

# New Council Constitutions

Local Government Act 2000

Guidance to English Local Authorities



- 3.13 ✓ The power in section 21(13)(a) does not relate solely to scrutiny of decisions and should therefore also be used to ask an executive member, for example, about forthcoming issues. In using this power, the committee should ensure that it consults with the executive about who might be the most appropriate person to answer questions and discuss issues.
- 3.14 Paragraph 7 of Schedule 1 to the Act make provisions providing rights for Church of England and Roman Catholic representatives to be full voting members of any overview and scrutiny committee of a local education authority whose functions relate to education. This paragraph also provides for similar rights to be granted by direction to representatives of other denominations and faiths. Paragraph 9 of that Schedule makes provision for regulations to grant parent governors the right to be full voting members of the same committees.

## Overview and scrutiny arrangements

- 3.15 ✓ To achieve enhanced accountability and transparency of the decision making process, effective overview and scrutiny is essential. Overview and scrutiny committees are the key element of executive arrangements. Their roles should, therefore, include both:
- developing and reviewing policy; and
  - holding the executive to account.
- 3.16 ✓ Where an overview and scrutiny committee is reviewing the work of another committee of the local authority it should not normally scrutinise individual decisions made by such committees, particularly decisions in respect of development control, licensing, registration, consents and other permissions. In particular a local authority will need to ensure such scrutiny is not an alternative to normal appeals procedures. However, overview and scrutiny committees do have the power to make reports and recommendations on functions which are not the responsibility of the executive and the Secretary of State recommends that this should normally be used as part of wider policy reviews.
- 3.17 ✓ Overview and scrutiny committees should be a key mechanism for enabling councillors to represent the views of their constituents and other organisations to the executive and local authority and hence to ensure that these views are taken into account in policy development.
- 3.18 ✓ These committees are the main way by which the executive is held to account in public for the discharge of the functions for which it is responsible. They should have important roles in reviewing the local authority's policies and other matters of more general local concern and making recommendations, either to the full council or to the executive, on future policy options.
- 3.19 The Local Government Act 2000 (Proposals for Executive Arrangements) Direction 2000 requires a local authority's proposals for executive arrangements to include a description of the arrangements for overview and scrutiny. Subject to the requirements of section 21 (including the requirement for comprehensive coverage of the local authority's functions)

and Schedule 1 in respect of church and parent governor representatives, the arrangements for overview and scrutiny (including the membership and remits of the committees) are a matter for local choice.

- 3.20 ✓ The Secretary of State advises, however, that all but the smallest local authorities should have more than one overview and scrutiny committee, and that they should meet frequently (for example on a monthly or six-weekly cycle).
- 3.21 ✓ Overview and scrutiny committees should take a cross-cutting rather than narrow service-based view of the conduct of the local authority's business and therefore the aim should be for local authorities to have, at any given point in time, a relatively small number of such committees.
- 3.22 ✓ Overview and scrutiny arrangements should be set out clearly in the executive arrangements as part of the constitution to ensure it is clear which committees are responsible for overseeing which functions and policy areas: i.e. the remit and terms of reference of each committee. The workplan of each overview and scrutiny committee needs careful consideration and local authorities need to consider how these workplans are decided upon, bearing in mind the resources available, time constraints and the interests of the local community.
- 3.23 ✓ Overview and scrutiny committees should have considerable flexibility to determine most of their workplan, particularly in the light of changing circumstances. There should also be effective protocols to ensure that the concerns of all members of the committee (including members who are not members of the local authority) are taken into account when deciding the committee's workplan. In doing so they should bear in mind that on a day-to-day basis any member of an overview and scrutiny committee has a right to ensure that any item relevant to the remit of that committee is placed on the agenda and discussed at a meeting of the committee.
- 3.24 ✓ In addition, the executive will often wish to request a policy review study from an overview and scrutiny committee before formulating its policies for submission to the full council for approval. As chapter 2 of this guidance says, the executive should always consult and involve the relevant overview and scrutiny committees in developing draft policies to propose to the full council.
- 3.25 ✓ Local authorities are, therefore, encouraged to consider and adopt mechanisms for co-ordinating the work of overview and scrutiny committees. Such mechanisms should be set out clearly in the local authority's executive arrangements and constitution.
- 3.26 Figure 3.1 provides some examples of co-ordinating mechanisms for overview and scrutiny in local authorities which have experimented with executive style arrangements prior to the Act.

**FIGURE 3.1:****EXAMPLES OF CO-ORDINATION MECHANISMS FOR OVERVIEW AND SCRUTINY**

Several local authorities have appointed a single "Scrutiny Management Committee". They do not typically carry out specific reviews but consider, consult on and in some cases recommend to the council a programme of overview and scrutiny activity. In one example, the committee establishes time limited ad hoc panels to examine agreed issues, sets their broad terms of reference, and requires each panel to report regularly but briefly on progress against its objectives and timetable. The aim of such an approach is to allow flexibility and experimentation and to ensure that a balanced programme of overview and scrutiny is set and achieved each year.

In one metropolitan council, the overview and scrutiny co-ordinating group includes in its remit:

- co-ordination and action on all requests for the call in of an executive decision;
- liaison with its individual standing committees – each with a cross-cutting theme and each chaired by a member of the co-ordinating group;
- overall management of the work programme; and
- regular liaison and joint discussion of future policy issues and the best value review programme with the executive.

Another local authority sets its overview and scrutiny programme by considering the whole range of performance data available to it. It uses sources such as opinion surveys, best value performance data, external audit and inspection reports, surveys of its own members, and so on, to determine its programme. It ensures that overview and scrutiny complements rather than competes with programmes of best value reviews and feeds into community planning and other statutory timetables. It also takes into account the capacity of the organisation to undertake overview and scrutiny work.

One district council has drawn up arrangements for overview and scrutiny where a Scrutiny Management Board co-ordinates and plans the work of three overview and scrutiny committees entitled:

- environment and economy;
- cultural and social; and
- finance and resources.

The arrangements include a 12-month scrutiny plan which is approved by the full council.

3.27 ✓ Overview and scrutiny committees are encouraged to consider different approaches and formats for their meetings for their different roles: scrutinising decisions and decision making; reviewing policy; and investigating other matter of local concern. These different roles are discussed in more detail later in this chapter.

3.28 Figure 3.2 provides some examples of good practice and innovation in overview and scrutiny.

FIGURE 3.2:

### EXAMPLES OF GOOD PRACTICE AND INNOVATION IN OVERVIEW AND SCRUTINY

Examples of innovation in overview and scrutiny practice include:

- holding time limited inquiries;
- new style meetings outside the town hall involving informal dialogue with local residents, linked to the community planning process;
- co-optees from a wide range of community and voluntary groups who in turn are helping to change the character and style of meetings; and
- annual reports and reports of individual reviews in a new style, drafted by members of the committee.

### MEMBERSHIP

- 3.29 ✓ In deciding the membership of overview and scrutiny committees, local authorities will need to take into account the particular skills and expertise required to ensure that thorough and informed reviews take place. They should consider whether to include those who are not members of the local authority to bring outside views to the work of such committees. This is in addition to the requirements in Schedule 1 to the Act.
- 3.30 ✓ Where there is a majority group, local authorities might consider it appropriate to have all or some of these committees chaired by members outside the majority group or by church or parent governor representatives. Overview and scrutiny should be constructive and not merely be there either always to oppose the executive or to rubber-stamp the executive's decisions.

### THE ROLE OF CHURCH AND PARENT GOVERNOR REPRESENTATIVES

- 3.31 Prior to the Act, church and parent governor representatives had the right to sit and vote on a committee of a local education authority dealing with education matters in accordance with regulations made under section 499 of the Education Act 1996 (as amended by section 9 of the School Standards and Framework Act 1998). Where local authorities have been experimenting with executive style arrangements, in advance of the Act, the Department for Education and Employment (DfEE) has stated in Circulars 13/99 (paragraph 18) and 19/99 (paragraphs 12 to 14) that such representatives should sit on relevant overview and scrutiny committees where education matters are being discussed.
- 3.32 Once a local authority is operating executive arrangements under Part II of the Act, such representatives will continue to have a right to membership of overview and scrutiny committees in recognition of the important contribution the bodies they represent make to education at a local level. Representatives of the Church of England and Roman Catholic Church have that right by virtue of the Act directly. Representatives of other faiths and denominations may be granted such rights on an authority-by-authority basis in direction from the Secretary of State.

- 3.33 Under section 21(10) of the Act, members of overview and scrutiny committees who are not members of the local authority will not be allowed to vote, with the exception of church representatives who have been appointed to committees in accordance with the provisions in paragraph 7 of Schedule 1 to the Act or individual directions made by the Secretary of State under that paragraph and parent governor representatives elected to the committees under regulations made under paragraph 9 of the Schedule.
- 3.34 Where the remit of a committee goes wider than matters related to education, church and parent governor representatives are entitled to vote only on any matter relating to education, whether in respect of schools or wider educational issues. They may in addition speak on any other matters within the remit of the committee.
- 3.35 By virtue of section 21(7) of the Act these representatives have the individual right to ensure their concerns are put onto the agenda of such committees.
- ✓ 3.36 In deciding the workplan of an overview and scrutiny committee the concerns of these representatives should be borne in mind.
- ✓ 3.37 Church and parent governor representatives are eligible to chair such committees. In such a case should a non-education matter come before the committee, local authorities may wish to include provisions in the standing orders of the committee for a voting member to take over the chair of the committee for such non-education matters, to allow the chair a casting vote if necessary.
- 3.38 By virtue of provisions in paragraph 7 of Schedule 1 to the Act and Regulations to be made under paragraph 9, the minimum number of church and parent governor representatives which an authority must appoint to a committee dealing with education will be four – one Church of England and one Roman Catholic Church representative and the minimum requirement of two parent governor representatives. In certain circumstances, for example where the area of the local education authority is covered by more than one Diocesan Board of Education, a local authority should consider representation from each such Board. The maximum number of parent governor representatives a local authority may appoint to any committee dealing with education will be five. In addition, a local authority may also have been directed to include, with voting rights, a representative of another faith or denomination. Where there is more than one committee covering educational matters, the same representatives may be appointed to each committee.

#### CONSULTING OTHERS

- ✓ 3.39 Overview and scrutiny committees should also seek advice from other committees of the local authority. Where a local authority has area committees or forums, the programme of work for overview and scrutiny committees should include a facility for those committees or forums to feed in their views and recommendations as part of any review which impacts on their area.

- ✓ 3.40 Moreover, the Secretary of State encourages overview and scrutiny committees to seek views from as many communities and interested parties as necessary to get a balanced picture of the effects of policy and executive decisions. In particular, an overview and scrutiny committee could conduct a review of how certain decisions have affected a particular community or area, taking advice from area committees or forums and other community groups and representatives.

### DECLARATION OF INTERESTS

- 3.41 Where any member of an overview and scrutiny committee has an interest in a decision or policy under review, she or he must declare an interest and may be required to withdraw from the meeting at which that issue is under discussion unless given a dispensation. When the ethical framework under Part III of the Act enters into force, this will be covered in the code of conduct and it will be for the local Standards Committee, in exceptional circumstances, to grant a dispensation to speak and exceptionally to vote at a meeting discussing the issue. Interests will normally have been declared in advance in the register of interests.
- 3.42 It is intended that the code of conduct will make provision allowing greater freedom for members, including those on overview and scrutiny committees, to declare an interest and take a full part in meetings, or alternatively to receive a local dispensation to speak, even if they have a direct interest in the matter being discussed. Church and parent governor representatives will be able to speak and vote on education matters. Where they have a particular personal interest they should declare that interest but remain to speak and vote at the meeting.
- 3.43 The Secretary of State intends that a member of an overview and scrutiny committee will not normally be able to be involved in scrutiny of a decision delegated by the executive to an area or joint committee of which she or he is a member. Further guidance on this can be found in chapter 6 of this guidance where area committees and joint committees are discussed in greater detail.
- ✓ 3.44 Similarly, members should declare an interest where they are members of an ordinary committee whose work is being reviewed but the Secretary of State does not consider that this type of interest should require them to withdraw from the meeting.

### THE PARTY WHIP

- ✓ 3.45 Overview and scrutiny committees are to hold decision makers to account. To do so effectively will require a change in the way members have traditionally questioned decisions. Although this is a matter for political parties to consider, both locally and nationally, the Government believes whipping is incompatible with overview and scrutiny and recommends that whipping should not take place.

## OFFICERS AND OVERVIEW AND SCRUTINY

- 3.46 ✓ To be effective, overview and scrutiny committees must have effective and properly resourced support from officers. Members, including church and parent governor representatives, will need help in researching the policy area or decisions they are examining and in deciding which avenues of enquiry to pursue and which witnesses to call. Experience from local authorities operating interim overview and scrutiny arrangements before the passing of the Act shows that focussed overview and scrutiny enquiries with a well-defined set of aims, albeit often looking at cross-cutting issues, are generally more successful than wide ranging enquiries.
- 3.47 ✓ Local authorities should provide overview and scrutiny committees with a discrete budget to allow them, for example, to engage independent consultants to assist in their enquiries or to cover the expenses of witnesses they may wish to call.
- 3.48 ✓ Overview and scrutiny committees should seek the advice of the monitoring officer where they consider that there is doubt about the vires for a decision. An overview and scrutiny committee should also seek the advice of the monitoring officer and other appropriate officers where it considers that a decision of the executive might be contrary to the policy framework. In this latter case, if, bearing in mind the relevant advice, the committee decides the decision was contrary to the policy framework and it has not yet been implemented, it may refer the matter to full council in line with procedures set out in chapter 2. If the decision has already been implemented, the committee should make a report to full council suggesting any remedial action it considers necessary.
- 3.49 ✓ Where an overview and scrutiny committee exercises the power in section 21(13)(a) to require officers to attend to answer questions or discuss issues it should also consider the seniority of officers it would be appropriate to require to appear before it. Local authorities may wish to adopt conventions that overview and scrutiny committees would normally only require officers above a certain grade to attend to ensure that more junior officers are not put under undue pressure.
- 3.50 ✓ Overview and scrutiny committees should always bear in mind that when officers appear to answer questions their evidence should, as far as possible, be confined to questions of fact and explanation relating to policies and decisions.
- 3.51 ✓ Officers may explain: what the policies are; the justification and objectives of those policies as the executive sees them; the extent to which those objectives may have been met; and how administrative factors may have affected both the choice of policy measures and the manner of their implementation.
- 3.52 ✓ Officers may, and in many cases should, be asked to explain and justify advice they have given to members of the executive prior to decisions being taken and they should also be asked to explain and justify decisions they themselves have taken under delegations from the executive.
- 3.53 ✓ As far as possible, officers should avoid being drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by officers on the executive's policies and actions should always be consistent with the requirement for officers to be politically impartial.



## TRAINING AND DEVELOPMENT

- 3.54 ✓ Local authorities should ensure that all those who undertake overview and scrutiny duties (councillors, officers, church and parent governor representatives and any co-opted members of overview and scrutiny committees) are given adequate training to adapt to their new roles. Members of the executive, officers and other stakeholders and experts should also receive training for appearances to answer questions and discuss issues with overview and scrutiny committees and in how to respond to the reports and recommendations from overview and scrutiny committees. Standards Committees also have a specific role to play in advising, training or arranging to train members on matters relating to their local authority's code of conduct.

## Policy development and review

- 3.55 A key element of the work of an overview and scrutiny committee is to be able to review and make recommendations either to the executive or to the full council and assist in development of future policies and strategies. Again, how precisely such arrangements work is a matter for local choice.
- 3.56 ✓ The Secretary of State encourages local authorities to make arrangements for policy reviews with cross-cutting themes rather than focusing on single functions. This will be particularly important in the community planning process.
- 3.57 ✓ Policy development and review will benefit from input from all key stakeholders including the local community and other local public, private and voluntary organisations, and such organisations and representatives should be involved in policy reviews by overview and scrutiny committees. In particular local authorities and their overview and scrutiny committees should pay particular attention to obtaining views from 'hard to reach' groups such as minority ethnic communities and people with disabilities.
- 3.58 ✓ The views of tenants could also be sought through a variety of consultation mechanisms, for example by asking tenants (or their representatives) to attend to answer questions and discuss issues or by co-opting tenants' representatives onto the relevant overview and scrutiny committee (without voting rights). A local authority's Tenants' Participation Compact needs to set out how the local authority (including overview and scrutiny committees) will involve tenants and their representatives in policy development and review.
- 3.59 ✓ Where an overview and scrutiny committee includes people who are not members of the local authority (without voting rights), the local authority should ensure that the committee's standing orders enable those representatives to have an opportunity to influence the committee's lines of enquiry and workplan for the review in question.
- 3.60 ✓ The policy development and review work of an overview and scrutiny committee will draw directly from the outputs of scrutinising executive decisions and proposed decisions. It should also involve the consideration of policy themes and matters of local concern which may have potential implications for the policies of the local authority. Executive arrangements should also make provision for overview and scrutiny committees to be consulted by the executive or full council about issues falling within the remit of the committee. This might involve the executive requesting an overview and scrutiny committee to conduct an enquiry into a particular issue.

- 3.61 ✓ Local authorities should also consider whether policy development and review in relation to a particular function or policy area should be carried out by the same committee which scrutinises decisions in that policy area or whether separate committees are needed for policy development depending on local circumstances. The Secretary of State believes that this is a matter for local choice.
- 3.62 ✓ Local authorities will need to make proper arrangements for the findings of such policy reviews to be considered by the executive or other relevant bodies in the local authority including the full council.
- 3.63 Figure 3.3 provides illustrative examples of arrangements for the executive to consider and respond to overview and scrutiny committee reports and recommendations.

### MATTERS OF WIDER LOCAL CONCERN

- 3.64 Part I of the Act provides powers for local authorities to promote the economic, social and environmental well-being of their community. It also confers a duty on local authorities to draw up a Community Strategy. The Government intends that this will enable local authorities to work more effectively with partner organisations for the benefit of the local community as a whole.
- 3.65 By virtue of section 21(2)(e), overview and scrutiny committees can make reports or recommendations to the local authority or the executive in relation to matters which are not the responsibility of the local authority but which nevertheless affect the local authority's area or its inhabitants. Any recommendations which overview and scrutiny committees make in such areas cannot be binding on outside bodies.
- 3.66 ✓ Local authorities should consider carefully whether and how such reviews take place. In particular, they should consider the roles of partnership organisations that deliver services and will wish to consider how they should be involved in such reviews. The executive and the local authority should take account of the outcomes of such reviews in developing the local authority's policy framework. Local authorities should have local procedures and conventions for such reports to be debated and, if appropriate, acted upon.
- 3.67 ✓ The Secretary of State considers that overview and scrutiny committees should, from time to time, examine healthcare provision within their area, for example as part of a review of the Health Improvement Programme.
- 3.68 The NHS Plan<sup>1</sup> published in July 2000 builds on emerging good practice of partnership working between local authorities and health bodies and signals the Government's intention, when legislative time is available, to legislate to provide powers for overview and scrutiny committees to require chief executives of local NHS organisations to attend to answer questions; to refer major planned changes in local NHS services to the Secretary of State; and to refer contested major service reconfigurations to the new Independent Reconfiguration Panel.

<sup>1</sup> The NHS Plan: TSO, July 2000 ISBN 0101 4818 29

**FIGURE 3.3:**

**EXAMPLES OF AN EXECUTIVE RESPONSE TO OVERVIEW AND SCRUTINY**

The executive and an overview and scrutiny chair (from different political parties) of one county jointly identified young people leaving care as a priority for the coming year. On their joint recommendation, the council agreed that issue as a priority for review, leaving the precise work programme and approach to be agreed between the executive and that overview and scrutiny committee.

The overview and scrutiny committee "took evidence" on the successes and failures of the current service. They canvassed the views of young people about to leave care and those of care leavers, as well as their families or carers, staff and other stakeholders immediately concerned. This identified a number of steps that the council itself could take to improve matters immediately. These were considered, agreed and implemented by the executive as they were within the existing budget and policy framework of that council.

The overview and scrutiny committee also identified a number of wider recommendations for other external stakeholders such as the Police, employers, and other agencies. The executive and the overview and scrutiny committee held a joint meeting in public and, after some detailed debate, agreed a final list of recommendations. The executive oversaw the detailed discussion and negotiation with the external agencies, combining them with other parallel negotiations arising from the council's community planning consultation process.

**BEST VALUE REVIEWS**

- 3.69 Overview and scrutiny committees cannot under the Act discharge any function of the local authority other than overview and scrutiny and conducting best value reviews. This is to ensure there is a clear separation between the discharge of functions and the review and oversight of functions.
- 3.70 Depending on local circumstances overview and scrutiny committees which have developed expertise in a particular service area are well placed to be involved in best value reviews of those services in accordance with orders made under section 5 of the Local Government Act 1999. Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, it is a matter for local choice who in the local authority carries out best value reviews. This applies only for the specific function of conducting a statutory review under section 5 of the Local Government Act 1999.
- 3.71 Overview and scrutiny committees should have a role in best value reviews. For example:
- ✓ ● overview and scrutiny committees could have sole responsibility for such reviews reporting to the executive and/or the authority;
  - responsibility could be shared between the executive and overview and scrutiny committees; or
  - an ordinary committee of the authority which includes members of both the executive and the relevant overview and scrutiny committees could be established to carry out best value reviews.

- 3.72 It is for local authorities to decide how best to involve overview and scrutiny committees in best value reviews and figure 3.4 provides some illustrative examples of how overview and scrutiny committees could be involved.
- 3.73 ✓ Where it is decided that an overview and scrutiny committee is to undertake a best value review, local authorities should make arrangements for such reports to be considered by the executive or by the full council (or both) as appropriate.

**FIGURE 3.4:**

#### **ILLUSTRATIVE EXAMPLES OF INVOLVEMENT OF OVERVIEW AND SCRUTINY COMMITTEES IN BEST VALUE REVIEWS**

In one council a "budgets and best value scrutiny committee" is responsible for agreeing the best value review programme and the final report and action plan. It also receives bi-monthly progress reports on each review and monitors the implementation of the action plan. Its best value reviews to date (five year 1 and six year 2 reviews) range from the school meals service and parks and open spaces to social inclusion and young people.

A metropolitan council involves its five overview and scrutiny committees formally in the best value process, with the help of a team of 6 officers who are each individually responsible for both best value and scrutiny. Overview and scrutiny committees:

- approve the terms of reference for reviews;
- receive outputs from best value reviews;
- review improvement plans; and
- are consulted annually about the five year programme.

## Holding the executive to account

- 3.74 ✓ A key function of overview and scrutiny committees is to hold the executive to account for the discharge of its functions. This can have four principal elements:
- scrutinising decisions which the executive is planning to take (for example, those on the forward plan – see chapter 7);
  - scrutinising executive decisions before they are implemented (a so-called 'call-in' mechanism);
  - scrutinising executive decisions after they have been implemented, whether shortly afterwards or as part of a wider review of policy, to measure their effect; and
  - reviewing the performance of the executive and the local authority's senior officers.

3.75 ✓ While overview and scrutiny committees must between them have power to scrutinise all decisions of the local authority, it would clearly be detrimental to efficient decision making if every individual decision were as a matter of course called before such committees and therefore this should not happen.

3.76 ✓ In addition, local authorities should also consider setting limits in particular on how decisions made by officers (other than the council manager) can be scrutinised individually. Such scrutiny of officer decisions should occur only as part of a review of service plans or during the best value process. However, it may be appropriate for key decisions (see chapter 7) made by officers to be subject to individual call-in.

### SCRUTINY OF PROPOSED DECISIONS

3.77 ✓ Overview and scrutiny committees should regularly review forward plans (see chapter 7) with a view to deciding which, if any, of the forthcoming decisions they wish to enquire into. Such an enquiry might consist of questioning members of the executive and officers and seeking the views of local stakeholders and other interested parties. The executive should take into account any views expressed by overview and scrutiny committees when determining the final decision.

### CALL-IN OF DECISIONS

3.78 Sections 21(2)(a) and (3) of the Act mean that a local authority's executive arrangements must ensure that overview and scrutiny committees have specific powers, in respect of functions which are the responsibility of the executive, to recommend that a decision made but not yet implemented be reconsidered by the person who made the decision or to recommend that the full council consider whether that person should reconsider the decision.

3.79 ✓ Local authorities should make provision in their executive arrangements as to how these procedures are to operate. Such provisions may include a standard period of delay before decisions are implemented. Those provisions should ensure that there is an appropriate balance between effectively holding the executive to account, being able to question decisions before they are implemented and allowing effective and efficient decision making by the executive within the policy framework and budget agreed by the full council. The provisions should ensure that a decision maker could only be asked to reconsider a decision once. Day-to-day management and operational decisions taken by officers should not be subject to any call-in procedure.

3.80 ✓ In addition, where the executive wishes to take an urgent key decision by seeking the agreement of the chair of a relevant overview and scrutiny committee (or where there is no chair of the overview and scrutiny committee with the chairman or vice-chairman of the authority) that the matter is urgent the local authority's call-in procedure should include provisions which prevent such urgent decisions from being called-in or in any other way delayed.

3.81 ✓ Local authorities should also agree how called-in decisions are responded to. If an overview and scrutiny committee examines a decision and decides to recommend an alternative course of action, local authorities should set out how this should work. In particular local authorities should consider the following questions:

- how should the executive (or other body within the local authority as the case may be) respond?
- what should the timescale for such a response be?

3.82 Figure 3.5 provides an illustrative example of one possible procedure for call-in.

**FIGURE 3.5:**

**ILLUSTRATIVE EXAMPLE OF ONE POSSIBLE PROCEDURE FOR CALL-IN**

- The executive publishes decisions made either at an executive meeting or which have been taken by an individual member.
- The executive arrangements provide that decisions which can be subject to call-in will come into force within, say, 5 working days of the decision being published unless an overview and scrutiny committee calls it in.
- Within that period any two or more members of an overview and scrutiny committee can request a meeting of the relevant overview and scrutiny committee to review the decision.
- All action to implement the decision is suspended for up to two weeks from the date of the decision within which time the overview and scrutiny committee may meet to decide whether to exercise the powers in section 21(3) of the Act.
- If the committee decides it disagrees with the decision it may exercise the powers in section 21(3) having regard to this statutory guidance.
- The decision maker reconsiders the decision and decides whether or not to change it explaining her or his reasons to the next meeting of overview and scrutiny or full council as appropriate. For example: the decision is re-examined at the next meeting of the executive with one or more representatives of the overview and scrutiny committee attending to put their case.

3.83 ✓ Local authorities should ensure that the executive arrangements ensure that any call-in procedure is not abused or used unduly to delay decisions or slow down the process of decision making. In particular the executive will, from time to time, need to take decisions which need to be implemented quickly. Local authorities will need to develop local conventions and protocols to prevent abuse of an overview and scrutiny committee's power to recommend that a decision made, but not yet implemented, be reconsidered. Local authorities should keep the operation of any call-in arrangements under review to ensure that they are not abused with an associated negative effect on the efficiency of executive decision making.

- 3.84 ✓ A safeguard which could be adopted in the executive arrangements could be to include provision requiring a certain number of committee (or local authority) members to call in a particular decision (although in the case of a church or parent governor representative they may be given an individual power to call in a decision).
- 3.85 Some examples of safeguards are given in 3.6.

**FIGURE 3.6 :**

**SAFEGUARDS TO PREVENT ABUSE OF CALL-IN**

One unitary council with six "Review and Scrutiny" committees operates a procedure as follows:

- call-in of any executive decision must be within 3 days of the decision (the executive meets fortnightly in public);
- 5 members of any Review and Scrutiny committee are needed to request a decision be called in; and
- the 5 members must involve representation of at least 2 political groups.

Another local authority operates a procedure by:

- publishing a fortnightly members' information sheet with all recommendations (for decisions) made by the executive or executive members;
- at least 3 members need to request the call-in of a decision; and
- a 'call-in committee' of members who are not members of the executive considers the request for call-in.

There are 3 call-in committees, each looking at one of the following areas:

- corporate issues;
- education and leisure; and
- housing and social services.

- 3.86 ✓ Local authorities will need to consider, when designing such mechanisms, that under normal circumstances where a decision relates to a function which is the responsibility of the executive, ultimately only the executive can decide the matter.
- 3.87 ✓ To avoid the possibility of very many emergency council meetings the Secretary of State recommends that overview and scrutiny committees should only use the power in section 21(3)(b) to refer matters to the full council if they consider that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget. Where an overview and scrutiny committee refers a decision to the full council there should be clear timescales set out in the local authority's constitution within which the debate should take place to avoid decisions being unnecessarily delayed.