

Article 5 – Overview and Scrutiny

(References: Section 21 and Schedule 1 (paragraphs 7, 8, 10 and 11), Local Government Act 2000)

This Article sets out the principle, structure, role and functions of Overview and Scrutiny. Detailed information about the operation of Overview and Scrutiny is set out in the Standing Orders in relation to Overview and Scrutiny.

5.01 Principle of Overview and Scrutiny

Torbay Council aims to have an overview and scrutiny function which adheres to the Centre for Public Scrutiny's four principles of good scrutiny, as set out below.

Good public scrutiny:

1. provides “critical friend” challenge to executive policy-makers and decision-makers;
2. enables the voice and concerns of the public;
3. is carried out by “independent minded governors” who lead and own the scrutiny role; and
4. drives improvement in public services.

5.02 Overview and Scrutiny Bodies

The Council will appoint a committee known as the Overview and Scrutiny Board to perform the overview and scrutiny function which is the central element to the Constitution.

The Overview and Scrutiny Board may appoint a sub-committee known as the Health Scrutiny Board to perform the Council's functions in relation to health scrutiny.

The Overview and Scrutiny Board may appoint other sub-committees to perform its functions. In addition the committee and/or their sub-committees may appoint working parties to perform their functions.

Overview and scrutiny sub-committees and/or working parties may be known by other appropriate names.

5.03 Membership of overview and scrutiny bodies

The membership of the overview and scrutiny committee and its sub-committees will be as set out in the Standing Orders in relation to Overview and Scrutiny in Part 4 of this Constitution.

5.04 Overview and Scrutiny Co-ordinator

The Council will appoint a councillor who is a member of the Overview and Scrutiny Board to act as the Overview and Scrutiny Co-ordinator. The Overview and Scrutiny Co-ordinator will normally be the person elected as Chairman/woman of the Overview and Scrutiny Board. The role of the Overview and Scrutiny Co-ordinator will have equivalent status to the role of a Member of the Cabinet and have special responsibility for leading the overview and scrutiny function. The Council may at any time remove the member from the post of Overview and Scrutiny Co-ordinator.

5.05 Overview and Scrutiny Lead Members

The Council may appoint councillors as Overview and Scrutiny Lead Members with designated special responsibilities. Subject to the overall composition of the Overview and Scrutiny Board complying with the requirements of political balance, each Scrutiny Lead Member will also be a member of the Overview and Scrutiny Board. The Council may at any time remove any member from the posts of Overview and Scrutiny Leads.

5.06 General role of the Overview and Scrutiny Bodies

Within its terms of reference (and in accordance with Standing Orders in relation to Overview and Scrutiny or the Local Protocol on Working Parties as appropriate), the overview and scrutiny committee, its sub-committees and any working parties of the committee or its sub-committees may:

- (i) review and/or scrutinise decisions made or actions taken in respect of any functions which are the responsibility of the Council or the Leader of the Council;
- (ii) make reports and/or recommendations to any relevant body in respect of any matter which affects Torbay or its inhabitants;
- (iii) make reports and/or recommendations to any joint or area committee in connection with the discharge of any of their functions;
- (iv) consider matters referred to it by the Leader of the Council or the Cabinet;
- (v) review and/or scrutinise matters relating to the health service within Torbay and make reports and/or recommendations on such matters;
- (vi) review and/or scrutinise matters relating to crime and disorder within Torbay and make reports and/or recommendations on such matters; and
- (vii) exercise the right to call-in, for consideration, decisions made, but not yet implemented, by the Leader of the Council, the Cabinet, a Committee of the Cabinet, individual members of the Cabinet and/or any joint or area committee (in respect of the executive functions only) or by officers (in respect of Key Decisions only).

The Overview and Scrutiny Board or, if relevant and appointed, the Health Scrutiny Board may consider any Councillor Calls for Action referred to it in accordance with the Standing Orders in relation to Overview and Scrutiny.

However, the overview and scrutiny committee, its sub-committees or any working parties of the committees or their sub-committees will not normally scrutinise individual decisions in relation to development management, licensing, registration, consents or other permissions. The overview and scrutiny function will not be an alternative to normal appeals procedures.

5.07 Specific functions of the overview and scrutiny committees

- (a) Policy development and review

The overview and scrutiny bodies may:

- (i) assist the Council and Leader of the Council in the development of the Council's Budget and Policy Framework by in-depth analysis of policy issues;
- (ii) consider matters referred to them by the Leader of the Council, the Cabinet, committees of the Cabinet and members of the Cabinet;
- (iii) conduct research and consultation (with the community and others) in the analysis of policy issues and possible options;
- (iv) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (v) question the Leader of the Council, members of the Cabinet, members of any committee and officers about their views on issues and proposals affecting the area; and
- (vi) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) Scrutiny

The overview and scrutiny committees may:

- (i) review and scrutinise the decisions made by, and the performance of, the Leader of the Council, the Cabinet and any committees over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and particular service areas;
- (iii) question the Leader of the Council, members of the Cabinet, members of any committee, members who have power delegated to them under section 236 of the Local Government and Public Involvement in Health Act 2007 and officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Leader of the Council, the Cabinet, any committees or the Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the relevant overview and scrutiny committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).

(c) Finance

The Overview and Scrutiny Board may exercise overall responsibility for any finances made available to it and the other overview and scrutiny committees.

(d) Annual report

The Overview and Scrutiny Board must report annually (on behalf of all the overview and scrutiny committees) to the Council on the workings of overview and scrutiny at Torbay and make recommendations for the future work programme for the Overview and Scrutiny Board (including the other overview and scrutiny committees, their sub-committees and any working parties) and amended working methods if appropriate.

(e) Other Functions

The Overview and Scrutiny Board may consider any matters that are required by law or good practice to be considered by the Board.

5.08 Proceedings at overview and scrutiny committees

Meetings of the overview and scrutiny committees and its sub-committees will be held in accordance with the appropriate Standing Orders set out in Part 4 of this Constitution. Meetings of the working parties of the committees or their sub-committees will be held in accordance with the Local Protocol on Working Parties as set out in Part 5 of this Constitution.