

# PROTOCOL ON ATTENDANCE AND QUESTIONING AT OVERVIEW AND SCRUTINY COMMITTEE

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Overview and Scrutiny Committees have the power to require the attendance of officers and members of the authority before the Committee, and may invite other persons to attend. The process by which the attendance of members and officers at overview and scrutiny committees is secured (reflecting the obligation under S.21(13) LGA2000) is for councils to set locally. This Protocol sets out a procedure for securing the attendance of officers and members, and for inviting other persons. It sets out the obligations of the Committee and of the officer or member.

1. Persons to be summoned or invited to attend shall be identified either by resolution at a meeting of the Committee or by the Monitoring Officer in consultation with the Chairman of the Committee. Any member of the Committee may request the Monitoring Officer to secure the attendance of a named person by making a request to the Monitoring Officer in writing, identifying the issue in respect of which the person's attendance is requested and the reason why the attendance of the person would assist the Committee in the performance of its functions. Upon receiving such a request, the Monitoring Officer shall consult the Chairman of the Committee and then take a decision as to whether to summon or invite the person concerned.
2. Where a person is to be summoned or invited to attend, the Monitoring Officer will give them at least 5 working days' written notice of the time, date and place of the Overview and Scrutiny Committee's meeting, and will inform them of the subject in respect of which their attendance is required/requested, provide them with any supporting documentation, and state whether any written reports are required to be produced, by whom and by what date. The member or officer required to produce the written report will be given adequate time for the preparation of that document.
3. Where an officer is required to deal with a specific topic, the Monitoring Officer will first consult with either the Chief Executive or the Deputy Chief Executive on the most appropriate officer to attend, before determining who to summon to attend.
4. Where the Committee requires the attendance of any officer other than a Chief Officer with responsibility for the service, the relevant Chief Officer will always be permitted to attend, or to send a representative, if he or she wishes to respond personally to the enquiries of the Committee in addition to any officer summoned.

5. No officer below Service Manager or similar grade may normally be required to attend before Scrutiny unless agreed by the Chief Executive or Deputy Chief Executive.
6. A member or officer so summoned may ask for an alternative date for attending before Scrutiny where for good reason he cannot attend on the date first specified.
7. Where any member is summoned to attend, they may require the Chief Officer responsible for the matter under consideration to attend with them, and to produce any documents relevant to the issue.
8. Scrutiny Committee sessions in which a member, officer or other person attends as summoned or invited shall be managed by the Chairman in a manner which ensure mutual respect between all those participating.
9. Where the response to any questions in the opinion of the Chairman or on the advice of the Monitoring Officer would be likely to disclose confidential or exempt information within the meaning of Schedule 12A Local Government Act 1972 the Chairman shall move that the answer is taken in confidential session and the question shall be put without second or debate. No person giving evidence to a Scrutiny Committee shall be under any obligation to disclose publicly personal information about an employee, child in care or at school or any recipient of council services.
10. Scrutiny Committees should not summon officers to attend or undertake work at times and dates where that would risk serious prejudice to the provision of services.
11. Reflecting Article 6 of the Human Rights Act 1998, where it appears at any time to a Scrutiny Committee, or the Monitoring Officer so advises, that:
  - (a) a member, in responding to a question, might be required to admit to conduct which constitutes a breach of the local code of conduct, the member may decline to answer the question and the issue shall then be reported to the Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee by the Monitoring Officer for consideration and investigation if deemed necessary; and,

- (b) an officer, in responding to a question, might be required to admit to conduct which constitutes a breach of the officer code of conduct or other grounds for disciplinary action, the officer may decline to answer the question and the issue shall be reported by the Monitoring Officer to the Chief Executive for consideration and investigation if deemed necessary.
12. Where the authority is conducting a Best Value Review of a service and Scrutiny Committee enquiries are also proposed the Chairman of the Review and Scrutiny will liaise to ensure no duplication of effort and the avoidance of any publicity which might pre-empt the review.
13. In deciding whether to summon a particular officer or member and in questioning any person, the Scrutiny Committee and all members thereof shall accord with Article 8 of the European Convention on Human Rights and respect the rights of individuals to respect for private and family life, home and correspondence. Accordingly it shall only question a person in respect of their private and family life, home and private correspondence where such questioning is clearly required for the purpose of:
- National security
  - Economic well-being
  - Public safety
  - Prevention of crime
  - Protection of health and morals, or
  - Protection of the rights and freedoms of others

and the public interest in pursuing such questioning clearly outweighs the interests of the individual.

Where such issues arise, the Committee shall take prior advice of the Monitoring Officer regarding its ability to pursue enquiries into the matters.