

Overview and Scrutiny Statutory Provisions

This schedule is designed to compare the statutory provisions relating to Overview & Scrutiny with the EFDC Constitution

NOTE – References in this document are to the Council's Overview & Scrutiny Procedure Rules unless otherwise indicated.

A. Local Government Act, 2000 Section 21

Section 21(1)

1. The Council must appoint at least one Overview and Scrutiny Committee.

EFDC Constitution

2. The Council appoints one Overview and Scrutiny Committee at the Annual Council meeting to discharge functions outlined in the Local Government Act 2000 (6.01 (a); 1a).

Section 21(2)

3. The Council must ensure that their Overview and Scrutiny Committees 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 a responsibility of the Executive;
- c) to review or scrutinise decisions made or any other action, that are not the responsibility of the Executive;
- d) to make reports or recommendations to the Council on matter that are not the responsibility of the Executive;
- e) to make reports or recommendations to the Council on matters which affect this district or the inhabitants of the district.

Section 21(3)

4. Overview and Scrutiny 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 Overview and Scrutiny Committee 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

5. 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 (6.03i; 3.1i).

6. 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. (6.03iv; 0.1; 20.2; 20.3).

7. 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 Office (20.8).

8. If the Overview and Scrutiny Committee, having considered the decision, have concerns, then it may refer it back to the decision making person or body for reconsideration within 5 working days (20.4).

9. 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 (21.1).

10. The Overview and Scrutiny Committee is able to discharge any of its functions plus those responsibilities allocated by the Council (6.01a; 2.1).

11. Overview and Scrutiny Committee shall be able to review and scrutinise the performance of other public bodies active in the District (3.1f).

12. The Overview and Scrutiny Committee shall approve a work programme and in compiling the contents the Committee will (9.1; 9.2);

- a) seek proposals for inclusion from all Members of the Council through the Member's Bulletin (9.2a);
- b) invite the Leader of the Council and other Portfolio Holders to submit proposals in respect of the Council's executive functions (9.2b);
- c) arrange meetings with the Leader and other Portfolio Holders to discuss their plans for the year in question (9.2c);
- d) agree with the Leader and Portfolio Holders on any items for inclusion in the work programme which may be undertaken by Overview and Scrutiny on the Cabinet's behalf (9.2d);
- e) seek proposals from any partnership organisations on projects which Overview and Scrutiny could undertake on behalf of those partnerships (9.2e);
- f) review the work programme for Overview and Scrutiny in respect of the current year (9.2f).

Section 21(4)

13. Overview and Scrutiny Committees may not discharge any functions other than the functions conferred on it by this section.

EFDC Constitution

14. The Constitution provides for no decision making powers on any function other than Overview and Scrutiny (Paragraph 3 (1) of Responsibility for Executive Functions in the Constitution).

Section 21(5)

15. An authority may make arrangements for best value reviews to be undertaken by the Executive or by Overview & Scrutiny

EFDC Constitution

16. The Constitution places the responsibility for best value reviews with the Executive which may in turn arrange for these to be conducted by Overview & Scrutiny on its behalf.

Section 21(6)

17. Overview and Scrutiny Committees may appoint one or more sub-committees, and may discharge any of its functions through any sub-committee.

EFDC Constitution

18. Overview and Scrutiny Committee may refer all or part of policy review and policy development work to a Standing Scrutiny Panel or a 'Task and Finish' Panel for consideration (11.4).

19. The Constitution provides for no decision making powers on any function other than Overview and Scrutiny.

20. Standing Panels may be established on an annual basis by the Overview and Scrutiny Committee and determine the number and terms of reference of such Panel (12.1; 12.2).

21. Standing Panels are required to achieve cross-party representation whilst allowing the inclusion of members who are not members of a political group or are not members of the Overview and Scrutiny Committee (12.4c).

22. Will have memberships which represent the minimum number to achieve cross party representation (12.4 (c).)

23. Task and Finish' Panels may be established by the Overview and Scrutiny Committee in order to deal with ad hoc projects or reviews included in the annual work programme for Overview and Scrutiny (13.1).

24. 'Task and Finish' Panel status will be restricted to those activities which are issue-based, time limited and non-cyclical in character and have clearly defined objectives (13.2).

25. 'Task and Finish' Panels will;

- a) have a Chairman and Vice-Chairman appointed by the Overview and Scrutiny Committee (13.3b);
- b) have memberships which need not be based on pro rata rules (13.3b);
- c) have memberships which represent the minimum number necessary to adhere to their work programmes (13.3d);

26. No restrictions on the number of Councillors who can become a member of 'Task and Finish' Panels (13.4).

27. No 'Task and Finish' Panel shall be comprised of members of a single group only (13.6).

28. Any member of the Council can attend meetings and receive copies of the 'Task and Finish' Panel (13.7).

29. Substitute members will be accepted into a 'Task and Finish' Panel meeting to cover for existing members at the discretion of the Chairman (13.8).

Section 21(7)

Sub-committees of an Overview and Scrutiny Committee cannot discharge any functions other than those given to such sub-committees (i.e. delegation from the Overview and Scrutiny Committee).

EFDC Constitution

30. Overview and Scrutiny Committee may refer all or part of policy review and policy development work to a Standing Scrutiny Panel or a 'Task and Finish Panel for consideration (11.4).

Section 21A and 21(8)

31. Executive arrangements by a local authority must allow any members of Overview and Scrutiny Committees (or sub-committees) to place any relevant matter on the committee's agenda and facilitate a discussion at any meeting and -

(a) enables any member of an overview and scrutiny committee of the authority 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) in the case of a local authority in England, enables any member of the authority to refer to an overview and scrutiny committee of the authority of which he is not a member any local government matter which is relevant to the functions of the committee.

(d) This provision enables a person to refer a matter to a committee or sub-committee if it enables him to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee or sub-committee.

(e) If Overview and Scrutiny Committees (or sub-committees) decide not to exercise any powers in relation to a matter they must notify the member who raised the issue to explain its decision.

EFDC Constitution

32. Overview and Scrutiny work programmes shall be approved prior to the Annual Council meeting each year and shall be of six months' duration. The programme shall be reviewed at or before the expiration of the six-month period (9.3).

33. Meetings of Overview and Scrutiny Committee will be held in accordance with the Council's calendar each year. Extraordinary meetings may be called when appropriate (6.1).

34. The Committee will, in determining the work programme;

- a) review all proposals submitted to ensure that they relate to the Council's Policy Framework (9.4a);
- b) ensure the agreed work programme has sufficient member and officer resources to support it (9.4b);
- c) identify in advance budgetary provisions (9.4c);
- d) ensure that the work programme is prioritised (9.4d);
- e) allocate time limits for each project (10.4e);
- f) items not allocated onto the work programme are reserved for future review (9.4f);
- g) ensure that all Members of Council are informed about the work programme as part of the annual report to the Council in April each year (9.4g);
- h) review the work programme on a regular basis during the year (9.4h).

35. Urgent matters and new proposals during the annual work programme, the Committee may accept or decline such matter or proposal and adjust the remainder of the programme accordingly (9.5a-c).

36. Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the

Committee to be included on the agenda. On receipt of such request the Proper Officer will ensure that it is included on the next available agenda (10.1).

37. Any members of the Council who are not members of the Overview and Scrutiny Committee can write to the Proper Officer and inform them of items to be included on the agenda of that Committee and such notification shall be included on the first available agenda of the Overview and Scrutiny Committee for consideration (10.2).

Section 21(9)

38. Members of the Executive may not be members of the Overview and Scrutiny Committee or any sub-committee.

EFDC Constitution

39. All Councillors except members of the Executive may be members of the Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision which he/she has been direct

40. A member of the Cabinet cannot be a member of a 'Task and Finish' Panel if his or her portfolio bears directly on the Panel (13.5). 11. A member of the Cabinet cannot be a member of a 'Task and Finish' Panel if his or her portfolio bears directly on the Panel (13.5).

41. A member of the Cabinet cannot be a member of a 'Task and Finish' Panel if his or her portfolio bears directly on the Panel (13.5).

Section 21(10)

42. If decided by the Overview and Scrutiny Committee or sub-committee anyone invited by the committee who is not a member of the Council is entitled to be a non-voting member of Overview and Scrutiny Committees or sub-committees.

EFDC Constitution

43. The Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of appropriate persons as non-voting co-optees (5.1).

Section 21(11)

44. Overview and Scrutiny Committees (and sub-committees) must reflect the political balance of the local authority or adopt different arrangements for the allocation of seats if the full Council approves so without any member present voting against.

45. Overview and Scrutiny Committees (and sub-committees) must meet in public except where appropriate provisions allow the public to be excluded.

EFDC Constitution

46. Appointments to the Overview & Scrutiny Committee are made by the Council

comply with the legal requirements for political balance. The Committee does not appoint OS Sub Committees and instead appoints standing and Task & Scrutiny Panels. Standing Panels comply with provisions for political balance as if they were Sub Committees. Task & Finish Panels are exempted from pro rata memberships as a result of a unanimous decision of the Council to that effect

47. Members of the public may attend all meetings (subject only to the exceptions in these rules (3).

Section 21(12)

48. Sections 102 of the Local Government Act 2000 applies to Overview and Scrutiny.

EFDC Constitution

49. The Constitution complies with Sections 102(2) (Appointment by the Council or a Committee of Members to bodies and approval of the terms of reference of such bodies) and 102 (5) (Retirement of Councillors) in regard to Overview and Scrutiny (12.1; 13.1)

Section 21(13; 14; 15)

50. Overview and Scrutiny Committees (and sub-committees) can require members of the executive and officers of the local authority to appear before it and answer questions. These persons must comply with this requirement.

51. Overview and Scrutiny Committees may invite other persons to attend meetings

EFDC Constitution

52. The Overview and Scrutiny Committee may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they consider necessary to inform their deliberations and may pay reasonable fees and expenses (11.3).

BC Section 19

Section 19 (1)

53. The Crime and Disorder Committee is to be an Overview and Scrutiny Committee if the local authority is operating executive arrangements.

EFDC Constitution

54. Safer, Cleaner, Greener Scrutiny Standing Panel acts as the Council's Crime and Disorder Committee (Terms of Reference 6).

55. All powers of a Crime and Disorder Committee were agreed by Members of the Overview and Scrutiny Committee to be transferred to the Safer, Cleaner, Greener

Scrutiny Standing Panel (Minute 33 of the Overview and Scrutiny Committee, 3rd September 2009).

56. The Safer, Cleaner, Green Scrutiny Standing Panel will operate a partnership with the local authority, the police force, the police authority, the fire and rescue authority and the primary care trust (Minutes 33 Overview and Scrutiny Committee, 3rd September 2009).

Section 19(2)

57. A Crime and Disorder Committee shall provide a copy of reports and recommendations to all co-operating persons and bodies of the local authority.

EFDC Constitution

58. Safer, Cleaner, Greener Scrutiny Standing Panel provide a copy of reports and recommendations to all co-operating members as a public document (Terms of Reference 6).

Section 19(3)

59. If asked to consider a local crime and disorder matter by a person who lives or works in the area that the councillor represents:

- a. **the councillor shall consider the matter and respond to the person who asked him or her to consider it and indicate (if any) action he or she proposes to take,**
- b. **the councillor may refer the matter to the crime and disorder committee.**

Section 19(4)

60. If the councillor refuses to refer the matter to the Crime and Disorder Committee the person who informed the councillor can refer the matter to the executive of the local authority.

Section 19(5)

62. The Crime and Disorder Committee shall consider any local crime and disorder matter referred to it by a member of the local authority or the Executive.

EFDC Constitution

63. Safer, Cleaner, Greener Scrutiny Standing Panel must respond to any local crime and disorder matter (Terms of Reference 6).

Section 19(6)

64. A Crime and Disorder Committee must ensure public access to all Crime and Disorder Committee meetings, minutes and agendas.

EFDC Constitution

65. Members of the public may attend all meetings subject only to the exceptions in these rules (3).

66. A meeting of the Panel which is to consider confidential information or information which in any way relates to matters concerning national security private meetings should be held to exclude members of the public (24.2).

Section 19(7)

67. A person co-opted to serve on a Crime and Disorder Committee shall not be entitled to vote, unless the committee decides otherwise.

EFDC Constitution

68. The Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of appropriate persons as non-voting co-optees (5.1).

Section 19(8)

69. Overview and Scrutiny Committees (and sub-committees) may also invite other persons to attend its meetings but cannot require them to do so.

EFDC Constitution

70. The Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of appropriate persons as non-voting co-optees (5.1).

Crime & Disorder Regulations: Guidance and Regulations Regarding Crime and Disorder Matters (Section 20)

71. At the Crime and Disorder Committee's discretion, a co-opted person serving on such a committee may serve for a limited time only.

EFDC Constitution

72. The Chairman of the Overview and Scrutiny Committee shall have discretion as to whether to limit the number of persons wishing to address the Committee (19.2ix).

73. The membership of a person co-opted to serve on a Crime and Disorder Committee may be withdrawn at any time by the committee.

EFDC Constitution

74. Section 19(3)

75. A Crime and Disorder Committee is required to meet at least once every twelve month period.

EFDC Constitution

76. Meetings of Overview and Scrutiny Committee will be held in accordance with the Council's calendar each year. Extraordinary meetings may be called when appropriate (6.1).

77. A person co-opted to serve as a member of a Crime and Disorder Committee may have the same entitlement to vote as any other member.

EFDC Constitution

78. See Section 19(3)

79. A Crime and Disorder Committee can make requests in writing to receive information of co-operating persons or bodies by a certain date if information cannot be sent by this date the information must be provided as soon as reasonably possible.

EFDC Constitution

80. The Standing Panel will be entitled to copies of any document which is in the possession or control of the Executive or its committees (24.1).

81. The Overview and Scrutiny Committee will not be entitled to any document that is in draft form or any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to intend to scrutinise (24.2).

82. Information of co-opted persons by the Crime and Disorder Committee cannot include information that would likely to prejudice legal proceedings or current or future operations of the responsibility authorities.

EFDC Constitution

83. Where the Overview and Scrutiny Committee or Panels asks people to attend meetings to give evidence it must conduct meetings in accordance with the following principles (23.1);

- a) investigation to be conducted fairly and all members of the committee given the opportunity to ask questions of attendees, and to contribute and speak (23.1a);

- b) that those assisting the committee by giving evidence be treated with respect and courtesy (23.1b);
- c) investigations must be conducted so as to maximise the efficiency of the investigation or analysis (23.c).

84. A Crime and Disorder Committee must allow for reasonable notification time to co-opted persons.

EFDC Constitution

85. See *Section 19(3)*