



2014 CHAPTER 8

PART 6

EXECUTIVE ARRANGEMENTS

Council executives

Council executives

21.—(1) The executive of a council must take a form specified in subsection (2).

(2) The executive may consist of—

- (a) a committee of the council (“cabinet-style executive”); or
- (b) more than one committee of the council (“streamlined committee executive”).

(3) The chair and deputy chair of the council shall be non-voting members of the executive and shall be disregarded for the purpose of subsections (4) and (5).

(4) A cabinet-style executive must have—

- (a) at least six members; and
- (b) not more than ten members.

(5) Each committee in a streamlined committee executive must have—

- (a) at least six members; and
- (b) not more than ten members.

(6) Regulations may amend the number of members specified in subsection (4)(b) or (5)(b).

Executive functions

Functions which are the responsibility of an executive

22.—(1) This section has effect for the purposes of determining which of the functions of a council that operates executive arrangements are the responsibility of an executive of the council under those arrangements.

(2) Subject to any provision made by this Act or by any statutory provision which is passed or made after the day on which this Act is passed, any function of the council which is not specified in regulations under subsection (3) is to be the responsibility of an executive of the council under executive arrangements.

(3) Regulations may make provision for any function of a council specified in the regulations—

- (a) to be a function which is not to be the responsibility of an executive of the council under executive arrangements;
- (b) to be a function which may be the responsibility of such an executive under such arrangements; or
- (c) to be a function which—
 - (i) to the extent provided by the regulations, is to be the responsibility of such an executive under such arrangements, and
 - (ii) to the extent provided by the regulations, is not to be the responsibility of such an executive under such arrangements.

(4) Executive arrangements must make provision for any function of a council falling within subsection (3)(b)—

- (a) to be a function which is to be the responsibility of an executive of the council;
- (b) to be a function which is not to be the responsibility of such an executive; or
- (c) to be a function which—
 - (i) to the extent provided by the arrangements, is to be the responsibility of such an executive, and
 - (ii) to the extent provided by the arrangements, is not to be the responsibility of such executive.

(5) The power under subsection (3)(c) or (4)(c) includes power in relation to any function of a council that operates executive arrangements—

- (a) to designate any action in connection with the discharge of that function which is to be the responsibility of an executive of the council; and
- (b) to designate any action in connection with the discharge of that function which is not to be the responsibility of such an executive.

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(6) Regulations may specify cases or circumstances in which any function of a council which, by virtue of the preceding provisions of this section, would otherwise be the responsibility of an executive of the council to any extent is not to be the responsibility of such an executive to that or any particular extent.

(7) A function of a council may, by virtue of this section, be the responsibility of an executive of the council to any extent notwithstanding that Part 4, or any provision of that Part, does not apply to that function.

(8) Any reference in this section to a function specified in regulations includes a reference to a function of a description specified in regulations.

(9) In this section—

“action” in relation to any function includes any action (of whatever nature and whether or not separately identified by any statutory provision) involving—

- (a) the taking of any step in the course of, or otherwise for the purposes of or in connection with, the discharge of the function,
- (b) the doing of anything incidental or conducive to the discharge of the function, or
- (c) the doing of anything expedient in connection with the discharge of the function or any action falling within paragraph (a) or (b),

“function” means a function of any nature, whether conferred or otherwise arising before, on or after the passing of this Act.

Functions of an executive: further provision

23.—(1) Any reference in the following provisions of this Part to any functions which are, or are not, the responsibility of an executive of a council under executive arrangements is a reference to the functions of the council to the extent to which they are or (as the case may be) are not, by virtue of section 22, the responsibility of the executive under such arrangements.

(2) Any function which is the responsibility of an executive of a council under executive arrangements—

- (a) is to be regarded as exercisable by the executive on behalf of the council; and
- (b) may be discharged only in accordance with any provisions made by or under this Part which apply to the discharge of any such function by that form of executive.

(3) Accordingly, any function which is the responsibility of an executive of a council under executive arrangements—

- (a) may not be discharged by the council;
- (b) is not to be a function to which section 7(1) applies; and

(c) may be the subject of arrangements made under section 9 only if permitted by any provision made under section 26.

(4) Subject to any provision made under subsection (5), any function of a council that operates executive arrangements which, under those arrangements, is not the responsibility of the executive of the council is to be discharged in any way which would be permitted or required apart from the provisions made by or under this Part.

(5) Regulations may make provision with respect to the discharge of any function of a council that operates executive arrangements which, under those arrangements, is not the responsibility of the executive of the council (including provision disapplying Part 4 (discharge of functions) or any provision of that Part).

(6) In this section “function” has the same meaning as in section 22.

Allocation and discharge of functions

Allocation and discharge of functions

24.—(1) Where executive arrangements make provision for a streamlined committee executive, they must make provision with respect to the allocation of functions which are the responsibility of the executive among its committees.

(2) Where executive arrangements make provision for a cabinet-style executive, the executive may arrange for the discharge of any of its functions by—

- (a) a sub-committee of that executive; or
- (b) an officer of the council.

(3) Where executive arrangements make provision for a streamlined committee executive, any committee of that executive may arrange for the discharge of any of the committee’s functions by—

- (a) a sub-committee of that committee; or
- (b) an officer of the council.

(4) Where by virtue of this section any functions may be discharged by a sub-committee, the sub-committee may arrange for the discharge of any of those functions by an officer of the council.

(5) Any arrangements made by virtue of this section by an executive, committee or sub-committee for the discharge of any functions by a sub-committee or officer are not to prevent the executive, committee or sub-committee by which the arrangements are made from exercising those functions.

Discharge of functions of and by another council

25.—(1) Regulations may make provision for or in connection with enabling an executive of a council to arrange for the discharge of any functions which, under executive arrangements, are the responsibility of the executive—

- (a) by another council; or
- (b) by the executive of another council.

(2) Regulations may make provision for or in connection with enabling a council to arrange for the discharge of any of its functions by the executive of another council.

(3) The reference in subsection (2) to the functions of a council, in a case where the council is operating executive arrangements, is a reference to the functions which, under those arrangements, are not the responsibility of the council's executive.

(4) Regulations under subsection (1) or (2) may, in particular, include provision—

- (a) requiring, in the case of arrangements for the discharge of any functions by the executive of another council, the approval of the other council of which the executive is part to such arrangements;
- (b) which, in the case of arrangements for the discharge of any functions by another council, enables any of those functions to be delegated;
- (c) which, in the case of arrangements for the discharge of any functions by the executive of another council, enables any of those functions to be delegated.

(5) The provisions made under subsection (4)(b) may, in particular, apply or reproduce (with or without modifications) any provisions of sections 7 and 10.

(6) The provision made under subsection (4)(c) may, in particular, apply or reproduce (with or without modifications) any provisions of section 24.

Joint exercise of functions

26.—(1) Regulations may make provision for or in connection with permitting arrangements under section 9 where any of the functions which are the subject of the arrangements are the responsibility of an executive of a council under executive arrangements.

(2) The provision which may be made under subsection (1) includes, in particular, provision—

- (a) as to the circumstances in which the executive is to be a party to the arrangements in place of the council;
- (b) as to the circumstances in which—
 - (i) the council, and

- (ii) the executive,
are both to be parties to the arrangements;
- (c) as to the circumstances in which any functions of the council under section 7(4) or (6) or 11(1)(b), (2) or (3), so far as they relate to any joint committee falling within section 9(2)(a), are instead to be exercised by the executive;
- (d) as to the circumstances in which any functions of the council under section 7(4) or (6) or 11(1)(b), (2) or (3), so far as they relate to any such joint committee, are to be exercised by the council;
- (e) as to the persons (including officers of the council) who may be appointed to any such joint committee by the executive.

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.

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(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.

Meetings and access to information etc.

Meetings and access to information etc.

34.—(1) Meetings are to be open to the public or held in private.

(2) Subject to regulations under section 35(4), it is for a council executive to decide which meetings are to be open to the public and which are to be held in private.

(3) A written record must be kept of prescribed decisions made at meetings which are held in private.

(4) Written records under subsection (3) must include reasons for the decisions to which they relate.

(5) In this section “meetings” means meetings of an executive or any sub-committee of an executive.

Meetings and access to information etc.: further provision and regulations

35.—(1) Written records under section 34(3), together with such reports, background papers or other documents as may be prescribed, must be made available to members of the public in accordance with regulations.

(2) Regulations under subsection (1) may make provision for or in connection with preventing the whole or part of any record or document containing prescribed information from being made available to members of the public.

(3) Regulations may make provision—

- (a) with respect to the access of the public to meetings of joint committees, or sub-committees of such committees, at which decisions are made in connection with the discharge of functions which are the responsibility of executives (including provision enabling such meetings to be held in private);
- (b) for or in connection with requiring written records to be kept of decisions made at meetings which by virtue of paragraph (a) are held in private;
- (c) for or in connection with requiring written records falling within paragraph (b) to include reasons;
- (d) for or in connection with requiring any such written records to be made available to members of the public;
- (e) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of the public.

(4) Regulations may make provision—

- (a) as to the circumstances in which meetings falling within section 34, or particular proceedings at such meetings, must be open to the public;
- (b) as to the circumstances in which meetings falling within section 34, or particular proceedings at such meetings, must be held in private;
- (c) with respect to the information which is to be included in written records kept by virtue of this section or section 34;

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- (d) with respect to the reasons which are to be included in any such written records;
- (e) with respect to the persons who are to produce, keep or make available any such written records;
- (f) for or in connection with requiring any such written records to be made available to members of councils or to overview and scrutiny committees or sub-committees;
- (g) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of councils or to overview and scrutiny committees or sub-committees;
- (h) for or in connection with requiring information to be made available by electronic means;
- (i) for or in connection with conferring rights on members of the public or members of councils, overview and scrutiny committees or sub-committees in relation to records or documents;
- (j) for or in connection with the creation of offences in respect of any rights or requirements conferred or imposed by virtue of this section or section 34.

(5) Regulations may make provision for or in connection with requiring prescribed information about prescribed decisions made in connection with the discharge of functions which are the responsibility of a council executive to be made available to members of the public or members of the council.

(6) The provision which may be made under subsection (5) includes provision—

- (a) requiring prescribed information to be made available in advance of the prescribed decisions mentioned in that subsection;
- (b) as to the way or form in which prescribed information is to be made available.

(7) Regulations may make provision which, in relation to meetings falling within—

- (a) section 34; or
- (b) subsection (3)(a),

applies or reproduces (with or without modifications) any provisions of Part 8.

(8) Regulations may make provision in relation to—

- (a) the publication by executives of councils under section 32 of responses to reports or recommendations of overview and scrutiny committees and their sub-committees; or
- (b) the provision by executives of councils under section 32 of copies of such responses,

which applies or reproduces (with or without modifications) any provisions of section 33 (confidential and exempt information).