

REFERENCES FROM COUNCIL/COMMITTEES/GROUPS

7d Local Petitions and Calls for Action – recommendations from the Overview and Scrutiny Committee 17th September 2008**37. ANNUAL WORK PROGRAMME 2008/09 - NEW SCRUTINY LEGISLATION - LOCAL PETITIONS AND CALLS FOR ACTION – THE GOVERNMENT RESPONSE**

The Scrutiny Manager presented a report on the paper that the Department for Communities and Local Government had published following the responses that it had received to its consultation paper published in December last year.

In respect of the Local Petitions process, the Government's intention was to set down the requirements that Councils would need to follow to comply with the duty to set up a Local Petitions scheme, but to leave some of the details to local discretion.

The officer's report set out: the essentials of the petitioning process; the need for Councils to make a substantive response to all petitions; the need for Councils to make a more significant response to large petitions (i.e. those supported by 5% of residents); the facility for petitioners to appeal to the Overview and Scrutiny Committee if dissatisfied with the response they receive.

The Government would keep the petitioning process under review, and it was also keen to explore how authorities could act as community advocates (e.g. for petitions related to Primary Care Trusts on subjects such as the level of community services).

Members noted that the duty to respond to petitions will be included in the forthcoming Empowerment, Housing and Economic Regeneration Bill.

The Committee was also advised that in the recent Government consultation paper on Improving Local Accountability, the Government had highlighted that it wants to ensure that local authorities take petitions seriously, and that petitioners should have a right to appeal to a Council's Overview and Scrutiny Committee if they were not satisfied with the local authority response.

Question 8 of the consultation paper had asked: Do you agree that appeals about a local authority's response to a petition should be considered by the overview and scrutiny committee?

What practical issues might arise?

Following discussion, the Committee supported the proposal for appeals to be dealt with by the Overview and Scrutiny Committee. No practical issues were identified as such, but members felt that guidance on the mechanics of the appeals process was required. For example: Will petitioners have a right to attend the Overview and Scrutiny Committee to put their case? Will the Department/Cabinet Portfolio holder be required to attend to justify their response?

DECISION: that it be **Recommended** to Cabinet that the comments detailed above be submitted to the Department for Communities and Local Government in response to this question in the consultation paper (see also minute 38).

In relation to the Councillor Call for Action (CCfA), the Committee noted that the government had decided that matters for which there are already statutory processes, and complaints about an individual's treatment by the authority, should be excluded from the scope of the CCfA.

Members noted that there are two strands to the CCfA – Councillor Calls for Action relating to local government matters (other than crime and disorder issues) – Councillor Calls for Action relating solely to crime and disorder issues. It was still anticipated that there would be a seamless process for dealing with both types of CCfA.

It was noted that the latest indication from the Government was that guidance on the principles of the CCfA will now be issued before the end of 2008. The guidance will explain to councillors how they can use the power, and advise the local authority how to deal with CCfAs.

In respect of the Councillor Call for Action in respect of crime and disorder issues, the Committee was advised that there is a specific question included in the Policing Green Paper that asks:

"How might the CCfA be best used to complement the broader changes to local accountability arrangements for policing?"

The proposed accountability arrangements were outlined in the officer's report.

The deadline for the receipt of comments on this question was 10th October 2008.

Following discussion, the Committee agreed that as long as it could request the compulsory attendance of Crime and Disorder Reduction Partnership (CDRP) partners at a scrutiny meeting to answer questions and explain any action taken, and as long as CDRP partners have a duty to respond to scrutiny reports and recommendations, then the CCfA would appear to be complementary to the proposed local accountability arrangements.

However, it would be helpful if the Home Office would clarify whether it envisages any specific role for the elected Crime and Policing Representative in the CCfA.

DECISION: that it be **Recommended** to Cabinet that the comments detailed above be submitted to the Home Office in response to this question in the Policing Green Paper.

(In discussing the proposed accountability arrangements set out in the Policing Green Paper and in particular the proposal for each CDRP to elect a new politician to be the local Crime and Disorder Representative to sit on the police authority and the CDRP in place of those current councillors who have been nominated to serve by their local authority, the following motion was proposed and seconded:-

"That it be recommended to Cabinet that the Home Office be advised that the Council does not agree with the proposal that there should be a new type of politician elected to be the local Crime and Policing Representative to sit on the police authority and the CDRP, and that there should be no change to the existing arrangements where such representatives are nominated to serve by their local authority."

On being put to the vote, the motion was declared LOST.)

7e Communities in Control: Real People, Real Power – Improving Local Accountability - recommendations from the Overview and Scrutiny Committee 17th September 2008

38. ANNUAL WORK PROGRAMME 2008/09 – NEW SCRUTINY LEGISLATION - COMMUNITIES IN CONTROL: REAL PEOPLE, REAL POWER – IMPROVING LOCAL ACCOUNTABILITY – CONSULTATION REPORT

The Scrutiny Manager presented a report on Chapters 2 and 3 respectively of this consultation paper received from the Department for Communities and Local Government, that related to overview and scrutiny.

Chapter 2 was about developing and strengthening overview and scrutiny and in particular enhancing Councils scrutiny powers in relation to Local Area Agreements (LAAs).

Chapter 3 was about increasing the visibility and accountability of local public officers.

The deadline for the receipt of responses was 30th October 2008.

The consultation paper included a series of consultation questions and the Committee considered each question in turn and commented as follows:-

Chapter 2 - Provisions relating to councils scrutiny of LAA partners and their delivery of LAA targets

Overview and scrutiny committees to require information from partner authorities

The proposal is that:-

- LAA partners (other than police and local health services for which separate provision is made) should provide information requested by a lead authority's overview and scrutiny committee for the purposes both of examining progress on LAA targets with which the partner is concerned and of undertaking studies of local issues connected to such targets (**the lead council in Essex is Essex County Council**);
- Similarly, in a two tier area the lead council or LAA partners – described in the legislation as "associated authorities" - should make available to the district

council overview and scrutiny committee information relevant to a target connected to that council's area and functions, including its legitimate concerns about the well being of the area;

- Partner authorities must also provide information where it relates to an agenda item of the overview and scrutiny committee concerned and has been requested by that overview and scrutiny committee.

Consultation Question 1 asks: Do you agree with our proposed approach in relation to overview and scrutiny committees requiring information from partner authorities.

The Committee felt that the approach was acceptable in principle, but also commented that:-

(1) the Government needs to clarify whether in addition to providing information there will also be a requirement for LAA partners to attend Councils overview and scrutiny committees where requested;

(2) the effectiveness of scrutiny will be best served by the Government actually specifying the time limits (say two months) for responses by partner or associated authorities.

Publication of Scrutiny Reports, Recommendations and Responses

The proposal is to extend to overview and scrutiny committees and local authorities only, provisions for exempt and confidential information when publishing scrutiny reports, recommendations and responses. Regulations will also be made to extend these provisions without modification to local authority executives where they publish or provide copies of such documents.

Consultation Question 2 asks: Do you agree with the proposal to apply the provisions in relation to exempt and confidential information without modification to local authority executives?

The Committee felt that this proposal was acceptable.

Establishment of Joint County and District Overview and Scrutiny Committees

The proposal is to allow for the establishment of a joint overview and scrutiny committee of a county council and one or more districts within the county area to make reports and recommendations collaboratively in relation to LAA targets for the local area. The proposal suggests that these joint committees should have similar powers to those held by the overview and scrutiny committees of the local authorities within the county area. There will be similar provision for joint committees in respect of partners. There will be a need to avoid burdensome requests on partners.

A joint overview and scrutiny committee may make reports and recommendations to the local authorities or local authority executives within the county area who

would then have to respond within two months.

Consultation Question 3 asks: Do you agree with the proposed approach towards joint overview and scrutiny committees? Are there specific issues that should be considered as part of the approach?

The Committee felt that this proposal was acceptable in principle. However, it was noted that joint committees would have power to appoint sub-committees and co-opt members, and in this respect the Government needs to clarify whether co-opted members would have any voting rights.

Enhancing the powers of district overview and scrutiny committees.

The proposal is that the powers for district council overview and scrutiny committees should be similar to those available to lead councils as follows:-

- district council overview and scrutiny committees may make reports and recommendations to the relevant county council or county council executive on matters relating to a local improvement target;
- the county council or the county executive will be required to respond to the district overview and scrutiny committee report or recommendation within two months;
- associated authorities will be required to have regard to reports and recommendations from the district overview and scrutiny committee.

Consultation Question 4 asks: Do you agree with the proposed approach to enable district scrutiny committees to review the delivery of LAA targets?

The Committee felt that this proposed approach was acceptable.

Scrutiny in Small District Councils Operating a Streamlined Committee System

Not applicable to BDC.

Taking Forward the Commitments Given in the 2008 Communities in Control White Paper to raise the visibility of, and to Strengthen, the Scrutiny Function.

The proposals are to:-

- to further strengthen the scrutiny function by extending the power to require information from partner authorities to matters outside LAA targets;
- to introduce a power for county and district councils to combine their respective scrutiny resources in 'area scrutiny committees' where they wish to do so;

- to require some dedicated scrutiny resource in county, unitary and London Borough councils;
- to require that overview and scrutiny committees should consider appeals in relation to petitions that are submitted in connection with local petition arrangements (see minute 37 concerning the Local Petitions and Calls for Action – The Government Response).

Consultation Question 6 asks: What issues should be considered as part of any new power to establish area scrutiny committees?

The Committee felt that the issues to be considered should include: the issue of the number of county and district representatives entitled to serve on the committee; clarification of voting rights; the remit and scope of the joint committee which should ensure that it is able to deal with all issues relating to the well being of the citizens of its area; the need to ensure that area scrutiny committees conduct their business in a non-partisan manner.

Consultation Question 7 asks: How might the requirement for dedicated scrutiny resource be put in place?

The Committee felt that the proposal for having some dedicated scrutiny resource should apply to all local authorities including district councils and not just county, unitary and London Borough Councils.

Consultation Question 8 asks: Do you agree that appeals about a local authority's response to a petition should be considered by the overview and scrutiny committee?

What practical issues might arise?

See minute 37 setting out the Committee's response to this consultation question.

Chapter 3 – Increasing the Visibility and Accountability of Local Public Officers

Attendance at Regular Public Hearings

It is proposed that a key part of the role of a chair or chief executive of a local public body should be that they attend regular public hearings to ensure that they are subject to public scrutiny and questioning from local communities.

It is therefore proposed that the requirement to attend such meetings should be included in the job descriptions of the chair or chief executive, and that those responsible for these job descriptions should determine the arrangements by which these requirements will be covered.

Consultation question 9 asks: Do you agree with this approach that those responsible for the job descriptions should determine the precise arrangements by which the chair or chief executive will attend regular meetings?

The Committee felt that this proposal was acceptable in principle.

However, the Committee also felt that the definition of local public body needed further clarification by the government so that it was made clear as to precisely which local service providers and agencies the chairs or chief executives of which would be required to attend regular public hearings. It was not clear from the consultation paper as to whether 'local public body' would include those private companies such as bus companies, rail companies, water companies, power companies, that provide public services, and also whether it included other organisations such as Academy Schools and the police. The Committee's view was that the respective chairs and chief executives of these organisations should equally be open to public scrutiny and questioning from local communities similar, for instance, to the chair or chief executive of a district or county council.

These comments also apply to consultation questions 10 to 12 below relating to the proposed petitions process to hold public officers to account.

Petitions to hold public officers to account

The proposal is that if enough people served by a local service or agency sign a local petition (there will be a specified threshold), senior officers working for the local public body which is the subject of the petition should be required to attend a public meeting.

The consultation paper therefore proposes that in each LAA area, the lead council (i.e. Essex County Council in Essex) and its partners, including local service providers and agencies should agree and publish an appropriate scheme. The scheme should be complementary to other local petition arrangements that are in place.

The scheme should set out:

- the officers (or category of Officers) to whom the scheme would apply;
- any relevant petition criteria, such as agreed thresholds, who may sign a petition, the format a petition must take;
- the local service providers and agencies covered by the agreed scheme and how they will respond to petitions;
- arrangements for the hearing.

The Government could specify certain minimum standards for the various elements of the scheme. It also suggests that the public hearing could be in the form of an existing meeting, such as that of an overview and scrutiny committee.

Consultation Question 10 asks: Do you agree with our proposals to require the local authority with its strategic partners to agree a local scheme for petitions to hold officers to account? What practical issues might arise?

The Committee felt that the proposals were acceptable in principle, but see comments in relation to consultation question 9 above. Further clarification is needed from the government concerning the definition of local service providers

and agencies.

Consultation Question 11 asks: Should the Government provide some minimum standards for local schemes to hold officers to account? What should they be? Which, if any, local service providers and agencies must, or must not be in any scheme?

The Committee felt that the Government should provide some minimum standards for local schemes, but did not have any comment specifically on what they should be. In respect of the last part of the question, further clarification is needed from the government concerning the definition of local service providers and agencies.

Which Local Public Officers would be included

It is proposed that it will be for a local authority and its partners, including local service providers and agencies to agree to which of them the scheme should apply, subject to any statutory minimum standards (eg any requirements about which local service providers and agencies must or must not be covered by a scheme).

Consultation Question 12 asks: Do you agree that the scope of the scheme should be agreed locally subject to any statutory minimum standards and whether this would be an effective means of empowering communities?

The Committee felt that this was acceptable in principle, but see also comments in relation to consultation question 9 above. Further clarification is needed from the government concerning the definition of local service providers and agencies.

DECISION: that it be **Recommended** to Cabinet that the comments detailed above be submitted to the Department for Communities and Local Government in response to the questions in the consultation paper.

Meeting of:- Overview and Scrutiny Committee

On:- 17th September 2008

Agenda Item:- 6 (b) (i)

Topic:- Local Petitions and Calls for Action – the Government Response

1. Introduction

At its meeting on 23rd January 2008 the Committee gave consideration to the Department for Communities and Local Government (DCLG) consultation paper (published in December 2007) on proposals for a statutory duty on local authorities to respond to local petitions, and on the Councillor Call for Action. The Committee made a number of comments (see copy of minute 41 attached) which were subsequently endorsed by Cabinet and forwarded to the DCLG.

The DCLG has now published its response to the consultation and the main points are set out below.

2. Local Petitions

A. The Petitioning Process

Members will recall that the original consultation on petitions went into some detail on form and process. However, as a result of the responses received the Government has produced a series of proposals that set down the requirements for compliance with the duty whilst also including measures to ensure that the petitioning process is flexible for both petitioners and councils.

The government envisages an electronic petitioning process, as well as the possibility of the submission of written petitions.

The essentials of the petitioning process would be as follows:

- the subject must relate to the functions of the authority or other public services for which the authority has shared delivery responsibilities (through Local Area Agreements or other partnerships);
- the subject matter excludes planning, which is covered by existing processes;
- people will be able to organise and sign a petition at all ages (so those under 18 will be included);
- councils will decide who should be allowed to sign a petition under their scheme according to local circumstances, but at a minimum will be required to respond to petitions from those who live, study or work within the boundary;
- councils will be encouraged to respond to petitions from people outside their area (where people cross boundaries to use services for example);
- a petition must contain a “call for action”;
- there will be requirements for signatories to provide name and address details so that councils can check the validity of a petition if necessary.

B. Responding to Petitions

Councils will be required to make a substantive response to all petitions, the response being proportionate to the seriousness of the issue or the level of support which the petition has received. This will usually be in the form of a letter, but councils will need to be prepared to investigate and consider the implications of a petition. It will not be necessary to respond to frivolous, vexatious or discriminatory petitions.

C. Large Petitions

The Government suggests that there should be measures that require councils to make a more significant response, and that where a petition receives signatories beyond a locally determined threshold (government suggests that these thresholds should at most be 5% of the local population), it should be able to trigger a debate of the full council to increase transparency and highlight the issue.

D. Appeals

It is proposed that petitioners should be able to appeal to an overview and scrutiny committee if not satisfied with the response they receive. If the committee judges that the response is not adequate, it will trigger a debate of the full council, and other enforcement mechanisms, such as requiring a more detailed response. As overview and scrutiny committees are independent of the cabinet and will be responsible for considering Councillor Calls for Action, the government considers that they are well placed to assess appeals. See also paragraph below – Improving Local Accountability – Consultation Paper.

E. Keeping the petitioning process under review

The Government will monitor the experience of petitioning to make it possible to revise the requirements and limits if necessary.

F. Additional Possibilities: Councils as Advocates

The government is keen to explore how authorities can act as community advocates: in the first instance there will be arrangements for councils to act as community advocates for petitions related to Primary Care Trusts on subjects such as the level of provision of community services. The detail of this proposal is still to be worked out.

it is expected that the duty to respond to local petitions will be included in the forthcoming Community Empowerment, Housing and Economic Regeneration Bill.

3. Improving Local Accountability – Consultation Paper

The government has also now published a consultation paper on Improving Local Accountability (see separate report). In the context of the local petitions process, the consultation paper highlights that the Government wants to ensure that local authorities take petitions seriously, and will ensure that petitioners can appeal to a Council's overview and scrutiny if they are not satisfied with the local authority response.

Consultation Question 8 asks: Do you agree that appeals about a local authority's response to a petition should be considered by the overview and scrutiny committee?

What practical issues might arise?

The deadline for comments is 30th October 2008.

4. Councillor Call for Action (CCfA)

The Committee will recall that the proposed CCfA is a **procedure of last resort** which provides for any councillor to be able to refer a local matter affecting his or her ward to the appropriate overview and scrutiny committee.

The legislative provisions are contained in the:-

- Local Government and Public Involvement in Health Act 2007 which includes a CCfA in respect of “local government matters” (Lead Government Department: DCLG);
- Police and Justice Act 2006 which includes a CCfA in relation to crime and disorder issues (Lead Government Department: The Home Office).

In response to the consultation, the government has decided that matters for which there are already statutory processes, and complaints about an individual’s treatment by the authority, should be excluded from the scope of the CCfA.

However, in respect of the CCfA relating to crime and disorder issues, the Home Office is currently consulting (see paragraph 5 below) on how a CCfA might add value as part of the broader local accountability arrangements for crime and disorder in the Policing Green Paper. Consideration of the crime and disorder CCfA will be taken forward in light of the results of that consultation.

Guidance on the principles of the CCfA (both in respect of local government matters and crime and disorder issues) will be issued before the end of 2008, explaining to councillors how they can use the power, and advising the local authority how to deal with CCfAs.

This guidance will cover:

- the timeframe for dealing with CCfAs;
- dealing with vexatious or repetitive CCfAs;
- CCfAs on issues which affect several ward, wards with more than one councillor, and two tier areas;
- issues that local authorities might want to consider to ensure the CCfA works effectively in their area.

5. Policing Green Paper: From the Neighbourhood to the National: Policing our Communities Together

This Home Office green paper mentions the CCfA relating to crime and disorder issues in the context of the changes proposed to local accountability arrangements for policing.

The proposed accountability arrangements (some of which are controversial) are as follows:-

- Each Crime and Disorder Reduction Partnership (CDRP) will elect a new politician to be the local Crime and Policing Representative;
- Where a CDRP area is too big or too small, there may be more than one representative for a CDRP, or areas may be combined;
- The representative will sit on the police authority and the CDRP, and one Representative will chair the CDRP;
- Current councillors will be able to stand as Crime and Policing Representatives;
- Police authorities will continue to have independent members, and some councillors “to ensure we maintain the important links and relationships with local government”;
- For areas where there is a mayor, the mayor will automatically become the Crime and Policing Representative;
- This will not apply to London, where current arrangements will continue for the Metropolitan Police Authority, through views are invited on whether there should be Representatives just to chair CDRPs in London;
- There are also proposals to use the resources of the existing Basic Command Unit Fund to become a Community Safety Fund which the Crime and Policing Representative could use, in consultation with the CDRP, to address local priorities.

The consultation paper asks:

“How might the CCfA be best used to complement the broader changes to local accountability arrangements for policing?”

Our current understanding of the proposed processes for handling a CCfA in respect of a crime and disorder matter is that if an Overview and Scrutiny Committee accepts a CCfA, it can request the compulsory attendance of CDRP partners at a scrutiny meeting to answer questions and explain any action taken. As part of its investigation, the Committee will gather evidence, question agencies, and potentially decide what action is needed, in dialogue with partner agencies. CDRP partners will have a duty to respond to scrutiny reports and recommendations and should give reasons for their response, particularly if recommended action is rejected.

If these processes are included in the final guidance then they would appear to be complementary to the proposed local accountability arrangements.

However, I would also suggest that it would be useful to know whether the Home Office envisages any specific role for the elected Crime and Policing Representative in the CCfA.

The deadline for comments is **Friday 10th October 2008**.

6. Recommendation

It is **Recommended** that the Committee:-

- (a) note the contents of paragraphs 1, 2 and 4 of the report;
- (b) in respect of paragraph 3, forward any comments in relation to Question 8 (appeal mechanism – local petitions process) of the Improving Local Accountability Consultation Paper, to the Cabinet;
- (c) in respect of paragraph 5, forward any comments in relation to the CCfA (crime and disorder issues) consultation question referred to in the Policing Green Paper, to the

Cabinet.

Background Papers:- Local Petitions and Calls for Action Consultation – Government Response; Policing Green Paper.

Financial Implications:- Nil

Equalities Implications:- Nil

Legal Implications:- Nil

For further details please contact:- Steve Bore, Scrutiny Manager (Ext. 2003)

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Extract from Minutes of meeting of Overview and Scrutiny Committee – 23rd January 2008

41. LOCAL PETITIONS AND COUNCILLOR CALLS FOR ACTION

Steve Bore, Scrutiny Manager presented a report on the Government's consultation paper entitled 'Local Petitions and Calls for Action'.

(The Councillor Call for Action provides for any councillor to be able to refer a local matter affecting his or her ward to the appropriate Overview and Scrutiny Committee. In the case of a local crime and disorder matter, the Police and Justice Act 2006 states that Councils have to have a specific scrutiny committee to deal with matters of crime and disorder although this could be the existing Overview and Scrutiny Committee sitting with a different 'hat'.)

The consultation paper sought specific views on 6 specific questions ((a), (b), (d), (e), (f) and (g)) set out below:

Petitions

(a) The Government believes there should be a statutory duty on local authorities to respond to local petitions. What conditions must be met before a local authority is required to respond formally to a petition?

(b) In particular, how should we define the level of support required before a petition must get a formal, substantive response?

* By a fixed number of signatures?

* By a percentage of the electorate in the area?

* By a hybrid of the two?

* Or in some other way?

Councillor Calls for Action

(d) What if any matters should be excluded from the call for action?

(e) What guidance should government provide on the operation of the Councillor Call for Action?

Overall

(f) Taken together, would petitions and calls for action sufficiently empower communities to intervene with their elected representatives? Should we contemplate other measures?

(g) Do you have other views on the operation of the new duty to respond to petitions and the call for action?

In relation to petitions, the Committee noted that the Council already has as part of its constitution (part 4) a set of procedural rules for handling petitions. These rules define a petition as any written request to the Council signed by at least 20 members of the public.

It was not felt that that the Government's proposals to place a formal duty on local authorities to respond constructively to petitions would create any particular burden, because in essence it was what the Council did already.

However, it was felt that the Government needed to provide guidance so that members understood what significance they are allowed to attach to petitions in relation to quasi-judicial decisions. For instance, clarification needs to be provided as to whether petitions are to be regarded as relevant or irrelevant when dealing with planning applications. It was also felt that members would need some guidance on explaining to members of the public that the number of signatories on a petition may not necessarily be a definitive factor in coming to a decision.

In respect of the operation of the Councillor Calls for Action, it was felt that the following matters should be excluded:

- * matters in respect of which there are already well defined statutory processes such as planning applications and licensing appeals;
- * matters which would be dealt with under a local authority's complaints procedure and the Local Ombudsman's process.

As regards the provision of Government Guidance for the Councillor Call for Action, it was felt that guidance should be provided for the following:-

- (i) the Local Member as he/she would be responsible for initiating the process and needed to be aware of what issues were eligible to be considered, and the relevant criteria and guidelines that applied. This needs to include clarification as to whether there are circumstances where a Local Ward Member will be able to refer a local matter outside of his/her ward eg a town centre issue of interest to a Ward Member's residents, but where the Member's ward boundary itself does not cover the town centre;
- (ii) Overview and Scrutiny Committees as these Committees would act as the gatekeeper to the process, and would have the duty to respond to a Councillor Call for Action and to indicate whether or not it was going to take any action. The guidance also needs to define what constitutes a response. In dealing with a Councillor Call for Action, clarification also needs to be made as to what type of information should be treated as confidential;
- (iv) Agencies/partners who may be compulsory required to attend a O and S Committee to answer questions and explain any action taken;
- (v) Officers who would be responsible for co-ordinating, administering and publicising the process.

DECISION: That it be **Recommended** to Cabinet that the comments detailed above be submitted to the Department for Communities and Local Government in response to the consultation paper (the deadline for the submission of comments is 20/3/08).

Meeting of:- Overview and Scrutiny Committee

On:- 17th September 2008

Agenda Item:- 6 (b) (ii)

Topic:- **Communities in Control: Real People, Real Power – Improving Local Accountability - Consultation**

1. Introduction

Following on from the publication of the white paper Communities in Control: real people, real power, the Government has issued the first of a series of consultation papers. This first consultation is on improving local accountability. The sections that relate to overview and scrutiny are contained in Chapters 2 and 3.

Chapter 2 of the consultation is about developing and strengthening overview and scrutiny. This sets out the Government's proposals to implement the provisions of the Local Government and Public Involvement in Health Act 2007 to enhance councils' scrutiny powers in the context of Local Area Agreements (LAAs)*. It also indicates how the Government intends to take forward the commitments of the White Paper to raise the visibility of, and to strengthen, the scrutiny function.

**(LAAs set out the priorities for a local area agreed between central government and a local area (the local authority and Local Strategic Partnership) and other key partners at the local level. The intention is that LAAs simplify some central funding, help join up public services more effectively and allow greater flexibility for local solutions to local circumstances).*

Chapter 3 of the consultation is about increasing the visibility and accountability of local public officers so that they are open to public scrutiny and questioning from local communities.

Relevant extracts from the consultation paper are attached.

The deadline for the receipt of responses is **30th October 2008**.

2. Chapter 2

(1) Developing and Strengthening Overview and Scrutiny

Implementing the Local Government and Public Involvement in Health Act 2007 provisions

These provisions relate to councils scrutiny of LAA partners and their delivery of LAA targets.

The consultation document contains proposals for:-

- overview and scrutiny committees to require information from partner authorities;

- publication of scrutiny reports, recommendations and responses;
- establishing joint county and district overview and scrutiny committees;
- enhancing the powers of district overview and scrutiny committees;
- scrutiny in small district councils operating a streamlined committee system (**not applicable to BDC**).

Each of the detailed proposals is set out in paragraphs (A) to (E) below.

(A) Requiring information from partner authorities

The proposal is that:-

- LAA partners (other than police and local health services for which separate provision is made) should provide information requested by a lead authority's overview and scrutiny committee for the purposes both of examining progress on LAA targets with which the partner is concerned and of undertaking studies of local issues connected to such targets (**the lead council in Essex is Essex County Council**);
- Similarly, in a two tier area the lead council or LAA partners – described in the legislation as “associated authorities” - should make available to the district council overview and scrutiny committee information relevant to a target connected to that council's area and functions, including its legitimate concerns about the well being of the area;
- Partner authorities must also provide information where it relates to an agenda item of the overview and scrutiny committee concerned and has been requested by that overview and scrutiny committee.

The Government proposes to set out types of information that, and the circumstances in which information, may be withheld by LAA partners. This would include personal data and commercially sensitive information.

In the interests of allowing an element of local flexibility, the Government does not propose to specify any time limits for responses by partner or associated authorities or the format of such responses.

Consultation Question 1 asks: Do you agree with our proposed approach in relation to overview and scrutiny committees requiring information from partner authorities.

Comment for consideration: The Committee may feel that the effectiveness of scrutiny will be best served by the Government actually specifying time limits for responses by partner or associated authorities.

(B) Publication of Scrutiny Reports, Recommendations and Responses

The proposal is to extend to overview and scrutiny committees and local authorities only, provisions for exempt and confidential information when publishing scrutiny reports, recommendations and responses. Regulations will also be made to extend these provisions without modification to local authority executives where they publish or provide copies of such documents.

Consultation Question 2 asks: Do you agree with the proposal to apply the provisions in relation to exempt and confidential information without modification to local authority executives?

(C) Establishment of Joint County and District Overview and Scrutiny Committees

The proposal is to allow for the establishment of a joint overview and scrutiny committee of a county council and one or more districts within the county area to make reports and recommendations collaboratively in relation to LAA targets for the local area. The proposal suggests that these joint committees should have similar powers to those held by the overview and scrutiny committees of the local authorities within the county area. There will be similar provision for joint committees in respect of partners. There will be a need to avoid burdensome requests on partners.

A joint overview and scrutiny committee may make reports and recommendations to the local authorities or local authority executives within the county area who would then have to respond within two months.

Consultation Question 3 asks: Do you agree with the proposed approach towards joint overview and scrutiny committees? Are there specific issues that should be considered as part of the approach?

(D) Enhancing the Powers of District Overview and Scrutiny Committees

The proposal is that the powers for district council overview and scrutiny committees should be similar to those available to lead councils as follows:-

- district council overview and scrutiny committees may make reports and recommendations to the relevant county council or county council executive on matters relating to a local improvement target;
- the county council or the county executive will be required to respond to the district overview and scrutiny committee report or recommendation within two months;
- associated authorities will be required to have regard to reports and recommendations from the district overview and scrutiny committee.

District overview and scrutiny committees should bear in mind scrutiny work planned or being carried out by other overview and scrutiny committees (by lead councils or joint scrutiny committees) when setting their work programme to avoid duplication. To minimise duplication, the requirements on the county council to respond and partner authorities to have regard to district overview and scrutiny reports on LAA matters will not apply if the joint overview and scrutiny committee has already considered and reported on the matters in question.

Consultation Question 4 asks: Do you agree with the proposed approach to enable district scrutiny committees to review the delivery of LAA targets?

(E) Scrutiny in Small District Councils Operating a Streamlined Committee System

Not applicable to BDC.

(2) Taking Forward the 2008 Communities in Control White Paper

In taking forward the commitments of the white paper to raise the visibility of, and to strengthen, the scrutiny function, this section of the consultation paper indicates the Government's intentions as follows:-

- to further strengthen the scrutiny function by extending the power to require information from partner authorities ties to matters outside LAA targets;
- to introduce a power for county and district councils to combine their respective scrutiny resources in 'area scrutiny committees' where they wish to do so;
- to require some dedicated scrutiny resource in county, unitary and London Borough councils (***Not applicable to BDC***);
- to require that overview and scrutiny committees should consider appeals in relation to petitions that are submitted in connection with local petition arrangements (see separate report on the Local Petitions and Calls for Consultation: Government Response).

Consultation Question 6 asks: What issues should be considered as part of any new power to establish area scrutiny committees?

Consultation Question 7 asks: How might the requirement for dedicated scrutiny resource be put in place? Not applicable to BDC.

***Consultation Question 8 asks: Do you agree that appeals about a local authority's response to a petition should be considered by the overview and scrutiny committee?
What practical issues might arise?***

3. Chapter 3

(1) Increasing the Visibility and Accountability of Local Public Officers

(A) Chairs and Chief Executives of local public bodies to attend regular public hearings

The Communities in Control White Paper proposes that a key part of the role of a chair or chief executive of a local public body should be that they attend regular public hearings to ensure that they are subject to public scrutiny and questioning from local communities.

The consultation paper proposes that the requirement to attend such meetings should be included in the job descriptions of the chair or chief executive and that those responsible for these job descriptions should determine the arrangements by which these requirements will be covered.

Consultation question 9 asks: Do you agree with this approach that those responsible for the job descriptions should determine the precise arrangements by which the chair or chief executive will attend regular meetings?

(B) Petitions to hold local public officers to account

The white paper also proposes a new right for the public to petition to hold senior local officers to account.

If enough people served by a local service or agency sign a local petition (there will be a specified threshold), senior officers working for the local public body which is the subject of the petition should be required to attend a public meeting.

The consultation paper therefore proposes that in each LAA area, the lead council (i.e. Essex County Council in Essex) and its partners, including local service providers and agencies should agree and publish an appropriate scheme. The scheme should be complementary to other local petition arrangements that are in place.

The scheme should set out:

- the officers (or category of Officers) to whom the scheme would apply;
- any relevant petition criteria, such as agreed thresholds, who may sign a petition, the format a petition must take;
- the local service providers and agencies covered by the agreed scheme and how they will respond to petitions;
- arrangements for the hearing.

The Government could specify certain minimum standards for the various elements of the scheme. It also suggests that the public hearing could be in the form of an existing meeting, such as that of an overview and scrutiny committee.

Consultation Question 10 asks: Do you agree with our proposals to require the local authority with its strategic partners to agree a local scheme for petitions to hold officers to account? What practical issues might arise?

Consultation Question 11 asks: Should the Government provide some minimum standards for local schemes to hold officers to account? What should they be? Which, if any, local service providers and agencies must, or must not be in any scheme?

4. **Recommendation**

It is **Recommended** that the Committee forward any comments on the consultation paper to the Cabinet for consideration.

Background Papers:- Communities in control: Real people, real power – Improving local accountability – Consultation Paper.

Financial Implications:- Nil

Equalities Implications:- Nil

Legal Implications:- Nil

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