision-making body or person, that body or person will provide a written response to those recommendations setting out whether the recommendations are accepted or not, and the reasons for that decision. Note: for external organisations, they have to have regard to the recommendations and can be requested to provide a response but cannot be directed to provide a response.

4. Working together on the Development of the Scrutiny Work Programme

4.1 Individual Portfolio Holders and Overview and Scrutiny Chairs will consider meeting regularly to identify and plan for Policy development work in which all Members can participate.

- 4.2 The intention should be to programme such work at an early stage in the development of a Policy.
- 4.3 A monthly informal briefing will be held with all Members of the Overview and Scrutiny Board and Sub-Boards (open to all non-Cabinet Members) to give an opportunity for them to consider forthcoming key decisions. The relevant Board and Sub-Board shall identify any forthcoming key decisions which are relevant to the functions of that Board and Sub-Board that it may wish to scrutinise. New items added to the Overview and Scrutiny Work Programmes will be shared with the relevant Portfolio Holder and Director to assist them with their Work Planning.
- 4.4 When considering new topics for Overview and Scrutiny, Members will consider the following questions:
- a. do we understand the benefits scrutiny would bring to this issue?
 - b. how can we best carry out the work on this subject?
 - c. what would be the best outcome for this work?
 - d. how would this work engage with the activity of the Cabinet and other decision-makers, including partners?
 - e. how does this contribute to delivery of the Council's Community and Corporate Plan.
- 4.5 The Chief Executive/Directors will discuss the parameters for scoping matters and any appropriate timescales for the matter to be reported to the Board and Sub-Board, taking into account any key milestones for decision making, including time needed to obtain any advice which is required.

5. Expectations of the Overview and Scrutiny Members

- 5.1 Overview and Scrutiny Board and Sub-Boards will provide constructive 'critical friend' challenge to the Cabinet's proposals and decisions.
- 5.2 Members of Overview and Scrutiny will remain non-political and be effectively led by non-Cabinet Members who take responsibility in their role to drive improvements for the benefit of the residents and visitors of Torbay.
- 5.3 The Cabinet's response to Overview Scrutiny's recommendations will be monitored to review their implementation and the effectiveness of Overview and Scrutiny.

6. Call-in

- 6.1 The Standing Orders – Overview and Scrutiny set out the process for Members to call in decisions of the Cabinet.
- 6.2 The following procedure shall take place at call-in meetings:
- a. the Call-in Promoter who called in the decision should speak first to present their reasons for call-in, as set out in the submitted paper;
 - b. the Cabinet Member will provide a verbal response to the issues raised;

- c. the Overview and Scrutiny Board will then discuss the issues raised and can then ask questions of the Portfolio Holder, Call-in Promoter or Call-in Supporter who may ask a relevant officer to supply further information if necessary; and
- d. the Overview and Scrutiny Board will debate the issue and vote on the outcome.

7. The Role of the Statutory Scrutiny Officer

- 7.1 The Statutory Scrutiny Officer's role includes the promotion of the Council's Overview and Scrutiny function, providing support and guidance to Members and officers relating to the functions of Overview and Scrutiny and providing a link between the Cabinet and the Overview and Scrutiny Board, its Sub-Boards and Review Panels.