

LOCALISM ACT 2011

EXPLANATORY NOTES

COMMENTARY

Part 1: Local Government

Chapter 5: Governance

Section 21: New arrangements with respect to governance of English local authorities

New sections 9F to 9FE: Overview and scrutiny committees

61. New section 9F requires local authorities, which are operating executive arrangements, to set up overview and scrutiny committees.
62. Executive arrangements must ensure that these committees have power to make reports and recommendations, either to the executive or authority, on any aspect of council business. They must also have the power to make reports and recommendations on other matters which affect the authority's area or its inhabitants.
63. Where an overview and scrutiny committee reviews or scrutinises an executive decision which has been made but not implemented, subsection (4) provides that it may recommend that it is reconsidered by those responsible, or else arrange for the authority to review the decision and, where necessary, ask those responsible for the decision to reconsider.
64. New section 9FA describes in detail how overview and scrutiny committees may carry out their functions, giving them the power to appoint sub-committees and make arrangements for these sub-committees to discharge any functions of the overview and scrutiny committee. It also allows an overview and scrutiny committee to require officers of the authority and members of the executive to appear before it and invite any other person to appear before it. Neither the overview and scrutiny committee nor any of its sub-committees may include any member of the authority's executive, but can include people who are not members of the authority.
65. Overview and scrutiny committees are able to co-opt people who are not members of the authority. However, in general, such co-optees will not have voting rights unless they are permitted to vote under paragraphs 11 and 12 of new Schedule A1. The restriction on voting rights is also subject to provision made by or under paragraphs 6 to 8 of Schedule A1 or section 20(6) of the Police and Justice Act 2006. New section 9FA(6) provides that Part 5A of the Local Government Act 1972 on access to meetings and documents of certain authorities, committees and sub-committees, and Section 15 of the Local Government and Housing Act 1989 on the duty to allocate seats to political groups will apply to overview and scrutiny committees.
66. New section 9FB provides that local authorities (except those district councils for an area for which there is a county council) must designate one of their officers as scrutiny officer to perform the functions set out in this section. New section 9FB(4) provides

*These notes refer to the Localism Act 2011 (c.20)
which received Royal Assent on 15 November 2011*

that the local authority may not designate its head of paid service, monitoring officer or chief finance officer as its scrutiny officer.

67. New section 9FC provides that a local authority's executive arrangements must make provision to enable members of an overview and scrutiny committee, including a sub-committee of such a committee, to refer matters to the committee or sub-committee. It also stipulates that such local authorities must make arrangements to enable councillors who are not members of either the committee or sub-committee to refer any matters, which are not local crime and disorder matters (within the meaning of section 19 of the Police and Justice Act 2006), or specified as excluded matters in an order, to overview and scrutiny committees. A person is treated as enabled to refer a matter if that person is able to ensure that the matter is put on the agenda and discussed at a meeting of the committee or sub-committee.
68. New section 9FD makes further provision in relation to references of matters to overview and scrutiny committees by a member of a local authority who is not also a member of the committee. It specifies certain factors that the committee may have regard to when considering whether to exercise its powers to review and scrutinise matters which have been referred by such a non-member.
69. New section 9FE makes further provision about reports and recommendations of overview and scrutiny committees. It provides that overview and scrutiny committees may publish reports and recommendations and must, in writing, require the authority or executive to take steps set out in new section 9FE(3). Subsections (4) to (6) of the new section describe how the local authority or executive must comply with notices made under subsection (3).