

BRIEFING NOTE

RE: NEW POWERS FOR OVERVIEW & SCRUTINY COMMITTEES

1. Introduction

The Local Government & Public Involvement in Health Act 2007 and the Police & Justice Act 2006 brought in a number of new powers and duties for O&S committees. Whilst these came into force in April 2009 they are not capable of full implementation until regulations and guidance are issued by the Government. The overarching purpose of the new provisions is to strengthen the role of the ward Councillor as a champion for local issues.

2. Police & Justice Act 2006

This Act requires Councils to have an overview and scrutiny committee with responsibility for examining crime and disorder issues and with powers to hold the “Responsible Authorities” (i.e. The Crime and Disorder partnership) to account for the joint delivery of their statutory duties. The purpose of these changes is to ensure the high profile and accountability of local partnerships and to provide redress where community safety issues are not being addressed.

The Council has already agreed that this function will be delegated to the Performance O&S Committee.

The new regulations (The Crime & Disorder (Overview & Scrutiny) Regulations 2009) accompanying the Act came into force on 30th April 2009; the relevant provisions require that:

- The relevant committee shall be able to co-opt Members from the responsible authorities should it wish when reviewing particular issues or decisions; such co-optees can be voting members, if the committee so wishes
- Crime & disorder matters must be considered at least twice in every twelve month period
- The responsible authorities must provide such information as is requested of them by the O&S Committee, subject to certain provisions

- The Committee may require the attendance of a representative of a responsible authority before it to answer questions, again subject to certain provisions
- The Committee is required to provide a copy of any report and/or recommendations to the responsible authorities. Those bodies must consider the reports/recommendations and are required to respond in writing indicating what if any action they propose to take.

At Rossendale, these powers and duties have been given to the Overview & Scrutiny Management Committee.

The 2006 Act also places a duty on Councillors to act when they are asked to consider a crime and disorder matter by a person who lives or works in the area that the Councillor represents. The Councillor must consider the matter and respond indicating what action, if any; he/she proposes to take. The Councillor may refer a matter causing concern locally to the O&S Committee responsible for crime and disorder matters under the Councillor Call for Action process.

3. The Local Government & Public Involvement in Health Act 2007

This Act, which came into force in April 2009, also includes a number of provisions which are designed to enhance a Council's scrutiny powers.

Councillor Call for Action

Any Member of the Council must be allowed to refer to an overview and scrutiny committee for discussion any 'local government matter'. This is defined as a matter which relates to the discharge of any function of the Council and which affects all or part of the ward that the member represents, subject to certain exceptions. In this way, the powers are limited to issues affecting single council wards and are intended as a last port of call to be used where local problems have arisen and where other methods of resolution have been exhausted. This process is referred to as a 'Councillor Call for Action'.

It is up to local councils to specify how this mechanism will work in their authority. At Annual Council, it was agreed that Councillor Calls for Action be included in the terms of reference for the Overview and Scrutiny Management Sub-Committee.

Delegation of Council Functions to Individual Councillors

The Act allows individual Councillors to allow them to make decisions at a ward level. These powers are optional and regulations have not yet been published. A further report will be put before Members in due course.

Requiring Information from Partner Authorities

Certain 'partner authorities' (as defined in the Act and including the County Council) will be required to provide information to overview and scrutiny committees in relation to their responsibilities for the delivery of Local Area Agreement (LAA) improvement targets. This provision also covers other information which partners may have that might facilitate the work of overview and scrutiny committees generally. The Secretary of State has now made regulations defining exactly what information relevant partner authorities must provide. The Local Authorities (Overview and Scrutiny Committees) (England) Regulations 2009 have been published but are not yet in force. The main provisions are:

- A District Council may enable any O&S Committee to make reports and recommendations to its related County Council or that Council's executive, relating to any local improvement target which relates to a partner authority and is specified in the Local area Agreement ("LAA").
- Such reports and/or recommendations may be published
- The District Council can require the County Council to consider the report/recommendation and respond to the O&S Committee indicating what, if any action the Council proposes to take, within two months of being notified
- When an overview and scrutiny committee makes a report or recommendations about a local improvement target that relates to a partner authority and is specified in the LAA, the committee may require the partner authority to have regard to this in exercising its functions.
- A relevant partner must provide information requested by an O&S committee provided that the information relates to a local improvement target specified in the LAA.
- There are limitations on disclosure where it would breach legal rights of confidentiality, prejudice the actions of the authority or the legitimate interests of any person, or breach the Data Protection Act, or other relevant legislation.

- The regulations also provide for confidential and exempt information to be excluded from any information published by an authority in this new process.

Joint County and District Overview and Scrutiny Committees

The Act gives powers to the Secretary of State to allow, in two tier areas, a county council to establish a joint overview and scrutiny committee with one or more districts/boroughs in the area relating to the attainment of LAA improvement targets.

The Secretary of State also has powers to allow district and borough councils' O&S Committees to make report and recommendations to the County Council about any local improvement target which relates to a relevant partner authority and is specified in the LAA.

4. Conclusions

The provisions in the Police & Justice Act 2006 and the Crime & Disorder regulations 2009 as outlined above should be incorporated into the Council's constitution, including the Overview & Scrutiny Procedure Rules

The constitution has already been updated to include reference to the new Call for Action powers; However further consideration needs to be given to implementing new scrutiny powers relating to the Local government and Public Involvement in Health Act 2007 and the new Overview & Scrutiny Committees Regulations 2009 relating to scrutiny of Local Area Agreements.

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