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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