

Section of the Order	Current Provision	Further Action Required
<p>3. - (1) The majority of members of a combined authority's overview and scrutiny committee must be members of that combined authority's constituent councils.</p>	<p>Compliant at present.</p>	<p>At present there are 12 members on the Scrutiny Committee, 7 from Constituent Authorities, 3 from Non-Constituent Authorities and 2 from LEP's.</p> <p>Black Country and Coventry and Warwickshire have each nominated a representative to the scrutiny board, the third LEP (Greater Birmingham and Solihull) have yet to nominate a representative.</p> <p>As the number of non-constituent councils increase there is a danger that, should each wish to sit on the Scrutiny Committee, the majority of members would cease to be from constituent councils. Options are discussed within the report and detail is provided in Appendix 2.</p>
<p>3. - (2) At least two-thirds of the total number of members of the overview and scrutiny committee must be present at a meeting of the overview and scrutiny committee before business may be transacted.</p>	<p>Requires change in constitution.</p>	<p>Part 2, Section 9. of the WMCA Constitution be amended to read: "no business is to be transacted at a meeting of any overview and scrutiny committee appointed by the Combined Authority unless two thirds of its members from at least five separate Constituent Authorities (or substitute members acting in place of those members) are present at the meeting.</p>

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3. - (3) Each member of the overview and scrutiny committee appointed from the constituent councils is to have one vote and no member is to have a casting vote.	Compliant.	No action required.
3. - (4) Members of the overview and scrutiny committee who are appointed other than from the constituent councils shall be non-voting members of the committee but may be given voting rights by resolution of the combined authority.	Part 2, Section 6 of the WMCA Constitution states that each member of the Overview and Scrutiny Committee has one vote.	The decision to allow non-constituent councils the right to vote needs to be by resolution of the Board. The CA constitution is silent on this at the moment and needs to be explicit.
3. - (5) Any questions that are to be decided by the overview and scrutiny committee are to be decided by a simple majority of the members present and voting on that question at a meeting of the overview and scrutiny committee.	Compliant.	No action required.
3. - (6) If a vote is tied on any matter it is deemed not to have been carried.	Compliant.	No action required.
3. - (7) In this article, references to an overview and scrutiny committee include references to a subcommittee of such a committee.	As the Committee has established Select Committees the provisions of this order will also apply to these bodies.	No action required.
4.—(1) The combined authority must— (a) appoint such a number of members of each of the constituent councils to an overview and scrutiny committee, so that the members of the committee taken as a whole reflect so far as reasonably practicable the balance of political parties for the time being prevailing	Will be reliant on each council confirming nominations in order to be compliant.	Liaise with all councils to advise of deadline for receipt of nominations. Publish notice online advising of appointments.

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<p>among members of the constituent councils when taken together; and</p> <p>(b) within the period of 28 days beginning with the day on which an appointment is made to the overview and scrutiny committee, publish a notice that—</p> <p>(i) states that it has made an appointment;</p> <p>(ii) identifies each member of the committee who has been appointed; and</p> <p>(iii) specifies the period for which the members of the committee have been appointed.</p>		
<p>4. - (2) The notice mentioned at paragraph (1)(b) must be published—</p> <p>(a) if the combined authority has a website, on its website; or</p> <p>(b) otherwise, in such manner as it thinks is likely to bring the notice to the attention of persons who live in its area.</p>	See above.	See above.
<p>5.—(1) — Paragraphs (2) to (4) apply where the chair of an overview and scrutiny committee is to be an independent person in accordance with provision made under paragraph 3 of Schedule 5A to the 2009 Act(b).</p>		
<p>5. - (2) A person is independent if the person—</p> <p>(a) is not a member, co-opted member or officer of the combined authority;</p> <p>(b) is not a member, co-opted member or officer of a constituent council or a parish council for which a constituent council is the principal authority;</p> <p>(c) is not a relative, or close friend, of a person within</p>	Not applicable at present.	The WMCA Board may wish to consider the appointment of an independent chair in future years, if so these provisions would apply.

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<p>sub-paragraph (a) or (b); and (d) was not at any time during the 5 years ending with an appointment as chair of the overview and scrutiny committee under arrangements made by the combined authority in accordance with paragraph 3(4)(a) of Schedule 5A to the 2009 Act— (i) a member, co-opted member or officer of the combined authority; or (ii) a member, co-opted member or officer of a constituent council or a parish council for which a constituent council is the principal authority. (3) A person may not be appointed as independent chair of the overview and scrutiny committee unless— (a) the vacancy for a chair of the overview and scrutiny committee has been advertised in such manner as the combined authority considers is likely to bring it to the attention of the public; (b) the person has submitted an application to fill the vacancy to the combined authority, and (c) the person’s appointment has been approved by a majority of the members of the combined authority. 5. - (4) A person appointed as independent chair of the overview and scrutiny committee does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment. 5. - (5) Paragraph (6) applies where the chair of an overview and scrutiny committee is to be an appropriate person in accordance with provision made</p>		

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under paragraph 3(4)(b) of Schedule 5A to the 2009 Act.		
<p>5. - (6) Where the mayor is not a member of a registered political party, a person may not be appointed as chair of the overview and scrutiny committee if that person is –</p> <p>(a) a member of the registered political party which has the most representatives among the members of the constituent councils on the combined authority, or</p> <p>(b) where two or more parties have the same number of representatives, a member of any of those parties.</p>	Not compliant.	<p>Change required to Part 2, Section 7 of the WMCA Constitution. The Chair of the WMCA Scrutiny Committee will not be able to be of the same political party as the elected mayor, following the mayoral election on 4 May 2017.</p> <p>Add to 7.1 “The chair of the committee must come from a different political party from the combined authority mayor (or the combined authority’s majority party, if there is no mayor)”.</p>
<p>6.—(1) The combined authority must ensure that it enables—</p> <p>(a) any member of an overview and scrutiny committee to refer to the committee any matter which is relevant to the functions of the committee;</p> <p>(b) any member of a sub-committee of an overview and scrutiny committee to refer to the sub-committee any matter which is relevant to the functions of the sub-committee;</p> <p>(c) any member of the combined authority to refer to an overview and scrutiny committee any matter which is relevant to the functions of the committee and is not an excluded matter; and</p> <p>(d) any member of a constituent council or a non-constituent council(a) of a combined authority to refer to an overview and scrutiny committee any matter</p>	Compliant.	<p>Suggest further work take place with constituent and non-constituent councils to publicise the work of WMCA Scrutiny Committee, in order to engage Council’s in the scrutiny process.</p> <p>Existing work with the West Midlands Regional Scrutiny Network provides a good foundation for this work in ensuring messages are delivered at a local level and that there is opportunity for council’s to feed information up.</p> <p>Session carried out with the Regional Scrutiny Network on 13 January, 2017.</p>

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which is relevant to the functions of the committee and is not an excluded matter.		
<p>6. - (2) For the purposes of paragraph (1), a combined authority enables a member mentioned in paragraph (1)(a) to (d) to refer a matter to a committee or sub-committee if it enables that member to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee or sub-committee.</p>	Compliant.	See above.
<p>6. - (3) Paragraphs (4) to (7) apply where a matter is referred to an overview and scrutiny committee by a member of a combined authority or a member of a constituent council or a non-constituent council in accordance with arrangements made by the combined authority pursuant to paragraph (1)(c) or (d).</p>	Compliant	Ensure that members are trained on the powers of overview and scrutiny.
<p>6. - (4) In considering whether or not to exercise any of the powers under arrangements made in accordance with paragraph 1(2)(a) or (3)(a) of Schedule 5A to the 2009 Act in relation to a matter referred to the committee, the committee must have regard to any representations made by the member as to why it would be appropriate for the committee to exercise any of these powers in relation to the matter.</p> <p>6. - (5) If the committee decides not to exercise any of its powers under arrangements made in accordance with paragraph 1(2)(a) or (3)(a) of Schedule 5A to the 2009 Act in relation to the matter, it must notify the member of—</p> <p>(a) its decision; and</p> <p>(b) the reasons for it.</p>	Compliant	Ensure that members are trained on the powers of overview and scrutiny.

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<p>6. - (6) The committee must provide the member with a copy of any report or recommendations which it makes under paragraph 1(2)(b) or (3)(b) of Schedule 5A to the 2009 Act in connection with the matter referred to it by the member.</p> <p>6. - (7) Paragraph (6) is subject to article 8 (confidential and exempt information).</p>		
<p>7.—(1) Where an overview and scrutiny committee or a sub-committee of such a committee makes a report or recommendations the committee may—</p> <p>(a) publish the report or recommendations;</p> <p>(b) by notice in writing require the combined authority or the mayor to—</p> <p>(i) consider the report or recommendations;</p> <p>(ii) respond to the overview and scrutiny committee indicating what (if any) action the combined authority proposes to take;</p> <p>(iii) if the overview and scrutiny committee has published the report or recommendations under paragraph (a), publish the response.</p> <p>(2) A notice given under paragraph (1)(b) must require the combined authority or the mayor to comply with it within two months beginning with the date on which the combined authority or the mayor received the reports or recommendations or (if later) the notice.</p> <p>(3) The combined authority or the mayor must respond to a report or recommendations made by an overview and scrutiny committee, or a sub-committee of such a committee, as result of a</p>	<p>No recommendations have been put forward from scrutiny to the executive as yet.</p>	<p>Develop protocols between scrutiny and the executive to ensure all parties are clear on requirements and expectations in relation to the consideration of recommendations.</p>

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referral made in accordance with article 6 within two months beginning with the date on which the combined authority or the mayor received the notice.		
<p>(4) Where an overview and scrutiny committee exercises any of its powers under arrangements made in accordance with paragraph 1(2) or 1(3) of Schedule 5A to the 2009 Act in relation to a decision made but not implemented—</p> <p>(a) where recommendations have been made under paragraph 1(4)(b) of Schedule 5A to the 2009 Act, the combined authority or the mayor must hold a meeting to reconsider the decision no later than 10 days after the date on which the recommendations of the overview and scrutiny committee were received by the combined authority; and</p> <p>(b) any direction under arrangements made in accordance with paragraph 1(4)(a) of Schedule 5A to the 2009 Act may have effect for a period not exceeding 14 days from the date on which the direction is issued.</p>	Compliant.	No action required.
<p>8.—(1) This article applies in relation to—</p> <p>(a) the publication of any document as a result of a reference made in accordance with article 7 (duty of combined authority and the mayor to respond to overview and scrutiny committee) comprising—</p> <p>(i) a report or recommendations of an overview and scrutiny committee; or</p> <p>(ii) a response of a combined authority or the mayor to any such report or recommendations; and</p>	No recommendations have been put forward from scrutiny to the executive as yet.	Develop protocols between scrutiny and the executive to ensure all parties are clear on requirements and expectations in relation to the consideration of recommendations.

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<p>(b) the provision of a copy of such a document to a member of a combined authority or to a member of a constituent council or a non-constituent council, by an overview and scrutiny committee or a combined authority or the mayor.</p>		
<p>(2) The overview and scrutiny committee or the combined authority, or the mayor in publishing the document— (a) must exclude any confidential information; and (b) may exclude any relevant exempt information. (3) The overview and scrutiny committee, or the combined authority, or the mayor, in providing a copy of a document to a member of the combined authority or to a member of a constituent council or a non-constituent council, may exclude any confidential information or relevant exempt information. (4) Where information is excluded under paragraph (2) or (3), the overview and scrutiny committee or the combined authority, or the mayor, in publishing, or providing a copy of, the document— (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) If by virtue of paragraph (2), (3) or (4) an overview and scrutiny committee or the combined authority, or the mayor, in publishing or providing a</p>	Compliant.	No action required.

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<p>copy of a report or recommendations—</p> <p>(a) excludes information; or</p> <p>(b) replaces part of the report or the recommendations with a summary, it is nevertheless to be taken to have published the report or recommendations.</p> <p>(6) In this article—</p> <p>“confidential information” has the meaning given by section 100A(3) of the Local Government Act 1972(a) (admission to meetings of principal councils);</p> <p>“exempt information” has the meaning given by section 100I of that Act(b); and</p> <p>“relevant exempt information” means—</p> <p>(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</p> <p>(b) in relation to a response of the authority or of the mayor, 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.</p> <p>(7) In this article, references to an overview and scrutiny committee include references to a</p>		

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subcommittee of such a committee.		
<p>9.—(1) A combined authority must designate one of its officers as the scrutiny officer of the overview and scrutiny committee to discharge the functions in paragraph (2).</p> <p>(2) Those functions are—</p> <p>(a) to promote the role of the overview and scrutiny committee;</p> <p>(b) to provide support and guidance to the overview and scrutiny committee and its members;</p> <p>(c) to provide support and guidance to members of the combined authority and to the mayor in relation to the functions of the overview and scrutiny committee.</p> <p>(3) A combined authority may not designate as the scrutiny officer any officer of a constituent council of the combined authority.</p> <p>(4) In this article, references to an overview and scrutiny committee include references to a subcommittee of such a committee.</p>	Compliant.	DCLG have indicated that a seconded officer from a constituent authority would meet requirements.
<p>10.—(1) Subject to paragraph (3), a member of an overview and scrutiny committee or a subcommittee of such a committee is entitled to a copy of any document which—</p> <p>(a) is in the possession or under the control of the combined authority or the mayor ; and</p> <p>(b) contains material relating to—</p> <p>(i) any business that has been transacted at a meeting of a decision-making body of that authority; or</p> <p>(ii) any decision that has been made by an individual</p>	Compliant.	No action required.

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<p>member of that combined authority.</p> <p>(2) Subject to paragraph (3), where a member of an overview and scrutiny committee or a subcommittee of such a committee requests a document which falls within paragraph (1), the combined authority or the mayor must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the combined authority receives the request.</p>		
<p>(3) No member of an overview and scrutiny committee is entitled to a copy—</p> <p>(a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to—</p> <p>(i) an action or decision that that member is reviewing or scrutinising; or</p> <p>(ii) any review contained in any programme of work of such a committee or subcommittee of such a committee; or</p> <p>(b) of a document or part of a document containing advice provided by a political adviser (a).</p> <p>(4) Where the combined authority or the mayor determines that a member of an overview and scrutiny committee is not entitled to a copy of a document or part of any such document for a reason set out in paragraph (3), it must provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.</p> <p>(5) In this article, references to an overview and scrutiny committee include references to a</p>	Compliant.	No action required.

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subcommittee of such a committee.		
PART 3 – Key Decisions		
<p>11. —(1) In this Order—</p> <p>(a) a “key decision” means a decision of a decision maker, which in the view of the overview and scrutiny committee for a combined authority is likely—</p> <p>(i) to result in the combined authority or the mayor incurring significant expenditure, or the making of significant savings, having regard to the combined authority’s budget for the service or function to which the decision relates; or</p> <p>(ii) to be significant in terms of its effects on person s living or working in an area comprising two or more wards or electoral divisions in the area of the combined authority;</p> <p>(b) “decision maker” includes a mayor or a person exercising functions pursuant to arrangements under section 107D(3)(a) or (b) of the 2009 Act.</p>	Forward plan for CA in place.	Update required to the constitution in order to set out mechanisms to ensure compliance and communication/training for officers to ensure requirements of the Order are met.
<p>(2) Where a decision maker intends to make a key decision, that decision must not be made until a notice has been published which states—</p> <p>(a) that a key decision is to be made in relation to the discharge of functions which are the responsibility of the combined authority;</p> <p>(b) the matter in respect of which the decision is to</p>	Forward plan for CA in place.	Update required to the constitution in order to set out mechanisms to ensure compliance and communication/training for officers to ensure requirements of the Order are met.

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<p>be made;</p> <p>(c) the decision maker's name, and title if any;</p> <p>(d) the date on which, or the period within which, the decision is to be made;</p> <p>(e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;</p> <p>(f) the address from which, subject to any prohibition or restriction on their disclosure under article 8(2), copies of, or extracts from, any document listed is available;</p> <p>(g) that other documents relevant to those matters may be submitted to the decision maker;</p> <p>(h) the procedure for requesting details of those documents (if any) as they become available.</p>		
<p>(3) At least 28 clear days before a key decision is made, the notice referred to in paragraph (2) must be—</p> <p>(a) published—</p> <p>(i) if the combined authority has a website, on its web site; or</p> <p>(ii) otherwise, in such manner as it thinks is likely to bring the notice to the attention of persons who live in its area;</p> <p>(b) made available for inspection by the public at the offices of the combined authority.</p> <p>(4) Where, in relation to any matter—</p>	<p>Forward plan for CA in place, published on the CA website.</p>	<p>Update required to the constitution in order to set out mechanisms to ensure compliance and communication/training for officers to ensure requirements of the Order are met.</p>

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<p>(a) the public may be excluded under section 100A of the Local Government Act 1972 from the meeting at which the matter is to be discussed; or</p> <p>(b) documents relating to the decision need not, because of article 8 (confidential information), be disclosed to the public, the notice referred to in paragraph (2) must contain particulars of the matter but may not contain any confidential information or exempt information or particulars of the advice of a political adviser.</p> <p>(5) In paragraph (4), “confidential information” and “exempt information” have the meanings given by article 8(6).</p>		
<p>General exception 12.</p> <p>—(1) Subject to article 13, where the publication of the intention to make a key decision under article 11 is impracticable, that decision may only be made—</p> <p>(a) where the proper officer has informed the chair of the relevant overview and scrutiny committee or, if there is no such person, each member of the relevant overview and scrutiny committee by notice in writing, of the matter about which the decision is to be made;</p> <p>(b) where the proper officer has made available to the public at the offices of the combined authority</p>	<p>Matters of urgency are detailed in the CA’s constitution, however at present this does not comply with the Orders requirements.</p>	<p>Constitution requires amendment to comply with requirement.</p>

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<p>for inspection by the public and published on the combined authority's website, if it has one, a copy of the notice given pursuant to sub-paragraph (a); (c) after 5 clear days have elapsed following the day on which the proper officer made available the copy of the notice referred to in sub -paragraph (b).</p> <p>(2)Where paragraph (1)(a) or (b) applies to any matter, article 11 need not be complied with in relation to that matter.</p> <p>(3)As soon as reasonably practicable after the proper officer has complied with paragraph (1), he or she must—</p> <p>(a)make available to the public at the offices of the combined authority a notice setting out the reasons why compliance with article 11 is impracticable; and</p> <p>(b) publish that notice on the combined authority's web site, if it has one.</p>		
<p>Cases of special urgency</p> <p>13.—(1) Where the date by which a key decision must be made makes compliance with article 12 impracticable, the decision may only be made where the decision maker has obtained agreement from—</p> <p>(a)the chair of the relevant overview and scrutiny committee; or</p>	<p>Matters of urgency are detailed in the CA's constitution, however at present this does not comply with the Orders requirements.</p>	<p>Constitution requires amendment to comply with requirement.</p>

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<p>(b)if there is no such person, or if the chair of the relevant overview and scrutiny committee is unable to act, the chair of the combined authority; or</p> <p>(c) where there is no chair of either the relevant over view and scrutiny committee or of the combined authority, the vice-chair of the combined authority, that the making of the decision is urgent and cannot reasonably be deferred.</p> <p>(2)As soon as reasonably practicable after the decision maker has obtained agreement under paragraph (1) that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must—</p> <p>(a)make available to the public at the offices of the combined authority a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and</p> <p>(b) publish that notice on the combined authority’s web site, if it has one.</p>		