



## 2014 CHAPTER 8

### PART 6

#### EXECUTIVE ARRANGEMENTS

##### *Overview and scrutiny committees*

##### **Overview and scrutiny committees: functions**

**27.—**(1) Executive arrangements by a council must include provision for the appointment by the council of one or more committees of the council (referred to in this Part as overview and scrutiny committees).

(2) Executive arrangements by a council must ensure that its overview and scrutiny committee has power (or its overview and scrutiny committees have power between them)—

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive;
- (b) to make reports or recommendations to the council or the executive with respect to the discharge of any functions which are the responsibility of the executive;
- (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive;
- (d) to make reports or recommendations to the council or the executive with respect to the discharge of any functions which are not the responsibility of the executive;

- (e) to make reports or recommendations to the council or the executive on matters which affect the council's district or the inhabitants of that district.
- (3) For the purpose of dealing with a matter of concern to more than one overview and scrutiny committee of the council, standing orders may provide for the council to appoint an ad hoc overview and scrutiny committee or for the relevant committees to sit concurrently.
- (4) The power of an overview and scrutiny committee under subsection (2)(a) to review or scrutinise a decision made but not implemented includes power—
  - (a) to recommend that the decision be reconsidered by the person who made it; or
  - (b) to arrange for its function under subsection (2)(a), so far as it relates to the decision, to be exercised by the council.
- (5) An overview and scrutiny committee of a council may not discharge any functions other than its functions under this section and sections 28 to 33.

#### **Overview and scrutiny committees: supplementary provision**

- 28.—**(1) An overview and scrutiny committee of a council—
- (a) may appoint one or more sub-committees, and
  - (b) may arrange for the discharge of any of its functions by any such sub-committee.
- (2) A sub-committee of an overview and scrutiny committee may not discharge any functions other than those conferred on it under subsection (1)(b).
- (3) An overview and scrutiny committee of a council, or a sub-committee of such a committee, may not include a member of the council's executive.
- (4) An overview and scrutiny committee of a council, or any sub-committee of such a committee, may include persons who are not councillors.
- (5) Persons who are not members of the council are not entitled to vote at any meeting of its overview and scrutiny committee, or any sub-committee of such a committee, on any question which falls to be decided at that meeting, unless permitted to do so under Schedule 4 (voting rights of co-opted members); and that Schedule shall have effect.
- (6) Section 11(2) and sections 16 and 18 apply to an overview and scrutiny committee of a council, or a sub-committee of such a committee, as they apply to a committee appointed under section 11.
- (7) An overview and scrutiny committee of a council or a sub-committee of such a committee—
- (a) may require members of the executive, and officers of the council, to attend before it to answer questions; and
  - (b) may invite other persons to attend meetings of the committee.

(8) It is the duty of any member or officer mentioned in paragraph (a) of subsection (7) to comply with any requirement mentioned in that paragraph.

(9) A person is not obliged by subsection (8) to answer any question which the person would be entitled to refuse to answer in or for the purposes of proceedings in a court in Northern Ireland.

(10) In exercising, or deciding whether to exercise, any of its functions, an overview and scrutiny committee of a council, or a sub-committee of such a committee, must have regard to any guidance issued by the Department.

### **Scrutiny officers**

**29.—**(1) A council must designate one of its officers to discharge the functions mentioned in subsection (2).

(2) Those functions are—

- (a) to promote the role of the council’s overview and scrutiny committee or committees;
- (b) to provide support to the council’s overview and scrutiny committee or committees and the members of that committee or those committees;
- (c) to provide support and guidance to—
  - (i) councillors;
  - (ii) members of the executive of the council; and
  - (iii) officers of the council,

in relation to the functions of the council’s overview and scrutiny committee or committees.

(3) An officer designated by the council under this section is to be known as the council’s “scrutiny officer”.

(4) A council must not designate under this section—

- (a) the clerk of the council;
- (b) the chief financial officer of the council.

(5) In this section references to an overview and scrutiny committee include any sub-committee of that committee.

### **Reference of matters to overview and scrutiny committee etc.**

**30.—**(1) Executive arrangements by a council must include provision which—

- (a) enables any member of an overview and scrutiny committee of the council to refer to the committee any matter which is relevant to the functions of the committee;

- (b) enables any member of a sub-committee of such a committee to refer to the sub-committee any matter which is relevant to the functions of the sub-committee; and
- (c) enables any councillor to refer to an overview and scrutiny committee of the council of which the councillor is not a member any matter which is relevant to the functions of the committee and is not a prescribed matter.

(2) For the purposes of subsection (1), provision enables a person to refer a matter to a committee or sub-committee if it enables the person to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee or sub-committee.

(3) In considering whether to exercise the power which a councillor has by virtue of subsection (1)(c) in any case, the councillor must have regard to any guidance issued by the Department.

#### **Dealing with references under section 30(1)(c)**

**31.**—(1) This section applies where a matter is referred to an overview and scrutiny committee by a councillor in accordance with provision made pursuant to section 30(1)(c).

(2) In considering whether or not to exercise any of its powers under section 27(2) in relation to the matter, the committee may have regard to any representations made by the councillor as to why it would be appropriate for the committee to exercise any of its powers under section 27(2) in relation to the matter.

(3) If the committee decides not to exercise any of those powers in relation to the matter, it must notify the councillor of—

- (a) its decision; and
- (b) the reasons for it.

(4) The committee must provide the councillor with a copy of any report or recommendations which it makes to the council or the executive under section 27(2) in relation to the matter.

(5) Subsection (4) is subject to section 33 (confidential and exempt information).

#### **Duty of council or executive to respond to overview and scrutiny committee**

**32.**—(1) This section applies where an overview and scrutiny committee of a council makes a report or recommendations to the council or the executive.

(2) The overview and scrutiny committee may publish the report or recommendations.

(3) The overview and scrutiny committee must by notice in writing require the council or executive—

- (a) to consider the report or recommendations;
- (b) to respond to the overview and scrutiny committee indicating what (if any) action the council, or the executive, proposes to take;
- (c) if the overview and scrutiny committee has published the report or recommendations under subsection (2), to publish the response; and
- (d) if the overview and scrutiny committee provided a copy of the report or recommendations to a councillor under section 31(4), to provide the councillor with a copy of the response.

(4) The notice served under subsection (3) must require the council or executive to comply with it within two months beginning with the date on which the council or executive received the report or recommendations or (if later) the notice unless, in accordance with standing orders, the overview and scrutiny committee deems the notice to require a prompt response in which case the notice must require the council or the executive to comply within one month.

(5) It is the duty of a council or executive to which a notice is given under subsection (3) to comply with the requirements specified in the notice.

(6) Subsections (2) and (5) are subject to section 33 and to any provision made under section 35(3) (confidential and exempt information).

(7) In this section—

- (a) references to an overview and scrutiny committee include references to a sub-committee of such a committee;
- (b) references to “the council” or “the executive”, in relation to an overview and scrutiny committee, or a sub-committee of such a committee, are to the council by which the overview and scrutiny committee is established or to the executive of that council.

**Publication etc. of reports, recommendations and responses: confidential and exempt information**

**33.—**(1) This section applies to—

- (a) the publication under section 32 of any document comprising—
  - (i) a report or recommendations of an overview and scrutiny committee, or
  - (ii) a response of a council to any such report or recommendations; and
- (b) the provision of a copy of such a document to a councillor under section 31(4) or section 32 by an overview and scrutiny committee or a council.

(2) The overview and scrutiny committee or the council, in publishing the document—

- (a) must exclude any confidential information; and

(b) may exclude any relevant exempt information.

(3) The overview and scrutiny committee or the council, in providing a copy of the document to a councillor, may exclude any confidential information or relevant exempt information.

(4) Where information is excluded under subsection (2) or (3), the overview and scrutiny committee or the council, in publishing, or providing a copy of, the document—

(a) may replace so much of the document as discloses the information with a summary which does not disclose that information; and

(b) must do so if, in consequence of excluding the information, the document published, or a copy provided, would be misleading or not reasonably comprehensible.

(5) Subsection (6) applies if, by virtue of subsection (2), (3) or (4), an overview and scrutiny committee, in publishing or providing a copy of a report or recommendations—

(a) excludes information; or

(b) replaces part of the report or recommendations with a summary.

(6) The overview and scrutiny committee is nevertheless to be taken for the purposes of section 32(3)(c) or (d) to have published or provided a copy of the report or recommendations.

(7) In this section references to relevant exempt information are references to—

(a) in relation to a report or recommendations of an overview and scrutiny committee, exempt information of a description specified in a resolution of the overview and scrutiny committee under section 42(4) which applied to the proceedings, or part of the proceedings, at any meeting of the overview and scrutiny committee at which the report was, or recommendations were, considered; and

(b) in relation to a response of the council, exempt information of a description specified in such a resolution of the council which applied to the proceedings, or part of the proceedings, at any meeting of the council at which the report or response was, or recommendations were, considered.

(8) In this section—

“confidential information” has the meaning given by section 42(3) (admission to meetings of councils);

“exempt information” has the meaning given by section 51.

(9) In this section, references to an overview and scrutiny committee include references to a sub-committee of such a committee.