

**Item No.9**

**CULTURE AND LEISURE REVIEW COMMITTEE**

**20 FEBRUARY 2007**

**NEW DEVELOPMENTS FOR OVERVIEW AND SCRUTINY**

**LINK TO WORK PROGRAMME - CONSULTATION**

**Report of the City Solicitor**

**1. Purpose of Report**

The purpose of this report is to provide a briefing at the earliest opportunity on new developments for overview and scrutiny

**2. Introduction**

The role of scrutiny has developed and expanded since its introduction under the Local Government Act 2000. This briefing examines what further developments, resulting from external influences, legislation etc, will impact on the role of scrutiny and the powers that committees will have.

**3. New Developments**

(a) Crime & Disorder Act 1998 - Review Report (published January 2006)

Findings of the review proposed to “extend the powers of local authority Overview and Scrutiny Committees (OSC) to encompass the work of Crime and Disorder Reduction Partnerships (CDRP)”.

CDRP and their decisions will be accountable to residents:

- Using National Standards to clarify roles and responsibilities
- Extending the role of the community safety portfolio holder (links to Respect Action Plan)
- Extension of the role of OSC to scrutinise community safety issues and deliver a Community Call for Action (see below).

(b) Police and Justice Act 2006 – Community Call for Action

Part 3 of the Act makes specific requirements of local authorities in relation to crime and anti-social behaviour and the relationship with the CDRP. S19 requires every local authority to have a committee (the “Crime and Disorder Committee” (CDC) with power:

- (a) *To review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions, or*
- (b) *To make reports or recommendations to the local authority with respect to the discharge of those functions.*

The CDC is a scrutiny committee within the meaning of the LGA 2000, where executive arrangements operate.

The CCfA is designed to complement existing methods of accountability and scrutiny with existing overview and scrutiny committees taking on this role. Community Safety and Anti-Social Behaviour falls within the remit of the Council's Regeneration and Community Review Committee.

### CCfA Process

A councillor, asked to consider a local crime and disorder matter by a person living or working in the area the councillor represents must consider the matter and respond to the person indicating what (if any) action the councillor proposes to take. The councillor may refer the matter to the OSC. Where the councillor does not refer the matter, the person may refer the matter to the executive. The executive must consider the matter and respond to the person indicating what (if any) action it proposes to take. The executive may refer the matter to the Crime & Disorder Committee.

The CDC must consider any local crime and disorder matter referred to it by a councillor or the executive, and may make a report or recommendations on it. Copies must be sent to the relevant responsible authorities and co-operating persons and bodies.

A 'local crime and disorder matter' means a matter concerning:

- (a) *Crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment) in the area represented by the Member, or*
- (b) *The misuse of drugs, alcohol and other substances in that area.*

Responsible authorities and co-operating persons and bodies must consider reports and recommendations sent to them, respond to the CDC indicating what (if any) action they propose to take, and have regard to the report or recommendations in exercising their functions.

The CDC that is envisaged is considered to be along the lines of the powers given to the Council to Scrutinise the Health Services under the Health and Social Care Act 2001. It is intended to involve the Police, Fire Services and TPCT, who will have a duty to consider recommendations from scrutiny and report back on action taken or the reasons for not acting.

### Implications

- Councillors will require training on identifying what is a 'local crime and disorder matter' and how they should respond to a referral.
- A standard form of response may be necessary to ensure councillors include the correct process.
- Systems will also be necessary to ensure a member decision is evidenced and recorded.
- All referrals will require monitoring to ensure compliance with any timescales set and the statutory procedure.

- Arrangements will need to be in place for referral to be documented and to determine if several referrals on the same matter can be grouped together.

Guidance on implementing the provisions of the Act are expected to be available in the summer of 2007. The provisions for the overview and scrutiny aspect should be implemented from April 2008. Guidance is expected to cover how a person makes a referral to a councillor or to the executive, time periods for consideration and responses from all parties, co-opting persons on to the CDCs and enabling voting, rights and restrictions of CDC to information, the frequency of which the CCfA function will be exercised, how to reject a CCfA, requirement on officers of responsible authorities and co-operating bodies to attend and give evidence, how local authorities will advertise these arrangements.

Points to note:

- None of the existing mechanisms of complaint will be replaced by the CCfA – it is intended as a “last resort” and complementary to existing mechanisms
- The Home Office do not intend to publicise the new arrangements within communities
- Councils would need to address community expectations and provide Member training (training by Home Office will be in the form of case studies).

(c) Local Government White Paper and its Community Call to Action

The White Paper contained four principal areas of interest for scrutiny. These were:

- Ensuring more powerful local leaders were accountable
- Providing more powers to scrutinise public bodies and requiring them to attend, provide information and respond to recommendations,

Legislation will be introduced to strengthen the role of OSC as part of carrying out their place-shaping role. These changes will be designed to enhance the ability of councillors to champion local issues. The proposals will allow committees to consider specific matters regarding the action of local public service providers and the actions of key public bodies operating in a local authority area.

- Encouraging authorities to set up area-based overview and scrutiny
- At the level of the full council, encouraging authorities to focus overview and scrutiny on more strategic issues such as Community Strategies, Local Area Arrangements and other key plans.

A proposal for a community call for action was also included. It will mirror the Crime & Disorder CCfA with some slight differences but will still require OSCs to consider issues raised referred by councillors as CCfA . This CCfA is still in the early stages of development and will relate to how local authorities listen to and act on local concerns. This includes considering how they deal with petitions as part of their wider policy for engaging with communities and where petitioners are unhappy with the response to their petition.

The CCfA will not be limited to local authority issues. Service providers other than the police, covered by a new duty to co-operate, will be required either to appear before the committee or provide information.

As part of developing the CCfA the Government will expect local authorities to consider what powers or budgets it would be appropriate to devolve to their councillors to help them in solving minor problems.

Legislative safeguards are to be introduced to ensure that councils and overview and scrutiny committees are not forced to waste time dealing with vexatious complaints, or to act in a way that would prejudice community cohesion.

Government consultation is awaited on the White Paper Community Call for Action, Overview and Scrutiny and governance reforms.

In addition to the proposals described in section (c) from the Department for Communities and Local Government (DCLG), several other central government departments are also exploring proposals. The Department of Health white paper, 'Our Health, Our Care, Our Say' will "consider options for a 'community call for action' where issues of concern to a community have not been resolved through other channels".

The Department for Education and Skills (DfES) have been investigating similar ways of ensuring that services are responsive to customer needs. The Education and Inspections Bill places a duty on local authorities to consider representations from parents who are dissatisfied with their local schools. The local authority would have to respond within a certain time stating what action they will take if any.

(d) Department for Communities and Local Government - Local Strategic Partnerships: Shaping their future (Consultation Paper)

The consultation paper recognised that OSC is not being used to greatest effect and proposes accountability of the LSP through the O&S function.

Councillors currently have limited powers to require partners other than the local authority and health to attend and recognise their recommendations. It is seen as useful to extend this to other sectors. There is also potential for the neighbourhood sector to have wider involvement in overview and scrutiny where their local knowledge, could be of benefit. This role has the potential to extend to scrutinising the four blocks of the LAA (see below).

(e) Local Area Agreements

The 'Our Health, Our Care, Our Say' white paper and the Police and Justice Act have already enshrined the enhanced role that scrutiny will undertake. Even where the legislation is not yet in place it is clear that to make a real impact, scrutiny must seek to influence partners to secure improved outcomes for local people. The necessity of partnership working is being promoted in the development of Local

Area Agreements and there is potential for an increased role for O&S over the coming years to monitor its implementation.

(f) Lyons Inquiry

On 8 May 2006 Sir Michael Lyons published his latest thinking on the future role and function of local government. Part of the executive summary of the report states:

*"A great deal of attention has been paid to developing and improving the role of executive councillors, following the new council constitutions introduced in the Local Government Act 2000. The role of backbenchers now needs attention in order to build stronger local accountability for authorities and to ensure that local government is as effective as it should be in engaging with local communities. There may be scope for further development of the scrutiny role and its extension to other local public services."*

The body of the report does not go into a huge amount more detail with regard to the role of scrutiny, citing the successes of Health Scrutiny and the proposals under the Police and Justice Act (see above).

(g) Local Government and Public Involvement in Health Bill

This Bill is currently at Committee stage in Parliament. It is intended a Local Involvement Network (LINK) will be established in each Council area with responsibility for social services (ie met, unitary and county councils). LINKs will primarily be a network of interested people - including voluntary organisations - that can visit and report on issues across health and social care. The Council will be funded to establish a 'host' organisation for the LINK. Health overview and scrutiny committees will be required to work in partnership with LINKs and also scrutinise how the local LINK has been established. LINKs replace existing NHS Trust-based independent Patient and Public Involvement Forums.

#### 4. **Conclusion**

The emphasis in all of these proposals is on the further extending the role and powers of overview and scrutiny committees to look more widely across the work of local public services and other agencies.

The proposed expansion of the role of scrutiny will inevitably place new demands on councillors. It is difficult at this stage to gauge what the full implications will be from these new duties other than local councillors will be the gatekeepers of the whole process.

Guidance and regulations are awaited on the Crime and Disorder Community Call for Action requirement and a further report with proposals for implementation in Sunderland will be available at that time. For other new proposals Government consultation is awaited.

## 5. Recommendations

1. Preliminary views are invited.
2. Members are recommended to receive a further report making detailed proposals for implementation in Sunderland in due course.

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**Contact Officer :** James Diamond 0191 553 1396  
james.diamond@sunderland.gov.uk