

Scrutiny Task and Finish Panel Agenda



Overview and Scrutiny Review Task and Finish Panel Thursday, 14th February, 2013

You are invited to attend the next meeting of **Overview and Scrutiny Review Task and Finish Panel**, which will be held at:

**Committee Room 1, Civic Offices, High Street, Epping
on Thursday, 14th February, 2013
at 7.00 pm .**

**Glen Chipp
Chief Executive**

**Democratic Services
Officer**

Adrian Hendry, Office of the Chief Executive
email: ahendry@eppingforestdc.gov.uk Tele: 01992 564246

Members:

Councillors K Angold-Stephens (Chairman), Mrs R Gadsby (Vice-Chairman), Mrs A Grigg, Mrs M Sartin, D Stallan and Mrs J H Whitehouse

THE DEADLINE FOR THE SUBMISSION OF SUBSTITUTES TO THIS MEETING IS
18:00 HOURS

1. APOLOGIES FOR ABSENCE

2. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

(Assistant to Chief Executive) To report the appointment of any substitute members for the meeting.

3. DECLARATIONS OF INTEREST

(Assistant to the Chief Executive). To declare interests in any items on the agenda.

In considering whether to declare a personal or a prejudicial interest under the Code of Conduct, Overview & Scrutiny members are asked pay particular attention to paragraph 11 of the Code in addition to the more familiar requirements.

This requires the declaration of a personal and prejudicial interest in any matter before an OS Committee which relates to a decision of or action by another Committee or Sub Committee of the Council, a Joint Committee or Joint Sub Committee in which the Council is involved and of which the Councillor is also a member.

Paragraph 11 does not refer to Cabinet decisions or attendance at an OS meeting purely for the purpose of answering questions or providing information on such a matter.

4. NOTES OF THE LAST MEETING (Pages 3 - 8)

The notes from the 17 January 2013 meeting were agreed as a correct record.

5. TERMS OF REFERENCE (Pages 9 - 12)

The Terms of Reference for this Panel has now been agreed by the Overview and Scrutiny Committee on 29 January 2013.

A copy of the Terms of Reference is attached for information along with a list of actions agreed by the Panel so far.

6. SCRUTINY OF CALL-INS (Pages 13 - 16)

To consider the attached report.

7. SCRUTINY OF EXTERNAL ORGANISATIONS (Pages 17 - 18)

To consider the attached report.

8. FUTURE MEETINGS

To consider a date for the next meeting.

EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF OVERVIEW AND SCRUTINY REVIEW TASK AND FINISH
PANEL
HELD ON THURSDAY, 17 JANUARY 2013
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.00 - 9.15 PM

Members Present: K Angold-Stephens (Chairman), Mrs R Gadsby (Vice-Chairman), Mrs M Sartin (Vice Chairman of Council), D Stallan (Housing Portfolio Holder) and Mrs J H Whitehouse

Other members present: G Waller

Apologies for Absence: Mrs A Grigg (Asset Management and Economic Development Portfolio Holder)

Officers Present I Willett (Assistant to the Chief Executive) and A Hendry (Democratic Services Officer)

6. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

The Panel noted there were no substitute members.

7. DECLARATIONS OF INTEREST

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

8. NOTES FROM THE LAST MEETING

The notes from the 6 December 2012 meeting were agreed as a correct record.

9. OPERATIONAL ASPECTS OF OVERVIEW AND SCRUTINY

Role of Chairman of Overview and Scrutiny

(a) Chairman of Overview and Scrutiny

The Panel considered a report dealing with the role of the Overview and Scrutiny Chairman and Vice-Chairman. It was noted that the constitution did not say that the Chairman should not be a member of the ruling group. The Panel considered whether the constitution should introduce a new rule providing for the position to be held by a member not from a majority group.

Councillor Sartin said that the wording that was in the constitution seemed OK to her and should be left as it stood although it should be an experienced councillor. Councillor Whitehouse added that it should also be a member with experience of scrutiny.

AGREED: Councillor Sartin suggested that the following wording be added to the constitution, that:

"The Chairman should have experience and understanding of our Scrutiny System."

(b) Party Whips

The Panel discussed the perception that Scrutiny Councillors may not be “whipped” meetings. Councillor Waller noted that the whip only functioned in appointing substitute members but not in instructing members how to vote.

The Panel thought that although there was no whip applied in the context of Overview and Scrutiny meetings there was maybe a psychological element on the part of members based on party loyalty. The Chairman said a lot of this was perception and not reality and this could be handled through suitable training. Councillor Stallan as a Portfolio Holder involved in call-ins, assured the meeting that although he had asked members for their support they had never been whipped. However whether this was just a perception or had an actual basis in fact, Overview and Scrutiny should not be based on political considerations.

AGREED: that the constitution should not be altered but, with an emphasis on any training given to members on Overview and Scrutiny that it was not and should not be whipped.

10. CABINET LIAISON

(a) Leader Liaison

The Chairman introduced Councillor Waller who had made representations to the Panel on the issue of Cabinet and O&S liaison. He proposed holding a Q&A session between the Leader and the O&S Committee. He had based this on what presently happens with the Prime Minister who meets with a Liaison Committee, made up of the Select Committee Chairs, around three times a year.

He envisaged the Leader attending a dedicated O&S Committee meeting at the beginning of the year, where he could outline his strategy for the year and where the committee could quiz him, in detail, on the Cabinet’s plans for the year ahead and how he saw the Council developing in the future. This could happen once or twice a year. This meeting would also be opened up to all members to attend.

A similar meeting could involve other Cabinet members, along with their relevant officers, giving members time and space to dig down into the Cabinet’s work and plans for the coming year. The O&S Committee should discuss in advance which questions they would like to ask the Portfolio Holders at these meetings. This could also be a role that the Standing Panel could do for their own Portfolio Holders. It would also strengthen scrutiny for the Council, as at present Overview and Scrutiny tended to focus on outside bodies.

Councillor Stallan thought it was a good idea to question the Leader and Cabinet members twice each year. As for the Portfolio Holders they could go either to the main O&S Committee or the Scrutiny Panels. Currently Portfolio Holders do not have any obligation to respond to these Panels. A Q&A session could be put into the work programmes of the Panels for a once a year meeting, these special meetings could be held in the Chamber and opened to all members.

Councillor Sartin noted that the Portfolio Holders always tried to attend O&S Committee and their relevant Standing Panels meetings and be available to answer questions. She would like to see the Portfolio Holders questioned by their Standing Panels and have Leader questions one or two times a year. Councillor Stallan added

that it should be remembered that O&S could summon any Portfolio Holder to attend their meetings.

Councillor Whitehouse agreed that the Leader should be questioned at the Overview and Scrutiny Committee. The Standing Panels tend to see the Portfolio Holders as part of the Panel's regular meetings. At Essex County Council the Portfolio Holders tended to sit with the officers and the public; this was to separate them from the Panel members. There was also more emphasis on internal scrutiny as opposed to external. Following on from this Councillor Stallan said that there was a need to consider the layout for the Standing Panels.

Mr Willett informed the Panel that it was already in the Constitution that the Leader should be questioned by O&S. Also in the Constitution was provision for the O&S to consider a request from Cabinet to consider certain topics.

The Panel were also in agreement that the Portfolio Holders should also be questioned by the relevant Standing Panel about policy but not specific questions solely about a member's wards etc.

Councillor Stallan noted that although Cabinet did sometimes ask O&S to look at some upcoming topics, there was rarely anything coming forward from O&S to the Cabinet. The Chairman commented that this should be about having good two way communication. At present O&S tended to be reactive rather than proactive. He agreed that the Portfolio Holders should go to their respective Standing Panels.

Councillor Waller pointed that there were about three Portfolio Holders that did not have corresponding Standing Panels (Leisure and Wellbeing; Support Services and Asset Management and Economic Development). Councillor Stallan also pointed out that the Constitution Standing Panel did not have a corresponding Portfolio Holder.

It was suggested that where there was no obvious Standing Panel, the Portfolio Holder should attend the O&S Committee with the Leader meeting.

AGREED:

- 1) That the Leader should be called to the Overview and Scrutiny Committee, twice a year at the most; firstly at the start of the year to present their Forward Plan and secondly after 6 months to update the Committee; These meetings to be opened to all members.
- 2) That at the start of the year the Leader shall indicate, if appropriate, that O&S look at any work that the Cabinet thinks needed to be investigated.
- 3) That individual Portfolio Holders to attend the appropriate Standing Panel once a year; this meeting to be opened out to all members.

(b) Pre-Scrutiny

The Panel looked at the Cabinet's Forward Plan and the use of pre-scrutiny. With the O&S Committee and the Cabinet meeting being only one week apart, it was felt that there was not enough time for members to consider the Cabinet agenda. It was noted that the timing depended on when the Cabinet Agenda was published and it was difficult to manage this.

It was thought that the Forward Plan was not detailed enough and it also just contained key decisions and not all Cabinet work constituted key decisions. It maybe that the key decision list should be extended to list the more general decisions.

It was noted that a lot of background work on Cabinet reports are done in the Standing Panels, asking questions of the particular Portfolio Holders on their reports.

It was also questioned why members of the main O&S Committee should have to go through O&S to ask questions on the Cabinet agenda when they could go themselves to the meeting and ask their questions there.

Councillor Stallan said it would be useful to Portfolio Holders if O&S gave them an indication of what they thought of upcoming reports and with this advanced warning the Portfolio Holders could ask officers to review the report before their next meeting if necessary.

Councillor Sartin asked that this agenda item be placed earlier on the agenda and not as the last item. Councillor Angold-Stephens agreed and said it should be the first item on the agenda after any presentations.

AGREED:

- i) That the Forward Plan include other decisions other than just Key decisions;
- ii) That the Cabinet Review agenda item be placed earlier on O&S Agenda;
- iii) That members raise any items of business for future Cabinet meetings as raised in the Forward Plan; and
- iv) Members have the opportunity to ask Portfolio Holders questions on matters of concern.

(c) PICK Forms

Finally the Panel looked at the use of the PICK Forms. It was noted that members should put forward a case for new work for O&S to review on one of the PICK Forms. Some people tended to put forward a case using all the boxes and some did not include enough information to enable a proper consideration of how relevant the process is. Both forms tended to be agreed, none are refused or sent back for more information to be included. This form was designed to require members to think more carefully of what they wanted looked at. A more rigorous use of the PICK form should be enforced.

Councillor Whitehouse thought that the outcomes of these reviews should be revisited some time after the end of the review process and any outcomes achieved noted. Councillor Angold-Stephens added that to some extent this was picked up in the annual report, but maybe there should be an annual review at the end of each year.

Mr Willett commented that we should look at best practice elsewhere. It may also be that we could enhance the annual report in future years.

AGREED:

- 1) That a rigorous use of the PICK work request form should be enforced, preferably through better training and/or by returning the form to members asking for more details;
- 2) That a further report be submitted on Scrutiny follow up processes.

11. SCRUTINY PANELS

Mr Willett noted that the Panel would be receiving a separate report concerning the Finance and Performance Management Standing Panel.

Concerns were raised on the pro-rata membership of the Standing Panels. This tended to result in members on Panels being there just to make up the numbers without a real interest in the subject. Members of Task and Finish Panels were more likely to be members because they wanted to be involved and had an interest in the subject.

Councillor Waller commented that his group did not have any problems in filling the places allocated to them. Councillor Angold-Stephens said that his group did not have any problems in allocating member places on the various Panels except for the Finance Standing Panel. He thought that if a group could not fill a place on a Panel, they should be allowed to opt out. The Panel would be prepared to relax the rules on this and indicating that a group which did not want to put anyone on a particular Panel could leave the place vacant. This would allow the question to be asked whether an interested member but of a different Party could be a suitable substitute.

It was noted that concerns were raised that Chairmen of the Panels were not attending the O&S Committee to give an update on their work programme. However, it had improved recently after the Chairman of the O&S Committee had asked all Panel Chairmen to attend the OSC.

AGREED: The Panel agreed that the Constitution should be strengthened to say that Panel Chairmen are expected to attend the main O&S Committee to give progress reports on their Panel's work.

The Panel noted that the public only engaged with Standing Panels when there was something contentious on the agenda. A further report on the public profile on O&S would be submitted to a later meeting.

12. FUTURE MEETINGS

The Panel noted the date of their next meeting to be held on 14 February 2013.

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Origin:

At its meeting on 7 April 2012 the Overview and Scrutiny Committee (OSC) decided to establish a new Task and Finish Scrutiny Panel to review Overview and Scrutiny operations generally within the Council with particular reference to relations between the Cabinet and Overview and Scrutiny. This decision was made following attendance by a number of members at a joint training session on Overview and Scrutiny convened jointly with Harlow Council.

Draft Terms of Reference:

1. To scrutinise the current processes of Overview and Scrutiny and to what extent the functions could be improved.

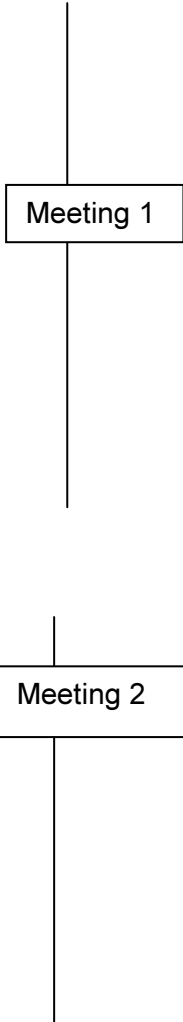
2. To examine and review operational aspects of Overview and Scrutiny, in consideration of:
 - a) Chairmen and Vice-Chairmen of Overview and Scrutiny Committee:
 - Developing the relationship with the Leader;
 - Policy on appointment and political allegiance;
 - Leader / OSC liaison.

 - b) Cabinet Liaison:
 - Arrangements for pre-scrutiny of Cabinet business;
 - Meeting arrangements;
 - Questioning Portfolio Holders;
 - Annual Cabinet priorities.

 - c) Scrutiny Panels:
 - Membership / role of Standing Panels;
 - Progress reporting and achieving outcomes from Panels;
 - Managing Scrutiny Panel business.

 - d) Call-in procedures:
 - Presentation of Call-ins;
 - Responses by Portfolio Holders;
 - Briefing by Chairman of Overview and Scrutiny.

 - e) Scrutiny of External Organisations:
 - Engagement with the public;
 - Layout of the Chamber;
 - Selecting the right forum for external scrutiny;
 - Following up on undertakings given;
 - Avoiding pre-prepared presentations;
 - Preparation: liaison with the public and other councillors;
 - Managing Questions / setting of objectives.



- f) Budget Scrutiny:
 - Assessing the effectiveness of the present Finance and Performance Management Scrutiny Panel;
 - Determining the correct role of Overview and Scrutiny in budget preparation and monitoring;
 - Budget documentation for OSC;
 - Programming O&S involvement in budget making.

- g) Public Profile of OSC:
 - Public awareness;
 - Determining the work plan each year (including the PICK system);
 - Questions from the public for Portfolio Holders / OS Committee.

Meeting 3

3. To examine and review any other operational aspects of Overview and Scrutiny.

Aims and Objectives:

- (a) To report findings to the Overview and Scrutiny Committee and to submit any final reports in the proposed Corporate Format for consideration by O & S and Council by April 2013.
- (b) To gather evidence and information in relation to the topic through the receipt of data, presentations and by participation in fact finding visits if necessary;
- (c) To have due regard to the relevant legislation Council procedure rules.
- (d) To consult political groups and independent Councillors at the final stage of the review.

TIMESCALE	ESTIMATED	ACTUAL
Commencement: Dec 2012	April 2013	
<u>Finish</u> 1. As a time limited review - to end by April 2013.		First meeting held on 6 December 2012

Items agreed at the previous meeting of the Overview and Scrutiny Review Task and Finish Panel

AGREED: that the following wording be added to the constitution, that:
“The Chairman should have experience and understanding of our Scrutiny System.”

AGREED: that the constitution should not be altered but, with an emphasis on any training given to members on Overview and Scrutiny that it was not and should not be whipped.

AGREED:

- 1) That the Leader should be called to the Overview and Scrutiny Committee, twice a year at the most; firstly at the start of the year to present their Forward Plan and secondly after 6 months to update the Committee; These meetings to be opened to all members;
- 2) That at the start of the year the Leader shall indicate, if appropriate, that O&S look at any work that the Cabinet thinks needed to be investigated; and
- 3) That individual Portfolio Holders to attend the appropriate Standing Panel once a year; this meeting to be opened out to all members.

AGREED:

- 1) That the Forward Plan include other decisions other than just Key decisions;
- 2) That the Cabinet Review agenda item be placed earlier on O&S Agenda;
- 3) That members raise any items of business for future Cabinet meetings as raised in the Forward Plan; and
- 4) Members have the opportunity to ask Portfolio Holders questions on matters of concern.

AGREED:

- 1) That a rigorous use of the PICK work request form should be enforced, preferably through better training and/or by returning the form to members asking for more details; and
- 2) That a further report be submitted on Scrutiny follow up processes.

AGREED: The Panel agreed that the Constitution should be strengthened to say that Panel Chairmen are expected to attend the main O&S Committee to give progress reports on their Panel's work.

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Report to Overview & Scrutiny Review Task & Finish Panel

Date of meeting: 14 February 2013

Report of: Assistant to the Chief Executive

Subject: Call in Procedures

Officer contact for further information: I Willett (01992 564243)

Committee Secretary: Adrian Hendry (01992 564246)

SCRUTINY

 **Epping Forest District Council**

Recommendations:

To formulate any proposals concerning the Council's arrangements regarding the "call in" of Executive decisions by Overview & Scrutiny (OS).

Report:

1. This report sets out the legal and constitutional background to the "call-in" process together with points which have arisen during consultation, details of previous reviews and comments made at the scoping meeting.

Legal & Constitutional Requirements

Legal

2. The Council must ensure that their Overview and Scrutiny Committees (OSCs) have the power:

(a) To review or scrutinise decisions, or any action that is the responsibility of the Executive;

(b) To make reports or recommendations to the Executive on matters that are the responsibility of the Executive.

3. OS Committees have the power to recommend that any decision by another Council body or responsibility of the Executive made but not implemented to be reconsidered by the person or body which made the decision. An OSC may also arrange for the full Council to review or scrutinise a decision and decide whether or not to recommend that the decision be reconsidered.

EFDC Constitution

4. The Overview and Scrutiny Committee will review and/or scrutinise decisions made or actions taken in relation with the Council's functions including the Executive.

5. The Overview and Scrutiny Committee has the right to call-in for reconsideration decisions made but not yet implemented and can delegate the review to be carried out with a Standing Panel or a 'Task and Finish' Panel.

6. Three members of the Overview and Scrutiny Committee or any five members of the Council have the right to call-in an Executive decision. Requests to call-in will be in writing and referred in person to the Proper Officer.

7. If the Overview and Scrutiny Committee, having considered the decision, has concerns, then it may refer it back to the decision making person or body for reconsideration within 5 working days

8. Decisions by the Executive deemed as urgent are not subject to the call-in process at the discretion of the Chairman of the Council (or the Vice-Chairman). A decision will be urgent if any delay is likely to be caused by the call-in process would seriously prejudice the Council's or the public interest.

Feedback from Consultation

9. The "Call-in" procedure is currently working well, but it is not a perfect procedure for OS business and alternatives should be explored to ensure more pro-active approach to cabinet business should be found.

10. Pre scrutiny of Cabinet proposals (through the Forward Plan) is preferable to calling in decisions after they are made.

11. When a decision is called-in the discussion is not balanced in that up to five signatories responsible for the call in can speak, whereas there is only one portfolio holder who can reply.

12. Other cabinet members should be able to support decisions made collectively by the Cabinet or the Portfolio Holder.

13. The timetable for the call in is too restrictive.

Suggestions:

14. The call in timescale of five days should be extended as members signing the call-in may be in disparate geographical locations and may wish to discuss whether the "call in" is appropriate or the precise terms of the proposed "call-in".

15. Call-ins should be for the bigger and more important issues and not for small insignificant detail.

16. The Chairman of the OSC, should meet with the relevant Portfolio Holder and lead Councillor for the "call-in" to deal with questions about how he/she intends to handle issues at an OSC meeting

Previous Reviews

17. That the "Call in" protocol be amended to remove the first stage of the process to allow a full hearing of the substance of the call-in in one stage.

18. That consideration of "call-ins" be the responsibility of the Overview and Scrutiny Committee which will decide whether to consider the issue itself or direct a Panel to undertake it and report back to the decision maker.

Discussions at Scoping Meeting

19. The present Call-in system worked well, but was a five day deadline long enough?

20. Was there a procedure for “calling back a call-in”?– For example, if the lead member of a “call-in”, has met with the relevant Portfolio Holder and having come to a mutually agreeable solution, could a “call-in” be withdrawn?

21. That there was some concern over the arrangements on how call-ins were heard. The Portfolio Holder had to wait for the lead member of the call-in to speak and then had to wait for any other member of the call-in to add their comments, which was potentially five other speakers, who could speak before the Portfolio Holder had a chance to put their view across.

Reason for decision:

22. As determined at the scoping meeting.

Options considered and rejected:

23. None

Consultation undertaken:

24. Previous consultation was carried out with members and officers. The feedback was included in the scoping report to the first meeting of this Panel. Further consultation has been agreed once provisional recommendations on the review have been compiled.

Resource implications: None

Community Plan/BVPP reference: None

Relevant statutory powers:

Local Government Acts 2000 and 2007 and Localism Act 2011.

Background papers: consultation responses.

Environmental/Human Rights Act/Crime and Disorder Act Implications: none

Key Decision Reference: none

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Report to Overview & Scrutiny Review task & Finish Panel

Date of meeting: 14 February 2013

Report of: Assistant to the Chief Executive

Subject: Scrutiny of External Organisations

Officer contact for further information: I Willett (01992 564243)

Committee Secretary: Adrian Hendry (01992 564246)

Recommendations/Decisions Required:

To formulate any proposals concerning the Council's arrangements regarding scrutiny of external organisations

Report:

1. This report sets out the legal and constitutional background concerning scrutiny of external organizations together with points which have arisen during consultation, details of previous reviews and comments made at the scoping meeting.

Legal & Constitutional Requirements

Legal

3. The Council must ensure that their Overview and Scrutiny Committees have the power:

(a) to make reports or recommendations to the Council on matter that are not the responsibility of the Executive; and

(b) to make reports or recommendations to the Council on matters which affect this district or the inhabitants of the district.

EFDC Constitution

4. The Overview and Scrutiny Committee shall be able to review and scrutinise the performance of other public bodies active in the District.

Feedback from Consultation

5 There should be a review of how external bodies are scrutinised and called to account with particular reference as to how the public are to be involved by Overview and Scrutiny.

6 The OSC is not always scrutinising external bodies and holding them to account properly. The invitation of external bodies to the Overview and Scrutiny Committee is seen to be very procedural, following a format of an annual report by the organisation concerned rather than robust scrutiny.

7 The OSC has not achieved real public engagement, neglecting their views and their

involvement in the scrutiny process.

Suggestions:

8. Better preparation is needed when scrutinising external bodies to avoid repeated questions from previous years.

9. Discussions before the meeting should provide members a platform to construct relevant questions, also drafting in the view of the public.

10. There should be greater follow-up on questions asked to external bodies.

11. The public should be involved in important issues and call-ins.

12. More specialised issues such as Child Protection should go to panels instead of the OSC which should be more general.

13. Move guest speakers to a lower part of the Council Chamber.

Previous Reviews

14. Items involving speakers at forthcoming scrutiny meetings are to be highlighted at the preceding meeting to allow sufficient preparation.

Decisions at Scoping Meeting

15. There was a need to scrutinise how outside bodies are dealt with.

Reason for decision:

16. As determined at the scoping meeting

Options considered and rejected: None

Consultation undertaken:

17. Previous consultation was carried out with members and officers. The feedback was included in the scoping report to the first meeting of this Panel. Further consultation has been agreed once provisional recommendations on the review have been compiled.

Resource implications: None

Community Plan/BVPP reference: None

Relevant statutory powers: Local government Act 2000 and 2007 and the Localism Act 2011.

Background papers: None

Environmental/Human Rights Act/Crime and Disorder Act Implications: None

Key Decision reference: (if required): None