

Thurrock Scrutiny Protocol – Working Document

The purpose of this document is to set out how the Overview and Scrutiny function will operate in Thurrock from May 2024/5 municipal year. This is to allow Members, officers and partners to have a Council adopted document to provide clarity over ways of working and relationships between those stakeholders who hold a relationship with the Overview and Scrutiny function.

This document is being drafted in advance of a comprehensive review of the existing Constitution.

Responsibilities of Overview and Scrutiny

The key responsibilities of overview and scrutiny at the Council are to:

- Support the Council to implement the enhanced Improvement Recovery Plan with a focus on financial sustainability, governance, leadership, and culture following the Best Value Inspection.
- Ensure effective political accountability for the executive and senior council officers, as well as providing a space for Commissioners and partners to be scrutinised.
- Contribute to the development of policy by the council and its partners, making proportionate and deliverable recommendations to key local stakeholders;
- Review certain executive decisions before they are made and implemented;
- Review how decisions, and Council policies, are implemented based on insight from a range of sources, including local people.

Role of this Protocol

- To complement the Constitution and establish a positive framework for scrutiny to work effectively.
- To maximise the effectiveness of Scrutiny Members, Lead Members, and officers by enabling them to understand their powers, roles, and responsibilities in relation to the scrutiny function.
- To promote and maintain an ethos of mutual respect and trust in the relationships between Scrutiny Members, Executive Members, and officers in a climate of openness to enable a constructive and challenging debate.
- To support scrutiny councillors to hold the Executive to account by monitoring the effectiveness of policies and through regular, proportionate, and focused review of performance in relation to services.
- To ensure that scrutiny is able to maximise its value and impact by aligning its work with that of the Leadership Team, and Commissioners.

The Scrutiny Work Programme

The development of a work programme to guide scrutiny activity over the course of the year, or to a longer timescale, is essential. All Scrutiny Committees must have a work programme. The process, content and execution of the work programme must be led by Scrutiny Members.

Work programming is a continuous exercise but there should be a burst of activity in quarter four of the municipal year in which to start to develop the significant contents of that plan for the municipal year ahead.

Work programmes must be developed taking account of feedback and suggestions from a range of sources. As a general principle, scrutiny will focus its efforts on:

- matters where there is a critical business need,
- matters which have a direct impact on the council's delivery of services to vulnerable people (for example, children and those in receipt of adult social care services);
- matters of particular local contention (including political contention);

Matters that have a particular level of complexity arising from their being cross-cutting, and/or involving a wide range of local partners/stakeholders. In coming to a judgement on whether subjects proposed to be considered meet these criteria, members will have regard to:

- The priorities of the Council.
- The contents of the Council's Forward Plan of executive decisions (on which "pre-scrutiny" might be conducted).
- The opinions of the executive, senior officers, and Commissioners.
- Insights from the public, either provided directly or via members' ward work.
- Business being undertaken by other bodies, especially the Audit Committee.
- Information relating to risk, service performance and finances.

In bringing together a work programme, Scrutiny Members must develop a long list of topics and agree a process for the creation of a shortlist which should have regard to the criteria set out above. As part of that shortlisting process Members must ensure the topics:

- are clearly understood,
- with a defined purpose and scope,
- are placed onto the work programme at the most valuable time and that scrutiny is undertaken in the right way (at Committee or within a task and finish group).

Ultimately, Members must be confident that the work they will undertake over the course of the year will add value to public services in Thurrock and lead them out of intervention.

In refining the work programme, Members should ensure flexibility and create time for business that could 'crop up' in year. This is especially relevant for scrutiny of local health and care services.

The work programme will be managed through regular meetings of Chairs, Vice Chairs and relevant officers. This meeting should identify forthcoming issues, Cabinet decisions and topics which might be usefully added to the work programme, subject to the framework agreed at the start of the year.

In respect of forthcoming decisions, following this process will ensure that the Cabinet Member attends the relevant Scrutiny Committee in sufficient time that any recommendations made by scrutiny can be considered ahead of the decision being made.

Meetings of Committees – Agenda Planning and Conduct

The agenda for each meeting will be prepared by the Statutory Scrutiny Officer, following close liaison with the relevant Chair, the Committee and

- The relevant Executive Director(s) and/or Directors and Cabinet Member/s.
- Where appropriate, other relevant persons such as partner organisations.

In finalising those items that will comprise each agenda, the Chair will have careful regard to the Committee's terms of reference and:

- The Committee's agreed Work Programme.
- The criteria and information set out above.
 - The need to identify a modest number of items (ideally no more than three per meeting) on which the Committee can 'add value' in terms of developing or reviewing policies; proactive work on strategic issues; scrutinising performance where there is evidence of concern.
- The exclusion from agendas of routine items or those that are simply 'for noting' or 'for information' : in normal circumstances such items should be circulated separately.

The Conduct of Meetings

Scrutiny Members

All Scrutiny Members must ensure that they attend meetings prepared and wish to engage in the meeting in an independently minded fashion.

Members must lead by example in their behaviours and general conduct at meetings in accordance with the Council's code of conduct and the Nolan Principles.

Relevant for the conduct of Scrutiny Committees, Members must be mindful to operate with respect towards those attending Committee and to whom they may be holding to account, regardless of the topic under discussion.

Cabinet Members

The Overview and Scrutiny Committee and any of its task and finish groups can require the attendance of the relevant Cabinet Members. Requests for Cabinet Member attendance will be made, as far as possible, in good time to facilitate that Member's attendance and any of their officers. The Chair will normally invite the Cabinet Member and/or the relevant Executive Director to present the report and answer questions. They are free to bring any other officers with them.

More generally, Cabinet Members:

- can attend all Scrutiny meetings and may, with the Chair's permission, speak on any item under discussion;
- can attend presentations made to committees and take part in the subsequent discussion, with the permission of the Chair;

Executives must have regard for the need to ensure a healthy separation between Cabinet and Scrutiny and be mindful of the need to visibly demonstrate such separation else it becomes unclear of roles and responsibilities and specifically who is undertaking scrutiny and who is receiving it. In practical terms this will involve sitting at the meeting, at a seat or table set aside for witnesses, and making it clear at the start of the meeting of their status and the role they expect to perform both in assisting the committee and being held to account.

It is essential for the Executive Member and their officers to have regard to the fact that their attendance is at the request of the Scrutiny Committee. There will be other pressing matters of business on the Committee's agenda and to keep any presentations short and introductory and questions answered succinctly and with candour.

Partners

The Overview and Scrutiny Committee or its tasks groups can request the attendance of relevant partners to present reports and / or give evidence.

Requests for their attendance will be made, as far as possible, in very good time to facilitate that Member's attendance and any of their officers. The Chair will normally invite the Cabinet Member and/or the relevant Executive Director to present the report and answer questions. They are free to bring any other officers with them.

The Role of the Chairs and Vice Chairs

The role of the Chairs and Vice Chairs is to lead the scrutiny function within the Council, with partners and across the Borough. Key elements of their roles is contained at **Appendix 1**.

All Chairs and Vice Chairs will work together in a collegiate fashion to ensure that Scrutiny is seen positively and a source of good governance within the organisation.

Chairs and Vice Chairs will meet to a regular timetable to discuss the performance of scrutiny and any issues preventing it from operating to a high standard, as well as the work

programme and matters which could cut across the work of all three Committees. On occasion, this informal group should invite the Chair of Standards and Audit to contribute to conversations, specifically on issues which could overlap scrutiny and audit and to share insight to inform each other's work programmes.

Responses to Scrutiny Recommendations

Recommendations can be made through two routes.

The first is at Committee, arising from a discussion in which it is evident that Members wish to draw the Cabinet's attention to an issue and/or to affect a change. With the support of the SSO, or the Scrutiny Officer supporting the Committee, precise wording of a recommendation/s would be made and endorsed by the Committee. If it were not possible to do this, the Chair should move a resolution in which to arrive at the wording of a recommendation/s in consultation with the Vice Chair and relevant Scrutiny Officer. That wording will be shared with Members of the Committee via email.

The second route is via a task and finish group. At the conclusion of a review undertaken by the group recommendations should be made to Cabinet, Council and/or partners. Those recommendations should be drafted by the SSO further to the objectives of members of the group and presented to the task group for endorsement.

The final report and recommendations made will be presented to the Committee which agreed to establish the task group. The recommendations will be endorsed in full, in part or not. Those recommendations will then go to Cabinet, Council, or partners.

On the receipt of recommendations to Council or Cabinet, Scrutiny Members must expect a response within two months (LGA 2000, s9FE). That response should state whether the recommendations have been accepted, partly accepted or not accepted alongside an accompanying explanation and plan of action for how those accepted recommendations will be delivered. Where Council and/or Cabinet determines that they will not accept the recommendations, reasons should be given.

Once the responses have been supplied to the Statutory Scrutiny Officer, the Committee will be made aware, and it will be considered at the next available meeting of the Scrutiny Committee where the relevant Cabinet Member will attend to present the response.

Participation of The Public

Participation of Members of The Public at Committee Meetings

Local and interested persons can, with the permission of and at the discretion of the Chair, speak at Committee meetings on any item of the agenda, in accordance with the Council's Constitution.

The Chair and other members of the Committee will consider, with the support of officers, how to promote public attendance and participation at meetings of the Committee and of meetings related to scrutiny reviews.

Role, Responsibilities and Governance of Task and Finish Groups

It is essential to recognise that how overview and scrutiny is undertaken, is as important as what issues are selected. Members and officers must recognise the value in pivoting between formal (Committee) settings for certain types of business and informal (task and finish) settings for others.

In establishing the Committee's work programme, discussions should take place at the earliest opportunity on whether a task and finish group should be used, when it should commence and what is within scope and who should sit on it.

When To Use

Issues that require extensive exploration, the use of experts/witnesses and matters which could be sensitive in nature may lend themselves to be better placed for inquiries within a task and finish group. Task and finish groups will convene through informal meetings, not Committee meetings. Meetings of task and finish groups will generally be held in private and are not accompanied by the usual formality that a Committee meeting brings. However, they should be accurately noted, and the notes of meetings should be submitted to the commissioning Committee to be placed on the public record once the group's work has concluded.

Establishment of a task and finish group should be undertaken by a resolution to do so at a Committee whose terms of reference fit with the scope and objectives of the work to be undertaken by that group. The Committee must agree who will chair that task and finish group and seek nominations from the wider Committee to sit on it. The Chair may also wish to seek nominations from wider backbenchers who may have the time, authority, and expertise to contribute.

Practically, task and finish groups should have a membership of between 4-7 members. They need not be perfectly politically balanced because of their small number of members. Members must, however, agree to operate within these groups in an independently minded fashion.

The Relationship Between Commissioners and Overview and Scrutiny

The relationship between Government appointed Commissioners and Overview and Scrutiny must be based on mutual trust and recognition of each other's roles within the governance of the Council. The Chairs and Vice Chairs of the Committees should, to a reasonable timetable, meet with Commissioners to keep abreast of their activity, progress and concerns and seek out ways to add value to each other's work.

Commissioners are primarily accountable to the Secretary of State, but recognise that importance of answering to local people, and to local politicians, in how they carry out their work. The way that they engage with scrutiny committees will reflect and acknowledge these relationships.

Commissioners may wish to identify opportunities to request that O&S look into issues on their behalf and O&S should consider such referrals. There should be no expectation that the requests of commissioners will automatically be accepted.

The Relationship Between the Executive and Overview and Scrutiny

The relationship between the Executive and Overview and Scrutiny must be based on mutual trust and recognition of each other's roles within the governance of the Council.

The Chairs and Vice Chairs of the Committees must meet with the Executive as part of setting the Committees' work programmes for the year ahead, establishing priorities, necessary timings of the delivery of such priorities and ultimately areas of shared interest. In year engagement should also be welcomed.

The Executive will work openly and transparently with those Chairs to identify areas that Scrutiny may wish to review and investigate, and that Scrutiny will have regard for the Executive's timings in respect of decision making. The Head of Paid Service and principal statutory officers should ensure that senior officers recognise the need for accountability to scrutiny committees as part of their wider member engagement. This includes ensuring that scrutiny Members and Officers are treated with respect, provided with information and supported to undertake their enquiries.

The Executive must support scrutiny by providing relevant information directly, or via its Officers, to allow Members to be actively involved in pre-scrutiny. That is, involvement at the early stages in the formulation of new policies, strategies etc where scrutiny can add value well in advance of a decision being made. The same principle applies also to scrutiny's work undertaking post decision work that is ensuring that the performance management of services.

The Committees will remain non-political and be effectively led by Members who take responsibility in their role to drive service improvements.

Executive Members will be given reasonable notice of a request to attend a Scrutiny Committee and those Members can be accompanied by a relevant member/s of staff. Executive members will be asked to submit a report and to take questions at Committee. It is essential that the executive recognise their attendance is at the invitation of the Committee at the same time recognising that these are public meetings. The Executive member(s) need not stay for the whole meeting.

The Cabinet's response to Scrutiny's recommendations will be published in the agenda of the next available relevant Committee meeting. The Overview & Scrutiny Committee will monitor the effectiveness of services and undertake regular reviews of performance in relation to the Council's services.

The Relationship Between Council and Overview and Scrutiny

Council has a key role in which to receive and discuss the Scrutiny Annual Report so to draw Members' attention to the work undertaken by the function over the course of the municipal year.

Council, on occasion, may request O&S to review matters on its behalf. A referral to the relevant O&S Committee can be made by Council but the decision to accept that referral is a matter for the Committee itself.

If the referral is accepted, any reports and/or recommendations would then be made to the decision maker.

Access to Information

See attached appendix 1

Health Scrutiny

- **Relationship between Healthwatch Thurrock and the People Overview and Scrutiny Committee**
- **Relationship between the ICB, ICP and the People Overview and Scrutiny Committee**
Responses to recommendations
- **Substantial Variations and Developments to Services**

Ensuring Compliance with the Protocol

The Statutory Scrutiny Officer, and Monitoring Officer, are the responsible officers for overseeing compliance with the Protocol and ensuring that it is used to support the wider aim of supporting and promoting a culture of scrutiny. The Scrutiny Annual Report will include an assessment of the effectiveness of the Protocol.

Appendix 1 Role Description

Chairman

The main functions of this role are:

Chairing

1. Can confidently, and orderly, lead a Committee meeting and its Members through an agenda in a public facing setting.
2. Can facilitate conversations within a time limited environment ensuring all voices are heard, no matter how challenging.
3. Can set a positive and productive tone even in challenging circumstances.

Leading the Scrutiny Function

1. A visible, respected leader within and outside the organisation who advocates for good scrutiny and a culture of openness, transparency and securing good outcomes for the people of Thurrock.
2. To have strong individual and collective relationships with the Deputy, Committee Chairs, Executives, Chair of Audit and Commissioner and officer community across the Council and key partners.
3. Has a clear grasp of the strategic issues facing Thurrock (the Council and the place) and is able translate that into relevant scrutiny action.

Developing the Committee's Work Programme and Advocating Best Use of Available Resources

1. Ability to convene a diverse set of internal and external stakeholders (elected, officer and appointed) towards a shared set of scrutiny priorities and outcomes.
2. To work in concert with the Statutory Scrutiny Officer to rigorously prioritise, and ultimately reprioritise, the workload of the Committee and its Members in a dynamic fashion.
3. To personally maintain an overview / watching brief of the strategic dimensions of Council business and issues facing Thurrock to develop own understanding and support the understanding of others.

Vice Chairman

1. To fulfil all the functions above and especially so in the event of the Chair's absence.
2. To be a close and trusted support to the Chairman.