
STATUTORY INSTRUMENTS

2017 No. 68

**The Combined Authorities (Overview and Scrutiny Committees,
Access to Information and Audit Committees) Order 2017**

PART 2

Overview and scrutiny: general provisions

Overview and scrutiny committees

3.—(1) The majority of members of a combined authority's overview and scrutiny committee must be members of that combined authority's constituent councils.

(2) At least two-thirds of the total number of members of the overview and scrutiny committee must be present at a meeting of the overview and scrutiny committee before business may be transacted.

(3) Each member of the overview and scrutiny committee appointed from the constituent councils is to have one vote and no member is to have a casting vote.

(4) Members of the overview and scrutiny committee who are appointed other than from the constituent councils shall be non-voting members of the committee but may be given voting rights by resolution of the combined authority⁽¹⁾.

(5) Any questions that are to be decided by the overview and scrutiny committee are to be decided by a simple majority of the members present and voting on that question at a meeting of the overview and scrutiny committee.

(6) If a vote is tied on any matter it is deemed not to have been carried.

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

Appointment of members

4.—(1) The combined authority must—

- (a) appoint such a number of members of each of the constituent councils to an overview and scrutiny committee, so that the members of the committee taken as a whole reflect so far as reasonably practicable the balance of political parties for the time being prevailing among members of the constituent councils when taken together; and
- (b) within the period of 28 days beginning with the day on which an appointment is made to the overview and scrutiny committee, publish a notice that—
 - (i) states that it has made an appointment;
 - (ii) identifies each member of the committee who has been appointed; and
 - (iii) specifies the period for which the members of the committee have been appointed.

(1) Paragraph 2(5) of Schedule 5A to the 2009 Act applies section 102 (2) to (5) of the Local Government Act 1972 to combined authorities.

- (2) The notice mentioned at paragraph (1)(b) must be published—
- (a) if the combined authority has a website, on its website; or
 - (b) otherwise, in such manner as it thinks is likely to bring the notice to the attention of persons who live in its area.

Appointment of chair

5.—(1) — Paragraphs (2) to (4) apply where the chair of an overview and scrutiny committee is to be an independent person in accordance with provision made under paragraph 3 of Schedule 5A to the 2009 Act(2).

- (2) A person is independent if the person—
- (a) is not a member, co-opted member or officer of the combined authority;
 - (b) is not a member, co-opted member or officer of a constituent council or a parish council for which a constituent council is the principal authority;
 - (c) is not a relative, or close friend, of a person within sub-paragraph (a) or (b); and
 - (d) was not at any time during the 5 years ending with an appointment as chair of the overview and scrutiny committee under arrangements made by the combined authority in accordance with paragraph 3(4)(a) of Schedule 5A to the 2009 Act—
 - (i) a member, co-opted member or officer of the combined authority; or
 - (ii) a member, co-opted member or officer of a constituent council or a parish council for which a constituent council is the principal authority.
- (3) A person may not be appointed as independent chair of the overview and scrutiny committee unless—
- (a) the vacancy for a chair of the overview and scrutiny committee has been advertised in such manner as the combined authority considers is likely to bring it to the attention of the public;
 - (b) the person has submitted an application to fill the vacancy to the combined authority, and
 - (c) the person’s appointment has been approved by a majority of the members of the combined authority.
- (4) A person appointed as independent chair of the overview and scrutiny committee does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment.
- (5) Paragraph (6) applies where the chair of an overview and scrutiny committee is to be an appropriate person in accordance with provision made under paragraph 3(4)(b) of Schedule 5A to the 2009 Act.
- (6) Where the mayor is not a member of a registered political party, a person may not be appointed as chair of the overview and scrutiny committee if that person is –
- (a) a member of the registered political party which has the most representatives among the members of the constituent councils on the combined authority, or
 - (b) where two or more parties have the same number of representatives, a member of any of those parties.

(2) Paragraph 3(4) of Schedule 5A to the 2009 Act requires the Secretary of State to make provision that the chair of an overview and scrutiny committee is an independent person, as defined by the order (paragraph 3(4)(a) of Schedule 5A) or an appropriate person who is a member of one of the combined authority’s constituent councils (paragraph 3(4)(b) of Schedule 5A).

Reference of matters to overview and scrutiny committees

6.—(1) The combined authority must ensure that it enables—

- (a) any member of an overview and scrutiny committee to refer to the committee any matter which is relevant to the functions of the committee;
- (b) any member of a sub-committee of an overview and scrutiny committee to refer to the sub-committee any matter which is relevant to the functions of the sub-committee;
- (c) any member of the combined authority to refer to an overview and scrutiny committee any matter which is relevant to the functions of the committee and is not an excluded matter; and
- (d) any member of a constituent council or a non-constituent council⁽³⁾ of a combined authority to refer to an overview and scrutiny committee any matter which is relevant to the functions of the committee and is not an excluded matter.

(2) For the purposes of paragraph (1), a combined authority enables a member mentioned in paragraph (1)(a) to (d) to refer a matter to a committee or sub-committee if it enables that member to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee or sub-committee.

(3) Paragraphs (4) to (7) apply where a matter is referred to an overview and scrutiny committee by a member of a combined authority or a member of a constituent council or a non-constituent council in accordance with arrangements made by the combined authority pursuant to paragraph (1) (c) or (d).

(4) In considering whether or not to exercise any of the powers under arrangements made in accordance with paragraph 1(2)(a) or (3)(a) of Schedule 5A to the 2009 Act in relation to a matter referred to the committee, the committee must have regard to any representations made by the member as to why it would be appropriate for the committee to exercise any of these powers in relation to the matter.

(5) If the committee decides not to exercise any of its powers under arrangements made in accordance with paragraph 1(2)(a) or (3)(a) of Schedule 5A to the 2009 Act in relation to the matter, it must notify the member of—

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

(6) The committee must provide the member with a copy of any report or recommendations which it makes under paragraph 1(2)(b) or (3)(b) of Schedule 5A to the 2009 Act in connection with the matter referred to it by the member.

(7) Paragraph (6) is subject to article 8 (confidential and exempt information).

Duty of combined authority and mayor to respond to overview and scrutiny committee

7.—(1) Where an overview and scrutiny committee or a sub-committee of such a committee makes a report or recommendations the committee may—

- (a) publish the report or recommendations;
- (b) by notice in writing require the combined authority or the mayor to—
 - (i) consider the report or recommendations;
 - (ii) respond to the overview and scrutiny committee indicating what (if any) action the combined authority proposes to take;

(3) Orders establishing a combined authority may provide for there to be non constituent councils of a combined authority (see article 2 of [S.I. 2014/864](#)).

(iii) if the overview and scrutiny committee has published the report or recommendations under paragraph (a), publish the response.

(2) A notice given under paragraph (1)(b) must require the combined authority or the mayor to comply with it within two months beginning with the date on which the combined authority or the mayor received the reports or recommendations or (if later) the notice.

(3) The combined authority or the mayor must respond to a report or recommendations made by an overview and scrutiny committee, or a sub-committee of such a committee, as result of a referral made in accordance with article 6 within two months beginning with the date on which the combined authority or the mayor received the notice.

(4) Where an overview and scrutiny committee exercises any of its powers under arrangements made in accordance with paragraph 1(2) or 1(3) of Schedule 5A to the 2009 Act in relation to a decision made but not implemented—

- (a) where recommendations have been made under paragraph 1(4)(b) of Schedule 5A to the 2009 Act, the combined authority or the mayor must hold a meeting to reconsider the decision no later than 10 days after the date on which the recommendations of the overview and scrutiny committee were received by the combined authority; and
- (b) any direction under arrangements made in accordance with paragraph 1(4)(a) of Schedule 5A to the 2009 Act may have effect for a period not exceeding 14 days from the date on which the direction is issued.

Confidential and exempt information

8.—(1) This article applies in relation to—

- (a) the publication of any document as a result of a reference made in accordance with article 7 (duty of combined authority and the mayor to respond to overview and scrutiny committee) comprising—
 - (i) a report or recommendations of an overview and scrutiny committee; or
 - (ii) a response of a combined authority or the mayor to any such report or recommendations; and
- (b) the provision of a copy of such a document to a member of a combined authority or to a member of a constituent council or a non-constituent council, by an overview and scrutiny committee or a combined authority or the mayor.

(2) The overview and scrutiny committee or the combined authority, or the mayor 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 combined authority, or the mayor, in providing a copy of a document to a member of the combined authority or to a member of a constituent council or a non-constituent council, may exclude any confidential information or relevant exempt information.

(4) Where information is excluded under paragraph (2) or (3), the overview and scrutiny committee or the combined authority, or the mayor, 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 copy provided, would be misleading or not reasonably comprehensible.

(5) If by virtue of paragraph (2), (3) or (4) an overview and scrutiny committee or the combined authority, or the mayor, in publishing or providing a copy of a report or recommendations—

- (a) excludes information; or
- (b) replaces part of the report or the recommendations with a summary,

it is nevertheless to be taken to have published the report or recommendations.

(6) In this article—

“confidential information” has the meaning given by section 100A(3) of the Local Government Act 1972⁽⁴⁾ (admission to meetings of principal councils);

“exempt information” has the meaning given by section 100I of that Act⁽⁵⁾; and

“relevant exempt information” means—

- (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 100A(4) of the Local Government Act 1972 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 authority or of the mayor, exempt information of a description specified in such a resolution of the authority which applied to the proceedings, or part of the proceedings, at any meeting of the authority at which the report or response was, or recommendations were, considered.

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

Scrutiny officer

9.—(1) A combined authority must designate one of its officers as the scrutiny officer of the overview and scrutiny committee to discharge the functions in paragraph (2).

(2) Those functions are—

- (a) to promote the role of the overview and scrutiny committee;
- (b) to provide support and guidance to the overview and scrutiny committee and its members;
- (c) to provide support and guidance to members of the combined authority and to the mayor in relation to the functions of the overview and scrutiny committee.

(3) A combined authority may not designate as the scrutiny officer any officer of a constituent council of the combined authority.

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

Additional rights of access to documents for members of overview and scrutiny committees

10.—(1) Subject to paragraph (3), a member of an overview and scrutiny committee or a sub-committee of such a committee is entitled to a copy of any document which—

- (a) is in the possession or under the control of the combined authority or the mayor; and
- (b) contains material relating to—

⁽⁴⁾ Section 100A was inserted by section 1 of the Local Government (Access to Information) Act 1985 (c. 43) and amended by S.I. 2002/715 and by S.I. 2014/2095.

⁽⁵⁾ Section 100I was inserted by section 1 of the Local Government (Access to Information) Act 1985 and amended by S.I. 2006/88.

- (i) any business that has been transacted at a meeting of a decision-making body of that authority; or
 - (ii) any decision that has been made by an individual member of that combined authority.
- (2) Subject to paragraph (3), where a member of an overview and scrutiny committee or a sub-committee of such a committee requests a document which falls within paragraph (1), the combined authority or the mayor must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the combined authority receives the request.
- (3) No member of an overview and scrutiny committee is entitled to a copy—
- (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to—
 - (i) an action or decision that that member is reviewing or scrutinising; or
 - (ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or
 - (b) of a document or part of a document containing advice provided by a political adviser **(6)**.
- (4) Where the combined authority or the mayor determines that a member of an overview and scrutiny committee is not entitled to a copy of a document or part of any such document for a reason set out in paragraph (3), it must provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.
- (5) In this article, references to an overview and scrutiny committee include references to a sub-committee of such a committee.

(6) Section 107D(7)(d) of the 2009 Act allows for provision to be made by order for the mayor for the area of a combined authority to appoint a political adviser.