



Local Government Act 2000

2000 CHAPTER 22

^{F1}[^{F1}PART 1A

ARRANGEMENTS WITH RESPECT TO LOCAL AUTHORITY GOVERNANCE IN ENGLAND

[^{F1}CHAPTER 2

EXECUTIVE ARRANGEMENTS

Textual Amendments

- F1** Pt. 1A inserted (3.12.2011 for specified purposes, 15.1.2012 for the insertion of Pt. 1A Ch. 4 so far as not already in force and ss. 9B, 9C and 9R for specified purposes, 9.3.2012 for the insertion of ss. 9H-9HE in so far as not already in force and s. 9R for specified purposes, 4.5.2012 in so far as not already in force) by *Localism Act 2011* (c. 20), s. 240(2), **Sch. 2 para. 1**; S.I. 2011/2896, art. 2(e); S.I. 2012/57, art. 4(1)(b) (with arts. 6, 7, 9-11); S.I. 2012/628, art. 2(a); S.I. 2012/1008, art. 4(b)

Local authority executives

9C Local authority executives

- (1) The executive of a local authority must take a form specified in subsection (2) or (3).
- (2) The executive may consist of—
 - (a) an elected mayor of the authority, and
 - (b) two or more councillors of the authority appointed to the executive by the elected mayor.

Such an executive is referred to in this Part as a mayor and cabinet executive.

- (3) The executive may consist of—
 - (a) a councillor of the authority (referred to in this Part as the executive leader) elected as leader of the executive by the authority, and

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- (b) two or more councillors of the authority appointed to the executive by the executive leader.

Such an executive is referred to in this Part as a leader and cabinet executive (England).

- (4) A local authority executive may not include the chairman or vice-chairman of the authority.
- (5) The number of members of a local authority executive may not exceed 10 or such other number as may be specified in regulations made by the Secretary of State.
- (6) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the function of electing a leader under subsection (3)(a).

Executive functions

9D Functions which are the responsibility of an executive

- (1) This section has effect for the purposes of determining which of the functions of a local authority that operates executive arrangements are the responsibility of an executive of the authority under those arrangements.
- (2) Subject to any provision made by this Act or by any enactment which is passed or made after the day on which this Act is passed, any function of the local authority which is not specified in regulations under subsection (3) is to be the responsibility of an executive of the authority under executive arrangements.
- (3) The Secretary of State may by regulations make provision for any function of a local authority specified in the regulations—
- (a) to be a function which is not to be the responsibility of an executive of the authority 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 local authority falling within subsection (3)(b)—
- (a) to be a function which is to be the responsibility of an executive of the authority,
 - (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 local authority that operates executive arrangements—

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- (a) to designate any action in connection with the discharge of that function which is to be the responsibility of an executive of the local authority, 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.
- (6) The Secretary of State may by regulations specify cases or circumstances in which any function of a local authority which, by virtue of the preceding provisions of this section, would otherwise be the responsibility of an executive of the authority to any extent is not to be the responsibility of such an executive to that or any particular extent.
- (7) A function of a local authority may, by virtue of this section, be the responsibility of an executive of the authority to any extent notwithstanding that section 101 of the Local Government Act 1972, or any provision of that section, 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 enactment) 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.

9DA Functions of an executive: further provision

- (1) Any reference in the following provisions of this Chapter to any functions which are, or are not, the responsibility of an executive of a local authority under executive arrangements is a reference to the functions of the authority to the extent to which they are or (as the case may be) are not, by virtue of section 9D, the responsibility of the executive under such arrangements.
- (2) Any function which is the responsibility of an executive of a local authority under executive arrangements—
- (a) is to be regarded as exercisable by the executive on behalf of the authority, and
 - (b) may be discharged only in accordance with any provisions made by or under this Part or section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England) 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 local authority under executive arrangements—
- (a) may not be discharged by the authority,
 - (b) is not to be a function to which section 101(1) of the Local Government Act 1972 applies, and
 - (c) may be the subject of arrangements made under section 101(5) of that Act only if permitted by any provision made under section 9EB.

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- (4) Subject to any provision made under subsection (5), any function of a local authority that operates executive arrangements which, under those arrangements, is not the responsibility of the executive of the local authority is to be discharged in any way which would be permitted or required apart from the provisions made by or under this Chapter.
- (5) The Secretary of State may by regulations make provision with respect to the discharge of any function of a local authority that operates executive arrangements which, under those arrangements, is not the responsibility of the executive of the local authority (including provision disapplying section 101 of the Local Government Act 1972 or any provision of that section).
- (6) In this section “function” has the same meaning as in section 9D.

Discharge of functions

9E Discharge of functions: general

- (1) Subject to any provision made under section 9EA or 9EB, any functions which, under executive arrangements, are the responsibility of—
 - (a) a mayor and cabinet executive, or
 - (b) a leader and cabinet executive (England),
 are to be discharged in accordance with this section.
- (2) The senior executive member—
 - (a) may discharge any of those functions, or
 - (b) may arrange for the discharge of any of those functions—
 - (i) by the executive,
 - (ii) by another member of the executive,
 - (iii) by a committee of the executive,
 - (iv) by an area committee, or
 - (v) by an officer of the authority.
- (3) Where by virtue of this section any functions may be discharged by a local authority executive, then, unless the senior executive member otherwise directs, the executive may arrange for the discharge of any of those functions—
 - (a) by a committee of the executive,
 - (b) by an area committee, or
 - (c) by an officer of the authority.
- (4) Where by virtue of this section any functions may be discharged by a member of a local authority executive, then, unless the senior executive member otherwise directs, the member who may discharge the functions may arrange for the discharge of any of those functions—
 - (a) by an area committee, or
 - (b) by an officer of the authority.
- (5) Where by virtue of this section any functions may be discharged by a committee of a local authority executive, then, unless the senior executive member otherwise directs, the committee may arrange for the discharge of any of those functions—
 - (a) by an area committee, or

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- (b) by an officer of the authority.
- (6) Where by virtue of this section any functions may be discharged by an area committee, then, unless the senior executive member otherwise directs, the committee may arrange for the discharge of any of those functions by an officer of the authority.
- (7) Any arrangements made by virtue of this section by a senior executive member, executive, member or committee for the discharge of any functions by an executive, member, committee or officer are not to prevent the senior executive member, executive, member or committee by whom the arrangements are made from exercising those functions.
- (8) In this section—
 - “area committee”, in relation to a local authority, means a committee or sub-committee of the authority which satisfies the conditions in subsection (9);
 - “senior executive member” means—
 - (a) in the case of a mayor and cabinet executive, the elected mayor;
 - (b) in the case of a leader and cabinet executive (England), the executive leader.
- (9) A committee or sub-committee of a local authority satisfies the conditions in this subsection if—
 - (a) the committee or sub-committee is established to discharge functions in respect of part of the area of the authority, and
 - (b) the members of the committee or sub-committee who are members of the authority are elected for electoral divisions or wards which fall wholly or partly within that part.

9EA Discharge of functions of and by another local authority

- (1) The Secretary of State may by regulations make provision for or in connection with enabling an executive of a local authority, or a committee or specified member of such an executive, to arrange for the discharge of any functions which, under executive arrangements, are the responsibility of the executive—
 - (a) by a relevant authority (other than the local authority), or
 - (b) by a relevant executive (other than an executive of the local authority) or a committee or specified member of such an executive.
- (2) The Secretary of State may by regulations make provision for or in connection with enabling a relevant authority in England to arrange for the discharge of any of its functions by a relevant executive (other than an executive of the relevant authority) or a committee or specified member of such an executive.
- (3) The reference in subsection (2) to the functions of a relevant authority in England, in a case where the authority is operating executive arrangements, is a reference to the functions which, under those arrangements, are not the responsibility of the authority'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 a relevant executive or a committee or member of such an executive, the approval of the authority of which the executive is part to such arrangements;

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- (b) which, in the case of arrangements for the discharge of any functions by a relevant authority, enables any of those functions to be delegated;
 - (c) which, in the case of arrangements for the discharge of any functions by a relevant executive or a committee or member of such an executive, enables any of those functions to be delegated.
- (5) The provision made under subsection (4)(b) may, in particular, apply or reproduce (with or without modifications) any provisions of section 101(2) to (4) of the Local Government Act 1972.
- (6) The provision made under subsection (4)(c) may, in particular, apply or reproduce (with or without modifications) any provisions of section 9E.
- (7) In this section—
- “relevant authority” means a local authority within the meaning of section 101 of the Local Government Act 1972;
 - “relevant executive” means an executive of a local authority under either this Part or Part 2;
 - “specified” means specified in regulations under this section.

9EB Joint exercise of functions

- (1) The Secretary of State may by regulations make provision for or in connection with permitting arrangements under section 101(5) of the Local Government Act 1972 where any of the functions which are the subject of the arrangements are the responsibility of an executive of a local authority 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, or a committee or specified member of the executive, is to be a party to the arrangements in place of the authority,
 - (b) as to the circumstances in which—
 - (i) the authority, and
 - (ii) the executive or a committee or specified member of the executive,
 are both to be parties to the arrangements,
 - (c) as to the circumstances in which any functions of the local authority under section 101(2) or 102(1)(b), (2) or (3) of the Local Government Act 1972, so far as they relate to any joint committee falling within section 101(5)(a) of that Act, are instead to be exercised by the executive or a committee or specified member of the executive,
 - (d) as to the circumstances in which any functions of the local authority under section 101(2) or 102(1)(b), (2) or (3) of that Act, so far as they relate to any such joint committee, are to be exercised by the authority,
 - (e) as to the circumstances in which appointments to any such joint committee by the executive, or a committee or specified member of the executive, need not be made in accordance with the political balance requirements,
 - (f) as to the persons (including officers of the authority) who may be appointed to any such joint committee by the executive or a committee or specified member of the executive.
- (3) In this section “specified” means specified in regulations under this section.

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Overview and scrutiny committees

9F Overview and scrutiny committees: functions

- (1) Executive arrangements by a local authority must include provision for the appointment by the authority of one or more committees of the authority (referred to in this Chapter as overview and scrutiny committees).
- (2) Executive arrangements by a local authority must ensure that its overview and scrutiny committee has power (or its overview and scrutiny committees, and any joint 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 authority 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 authority 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 authority or the executive on matters which affect the authority's area or the inhabitants of that area,
 - (f) [^{F2}in the case of the overview and scrutiny committee, or committees, of an authority to which section 244 of the National Health Service Act 2006 applies—
 - (i) to review and scrutinise, in accordance with regulations under that section, matters relating to the health service (within the meaning given by that Act as extended by that section) in the authority's area, and
 - (ii) to make reports and recommendations on such matters in accordance with the regulations.]
- (3) In subsection (2) “joint overview and scrutiny committee”, in relation to a local authority (“the authority concerned”), means—
 - (a) [^{F3}a joint overview and scrutiny committee within the meaning given by subsection (2)(a) of section 245 of the National Health Service Act 2006 appointed by the authority concerned and one or more other local authorities,]
 - (b) [^{F4}an overview and scrutiny committee of another local authority exercising relevant functions (within the meaning given by subsection (1) of that section) of the authority concerned by virtue of arrangements made under regulations under subsection (2)(b) of that section, or]
 - (c) a joint overview and scrutiny committee within the meaning of section 123 of the Local Government and Public Involvement in Health Act 2007 (joint overview and scrutiny committees) appointed by two or more local authorities including the authority concerned.
- (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

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- (b) to arrange for its function under subsection (2)(a), so far as it relates to the decision, to be exercised by the authority.
- (5) An overview and scrutiny committee of a local authority may not discharge any functions other than—
- (a) its functions under this section and sections 9FA to 9FI, [^{F5}or]
 - (b) its functions under section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters)[^{F6}or
 - (c) any functions which may be conferred on it by virtue of regulations under section 244(2ZE) of the National Health Service Act 2006 (local authority scrutiny of health matters).]

Textual Amendments

- F2** S. 9F(2)(f) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 190(10)(a)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F3** S. 9F(3)(a) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 190(10)(b)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F4** S. 9F(3)(b) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 190(10)(b)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F5** Word in s. 9F(5) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 190(10)(c)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F6** S. 9F(5)(c) and word inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 190(10)(c)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

9FA Overview and scrutiny committees: supplementary provision

- (1) An overview and scrutiny committee of a local authority—
 - (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 local authority, or a sub-committee of such a committee, may not include any member of the authority's executive.
- (4) An overview and scrutiny committee of a local authority, or any sub-committee of such a committee, may include persons who are not members of the authority.
- (5) Subject to any provision made by or under paragraphs 6 to 8 of Schedule A1 and to section 20(6) of the Police and Justice Act 2006, any persons who are not members of the local authority 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 paragraphs 11 and 12 of that Schedule.

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- (6) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, is to be treated—
 - (a) as a committee or sub-committee of a principal council for the purposes of Part 5A of the Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees), and
 - (b) as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.
- (7) Subsections (2) and (5) of section 102 of the Local Government Act 1972 apply to an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, as they apply to a committee appointed under that section.
- (8) An overview and scrutiny committee of a local authority or a sub-committee of such a committee—
 - (a) may require members of the executive, and officers of the authority, to attend before it to answer questions,
 - (b) may require any other member of the authority to attend before it to answer questions relating to any function which is exercisable by the member by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England), and
 - (c) may invite other persons to attend meetings of the committee.
- (9) It is the duty of any member or officer mentioned in paragraph (a) or (b) of subsection (8) to comply with any requirement mentioned in that paragraph.
- (10) A person is not obliged by subsection (9) 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 England and Wales.
- (11) In exercising, or deciding whether to exercise, any of its functions an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, must have regard to any guidance for the time being issued by the Secretary of State.
- (12) Guidance under subsection (11) may make different provision for different cases or for different descriptions of committee or sub-committee.

9FB Scrutiny officers

- (1) Subject as follows, a local authority must designate one of its officers to discharge the functions in subsection (2).
- (2) Those functions are—
 - (a) to promote the role of the authority's overview and scrutiny committee or committees,
 - (b) to provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees,
 - (c) to provide support and guidance to—
 - (i) members of the authority,
 - (ii) members of the executive of the authority, and
 - (iii) officers of the authority,in relation to the functions of the authority's overview and scrutiny committee or committees.

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- (3) An officer designated by a local authority under this section is to be known as the authority's "scrutiny officer".
- (4) A local authority may not designate any of the following under this section—
 - (a) the head of the authority's paid service designated under section 4 of the Local Government and Housing Act 1989;
 - (b) the authority's monitoring officer designated under section 5 of that Act;
 - (c) the authority's chief finance officer, within the meaning of that section.
- (5) The duty in subsection (1) does not apply to a district council for an area for which there is a county council.
- (6) In this section, references to an overview and scrutiny committee include any sub-committee of that committee.

9FC Reference of matters to overview and scrutiny committee etc

- (1) Executive arrangements by a local authority must include provision which—
 - (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) enables any member of the authority to refer to an overview and scrutiny committee of the authority of which the member of the authority is not a member any matter which is relevant to the functions of the committee and is not an excluded 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 member of an authority has by virtue of subsection (1)(c) in any case, the member must have regard to any guidance for the time being issued by the Secretary of State.
- (4) Guidance under subsection (3) may make different provision for different cases.
- (5) In subsection (1)(c) "excluded matter" means any matter which is—
 - (a) a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
 - (b) a matter of any description specified in an order made by the Secretary of State for the purposes of this section.

9FD Dealing with references under section 9FC(1)(c)

- (1) This section applies where a matter is referred to an overview and scrutiny committee by a member of a local authority in accordance with provision made pursuant to section 9FC(1)(c).

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- (2) In considering whether or not to exercise any of its powers under section 9F(2) in relation to the matter, the committee may have regard to—
 - (a) any powers which the member may exercise in relation to the matter by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England), and
 - (b) any representations made by the member as to why it would be appropriate for the committee to exercise any of its powers under section 9F(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 member of—
 - (a) its decision, and
 - (b) the reasons for it.
- (4) The committee must provide the member with a copy of any report or recommendations which it makes to the authority or the executive under section 9F(2) in relation to the matter.
- (5) Subsection (4) is subject to section 9FG (confidential and exempt information).

9FE Duty of authority or executive to respond to overview and scrutiny committee

- (1) This section applies where an overview and scrutiny committee of a local authority makes a report or recommendations to the authority or the executive, otherwise than—
 - (a) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
 - (b) by virtue of subsection (3)(a) of that section.
- (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 authority or executive—
 - (a) to consider the report or recommendations,
 - (b) to respond to the overview and scrutiny committee indicating what (if any) action the authority, 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 member of the authority under section 9FD(4), to provide the member with a copy of the response.
- (4) The notice served under subsection (3) must require the authority or executive to comply with it within two months beginning with the date on which the authority or executive received the report or recommendations or (if later) the notice.
- (5) It is the duty of an authority 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 9FG and to any provision made under section 9GA(8) (confidential and exempt information).
- (7) In this section—

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- (a) references to an overview and scrutiny committee include references to a sub-committee of such a committee;
- (b) references to “the authority” or “the executive”, in relation to an overview and scrutiny committee, or a sub-committee of such a committee, are to the authority by which the overview and scrutiny committee is established or to the executive of that authority.

9FF Reports and recommendations of overview and scrutiny committees: duties of certain partner authorities

- (1) This section applies where—
 - (a) a relevant committee makes a report or recommendations to the authority or the executive, otherwise than—
 - (i) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
 - (ii) by virtue of subsection (3)(a) of that section, and
 - (b) the report or any of the recommendations relates to functions of a relevant partner authority so far as exercisable in relation to—
 - (i) the authority's area, or
 - (ii) the inhabitants of that area.
- (2) The relevant committee may by notice in writing to the relevant partner authority require the relevant partner authority to have regard to the report or recommendation in question in exercising its functions.
- (3) A notice under subsection (2) must be accompanied by a copy of the report or recommendations.
- (4) It is the duty of a relevant partner authority to which a notice is given under subsection (2) to comply with the requirement specified in the notice.
- (5) Subsection (2) does not apply if—
 - (a) the relevant partner authority is a health service body, and
 - (b) either—
 - (i) the relevant committee is a non-unitary district council committee, or
 - (ii) by virtue of section 244 of the National Health Service Act 2006, the report was, or the recommendations were, made to the health service body (as well as to the authority or the executive).
- (6) In subsection (5) “health service body” means—
 - (a) a National Health Service trust,
 - (b) an NHS foundation trust, or
 - (c) a Primary Care Trust.
- (7) Subsections (2) and (3) are subject to section 9FG (confidential and exempt information).
- (8) In this section—
 - “the authority”, in relation to a relevant committee, means—
 - (a) in the case of an overview and scrutiny committee, the local authority by which it is established, and

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- (b) in the case of a sub-committee of an overview and scrutiny committee, the local authority by which the overview and scrutiny committee is established,
 - “the executive”, in relation to a relevant committee, means the executive of the authority,
 - “non-unitary district council committee” means—
 - (a) an overview and scrutiny committee of a district council for a district in a county for which there is a county council, or
 - (b) a sub-committee of such a committee,
 - “relevant committee” means an overview and scrutiny committee or a sub-committee of such a committee,
 - “relevant partner authority”, in relation to a relevant committee other than a non-unitary district council committee, means any person who is a partner authority in relation to the authority for the purposes of Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007, other than a chief officer of police, and
 - “relevant partner authority”, in relation to a relevant committee that is a non-unitary district council committee, means—
 - (a) the county council for the county concerned, or
 - (b) any person (other than the district council concerned) who is a partner authority in relation to that county council for the purposes of Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007, other than a chief officer of police.

9FG Publication etc of reports, recommendations and responses: confidential and exempt information

- (1) This section applies to—
 - (a) the publication under section 9FE of any document comprising—
 - (i) a report or recommendations of an overview and scrutiny committee, or
 - (ii) a response of a local authority to any such report or recommendations, and
 - (b) the provision of a copy of such a document—
 - (i) to a member of a local authority under section 9FD(4) or section 9FE, or
 - (ii) to a relevant partner authority under section 9FF,by an overview and scrutiny committee or a local authority.
- (2) The overview and scrutiny committee or the local authority, in publishing the document or providing a copy of the document to a relevant partner authority—
 - (a) must exclude any confidential information, and
 - (b) may exclude any relevant exempt information.
- (3) The overview and scrutiny committee or the local authority, in providing a copy of the document to a member of the local authority, may exclude any confidential information or relevant exempt information.
- (4) Where information is excluded under subsection (2) or (3), the overview and scrutiny committee or the local authority, in publishing, or providing a copy of, the document—

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- (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) 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 9FE(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 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, 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.
- (8) In this section—
- “confidential information” has the meaning given by section 100A(3) of the Local Government Act 1972 (admission to meetings of principal councils),
- “exempt information” has the meaning given by section 100I of that Act and, in relation to—
- (a) any report or recommendations of an overview and scrutiny committee which has functions under section 9F(2)(f) (national health service functions), or
 - (b) any response to such a report or recommendations,
- also includes information which is exempt information under section 246 of the National Health Service Act 2006, and
- “relevant partner authority”, in relation to an overview and scrutiny committee which is a relevant committee within the meaning of section 9FF, has the same meaning as in that section.
- (9) In this section, references to an overview and scrutiny committee include references to a sub-committee of such a committee.

9FH Overview and scrutiny committees: flood risk management

- (1) This section applies to a local authority that operates executive arrangements and that is a lead local flood authority.

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- (2) The arrangements required under section 9F(2) include arrangements to review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area.
- (3) A risk management authority must comply with a request made by an overview and scrutiny committee, in the course of arrangements under subsection (2), for—
 - (a) information;
 - (b) a response to a report.
- (4) The Secretary of State may make regulations about the duty under subsection (3) which may, in particular, include provision—
 - (a) about the procedure to be followed in relation to requests and compliance with them,
 - (b) about notices to be served in relation to requests,
 - (c) for exemptions from the duty,
 - (d) requiring persons to attend to give information orally,
 - (e) about the nature of the information and responses that may be requested, and
 - (f) about the publication of requests, information and responses.
- (5) A risk management authority must have regard to reports and recommendations of an overview and scrutiny committee made in the course of arrangements under subsection (2).
- (6) Regulations under section 123 of the Local Government and Public Involvement in Health Act 2007 may make provision about the application of this section in relation to joint overview and scrutiny committees.
- (7) Expressions used in this section have the same meaning as in Part 1 of the Flood and Water Management Act 2010.

9FI Overview and scrutiny committees: provision of information etc by certain partner authorities

- (1) The Secretary of State may by regulations make provision, in relation to a relevant committee—
 - (a) as to information which relevant partner authorities must provide to the relevant committee, and
 - (b) as to information which may not be disclosed by a relevant partner authority to the relevant committee.
- (2) In subsection (1), references to information do not include information in respect of which provision may be made in exercise of the power conferred by—
 - (a) section 20(5)(c) or (d) of the Police and Justice Act 2006 (guidance and regulations regarding crime and disorder matters), or
 - (b) section 244(2)(d) or (e) of the National Health Service Act 2006 (functions of overview and scrutiny committees).
- (3) For the purposes of subsection (1), “relevant committee” and “relevant partner authority” have the meanings given by section 9FF.
- (4) Regulations under this section may make different provision in relation to different persons or committees or descriptions of person or committee.

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- (5) The power conferred by subsection (4) does not affect the power conferred by section 105(2)(b).

Further provision in relation to executives

9G Meetings and access to information etc

- (1) Meetings of a local authority executive, or a committee of such an executive, are to be open to the public or held in private.
- (2) Subject to regulations under section 9GA(4), it is for a local authority executive to decide which of its meetings, and which of the meetings of any committee of the executive, are to be open to the public and which of those meetings are to be held in private.
- (3) A written record must be kept of prescribed decisions made at meetings of local authority executives, or committees of such executives, which are held in private.
- (4) A written record must be kept of prescribed decisions made by individual members of local authority executives.
- (5) Written records under subsection (3) or (4) must include reasons for the decisions to which they relate.
- (6) In this section “prescribed” means prescribed by regulations made by the Secretary of State.

9GA Meetings and access to information etc: further provision and regulations

- (1) Written records under section 9G(3) and (4), 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 made by the Secretary of State.
- (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) The Secretary of State may by regulations 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) The Secretary of State may by regulations make provision—

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- (a) as to the circumstances in which meetings mentioned in section 9G(2), or particular proceedings at such meetings, must be open to the public,
 - (b) as to the circumstances in which meetings mentioned in section 9G(2), 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 9G,
 - (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 local authorities 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 local authorities 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 local authorities, 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 9G.
- (5) The Secretary of State may by regulations 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 local authority executive to be made available to members of the public or members of the authority.
- (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) The Secretary of State may by regulations make provision which, in relation to meetings of—
- (a) local authority executives or committees of such executives, or
 - (b) joint committees, or sub-committees of such committees, falling within subsection (3)(a),
- applies or reproduces (with or without modifications) any provisions of Part 5A of the Local Government Act 1972.
- (8) The Secretary of State may by regulations make provision, in relation to—
- (a) the publication by executives of local authorities under section 9FE of responses to reports or recommendations of overview and scrutiny committees and sub-committees of such committees, or
 - (b) the provision by such executives under that section of copies of such responses,
- which applies or reproduces (with or without modifications) any provisions of section 9FG (confidential and exempt information).

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(9) In this section—

“joint committee” means a joint committee falling within section 101(5)(a) of the Local Government Act 1972,

“prescribed” means prescribed by regulations made by the Secretary of State.

9GB Further provision

Schedule A1 (which makes further provision in relation to executive arrangements under this Part) has effect.

9GC Absence of requirement for political balance

Neither—

- (a) a local authority executive, nor
- (b) a committee of a local authority executive,

is to be regarded as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

Elected mayors etc

9H Elected mayors etc

- (1) In this Part “elected mayor”, in relation to a local authority, means an individual elected as mayor of the authority by the local government electors for the authority's area in accordance with the provisions made by or under this Part.
- (2) An elected mayor is to be entitled to the style of “mayor”.
- (3) A reference in any enactment (whenever passed or made) to—
 - (a) a member of a local authority, or
 - (b) a councillor of a local authority,
 does not include a reference to an elected mayor of the authority.
- (4) But subsection (3) is subject to—
 - (a) regulations made by the Secretary of State under this paragraph which provide that an elected mayor is to be treated as a member or councillor of a local authority for the purposes of an enactment (whenever passed or made), and
 - (b) any other contrary intention that appears in any enactment (whenever passed or made).
- (5) Section 2(2A) of, and paragraph 5C(1) of Schedule 2 to, the Local Government Act 1972 are not to be taken to indicate any contrary intention for the purposes of subsection (4)(b).
- (6) Elections for the return of an elected mayor are to take place on the ordinary day of election in each of the relevant election years.
- (7) The term of office of an elected mayor of a local authority is to be four years.
- (8) This section is subject to regulations under section 9HB or 9HE.

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9HA Election as elected mayor and councillor

- (1) If the person who is returned at an election as the elected mayor of a local authority is also returned at an election held at the same time as a councillor of the authority, a vacancy arises in the office of councillor.
- (2) If the person who is returned at an election (“the mayoral election”) as the elected mayor of a local authority—
 - (a) is a councillor of the authority, and
 - (b) was returned as such a councillor at an election held at an earlier time than the mayoral election,a vacancy shall arise in the office of councillor.
- (3) Subject to subsection (4), a person who is the elected mayor of a local authority may not be a candidate in an election for the return of a councillor or councillors of the authority.
- (4) A person who is the elected mayor of a local authority may be a candidate in an election for the return of a councillor or councillors of the authority if the election is held at the same time as an election for the return of the elected mayor of the authority, but subsection (1) applies if the person is a candidate in both such elections and is returned both as the elected mayor and as a councillor.

9HB Time of elections etc

The Secretary of State may by regulations make provision—

- (a) as to the dates on which and years in which elections for the return of elected mayors may or must take place,
- (b) as to the intervals between elections for the return of elected mayors,
- (c) as to the term of office of elected mayors, and
- (d) as to the filling of vacancies in the office of elected mayor.

9HC Voting at elections of elected mayors

- (1) Each person entitled to vote as an elector at an election for the return of an elected mayor is to have the following vote or votes—
 - (a) one vote (referred to in this Part as a first preference vote) which may be given for the voter's first preference from among the candidates to be the elected mayor, and
 - (b) if there are three or more candidates to be the elected mayor, one vote (referred to in this Part as a second preference vote) which may be given for the voter's second preference from among those candidates
- (2) The elected mayor is to be returned under the simple majority system, unless there are three or more candidates.
- (3) If there are three or more candidates to be the elected mayor, the elected mayor is to be returned under the supplementary vote system in accordance with Schedule 2.

9HD Entitlement to vote

- (1) The persons entitled to vote as electors at an election for the return of an elected mayor are those who on the day of the poll—

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- (a) would be entitled to vote as electors at an election of councillors for an electoral area which is situated within the area of the local authority concerned, and
 - (b) are registered in the register of local government electors at an address within the authority's area.
- (2) A person is not entitled as an elector to cast more than one first preference vote, or more than one second preference vote, at an election for the return of an elected mayor.

9HE Power to make provision about elections

- (1) The Secretary of State may by regulations make provision as to—
- (a) the conduct of elections for the return of elected mayors, and
 - (b) the questioning of elections for the return of elected mayors and the consequences of irregularities.
- (2) Regulations made under subsection (1)(a) may, in particular, include provision—
- (a) about the registration of electors,
 - (b) for disregarding alterations in a register of electors,
 - (c) about the limitation of election expenses (and the creation of criminal offences in connection with the limitation of such expenses), and
 - (d) for the combination of polls at elections for the return of elected mayors and other elections.
- (3) Regulations under this section may—
- (a) apply or incorporate, with or without modifications or exceptions, any provision of, or made under, the Representation of the People Acts or any provision of any other enactment (whenever passed or made) relating to parliamentary elections or local government elections,
 - (b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections for the return of elected mayors, and
 - (c) so far as may be necessary in consequence of any provision made by or under this Part or any regulations under this section, amend any provision of any enactment (whenever passed or made) relating to the registration of parliamentary electors or local government electors.
- (4) Before making any regulations under this section, the Secretary of State must consult the Electoral Commission.
- (5) In addition, the power of the Secretary of State to make regulations under this section so far as relating to matters mentioned in subsection (2)(c) is exercisable only on, and in accordance with, a recommendation of the Electoral Commission, except where the Secretary of State considers that it is expedient to exercise that power in consequence of changes in the value of money.
- (6) No return of an elected mayor at an election is to be questioned except by an election petition under the provisions of Part 3 of the Representation of the People Act 1983 as applied by or incorporated in regulations under this section.

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Leader and cabinet executives (England)

9I Election and term of office of leader

Executive arrangements by a local authority which provide for a leader and cabinet executive (England)—

- (a) must include provision with respect to the election of the executive leader, including provision for an election where there is a vacancy in the office of executive leader, and
- (b) may include provision with respect to the term of office of the executive leader.

9IA Removal of leader

(1) Executive arrangements by a local authority which provide for a leader and cabinet executive (England) must include provision for the council to remove the executive leader by resolution.

(2) If a council passes a resolution to remove the executive leader, a new executive leader is to be elected—

- (a) at the meeting at which the leader is removed from office, or
- (b) at a subsequent meeting.

9IB Leader to continue to hold office as councillor

(1) A person who is the executive leader of a leader and cabinet executive (England) remains a member of the council during the period that the person is the executive leader.

(2) Accordingly, any enactment which provides for the person's earlier retirement as a councillor does not apply.

(3) This section does not affect anything by which the executive leader may cease to be a councillor otherwise than by retirement (including disqualification or resignation).

9IC No other means of removing leader

(1) This section applies to a local authority which operates a leader and cabinet executive (England).

(2) An executive leader may not be removed from office except in accordance with section 9IA or regulations under section 9ID.

9ID Regulations

(1) The Secretary of State may by regulations make provision—

- (a) as to the election and removal from office of executive leaders of leader and cabinet executives (England),
- (b) as to the term of office of an executive leader of a leader and cabinet executive (England), and
- (c) as to the filling of vacancies in the office of executive leader of a leader and cabinet executive (England).

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(2) Sections 9I to 9IC are subject to regulations under this section.]

Status:

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