

Scrutiny Committee

Agenda

Date: Friday, 10th October, 2008
Time: 2.00 pm
Venue: Tatton Room, Town Hall, Macclesfield SK10 1DX

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee.

Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.

Note: In order for officers to undertake any background research it would be helpful if questions were submitted at least one working day before the meeting.

4. **Minutes of Previous meeting** (Pages 1 - 6)

To approve the minutes of the meeting held on 7 August 2008.

5. **Action taken by the Chairman - Waiver of Call-in: Transforming Learning Communities -emerging issues from locality review for Alsager, Congleton, Sandbach and Holmes Chapel** (Pages 7 - 8)

To note the Chairman's action in agreeing to the Cabinet paper "Transforming Learning Communities: Emerging issues from locality review for Alsager, Congleton, Sandbach and Holmes Chapel" being exempt from call-in under rule 13.1 of the Scrutiny Procedure Rules.

Extract of the Scrutiny Procedural Rules in the Constitution dealing with Call-Ins attached.

6. **Health and Adult Social Care Scrutiny Committee**

To note that the Governance and Constitution Committee at its meeting on 8 September 2008 endorsed this Committee's advice to:-

- 1) recommend to the Council that a separate Health and Adult Social Care Scrutiny Committee be established within the Council's Political Structure;
- 2) recommend that the proposed Committee consist of 14 Members but that no action be taken as regards Cooption for the time being; and
- 3) support the principle of continuing Joint Scrutiny arrangements of the Cheshire and Wirral Partnership NHS Trust and authorise further discussions with the Authorities concerned with a view to bringing forward more detailed proposals.

7. **Appointment of Statutory Co-opted Members to the Scrutiny Committee – Elected Parent Governors and Nominated Church Representatives** (Pages 9 - 20)

The Governance Lead Officer to report on the statutory requirement to have co-opted representation of Elected Parent Governors and Nominated Church representatives on the Scrutiny Committee when dealing with Education matters, such appointments will have voting rights on those Educational matters.

8. **Response to Department of Communities and Local Government Consultations** (Pages 21 - 46)

The Governance Lead Officer will brief the Committee on the content of a Consultation Paper published by the Department for Communities and Local Government (DCLG) which is about developing and strengthening overview and scrutiny, new powers to hold local officers to account and facilitating the work of councillors. Responses to the consultation are to be received by 30 October, 2008.

9. **Training/Development** (Pages 47 - 48)

The Lead Officer has prepared the attached report to assist the Committee in identifying its on-going training and development needs.

10. **Date of next meetings**

To consider the dates for future meetings.

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Scrutiny Committee**
held on Thursday, 7th August, 2008
at the Tatton Room Town Hall Macclesfield SK10 1DX

PRESENT

Councillor A Thwaite (Chairman)
Councillor A Richardson (Vice-Chairman)

Councillors G Baxendale, S Broadhurst, S Conquest, M Davies,
Miss S Furlong, Ms O Hunter, Mrs L Smetham and J Wray

8 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor A Barratt.

9 DECLARATIONS OF INTEREST

There were no declarations of Interest made.

10 PUBLIC SPEAKING TIME/OPEN SESSION

There were no questions from the public

11 MINUTES OF PREVIOUS MEETING

RESOLVED - The minutes of the meeting held on 3 July be approved as a correct record.

12 ACTION TAKEN BY CHAIRMAN - WAIVER OF CALL-IN PERIOD**1) Waiver of Call-in Period - Key Decision CE02 – Transforming Learning Communities.**

It was noted that the Chairman had been consulted in accordance with Procedure Rule 13, Access to Information Rules: Special Urgency for Key Decisions, and had agreed to treat as urgent the decision of the 17 July 2008 Cabinet meeting in respect of Key Decision CE02 – Transforming Learning Communities. Any delay in the Cabinet endorsing the Primary Strategy for Change may have held up consideration by the Department for Children Schools & Families with consequential uncertainties on funding to support the 14 year capital programme for schools commencing 2009/10. As a result the call-in procedure had not been applied to this decision.

2) Key decisions for Cheshire East Cabinet 12 August - Rule 12, Access to Information Rules

It was noted that the Chairman had received a notification in accordance with Procedure Rule 12, Access to Information Rules: General Exception for Key Decisions, that each of the following decisions would be considered by the Cabinet at its meeting on 12 August 2008 and none of the items had been included in the Forward Plan of Key Decisions for July 2008 but decisions in relation to all these matters had to be taken by such a date that it was impracticable to defer the decision until it could be included in the next Forward Plan for the reasons set out below. The Chairman had agreed to the waiver of call in of the following decisions:

- (1) **Shared Services:** the decision follows from a meeting of the Joint Liaison Committee held on 1 August, and the decision was urgent in shaping the organisational structure of the new Council;
- (2) **Progressing the Extra Care Strategy:** the decision followed from a meeting of the Joint Liaison Committee held on 1 August, and the decision was urgent to ensure continuity of the Private Finance Initiative Extra Care contracts;
- (3) **Residential and Nursing Care Contracts:** the decision followed from a meeting of the Joint Liaison Committee held on 1 August, and the decision was urgent because the nursing home providers were entitled to be given 6 months' notice of amended contract arrangements which need to be in place by 1 April 2009.

RESOLVED - the action taken by the Chairman in respect of these two matters be noted.

13 SCRUTINY TRAINING AND DEVELOPMENT NEEDS

The Committee received an update on the proposed training programme for Scrutiny Committee members. It was noted that a Training Questionnaire had been circulated to all members and analysis of the returned forms would inform the training programme. A Member Development Panel was to be set up and Members thought it important that there should be scrutiny representation on the Panel.

Members expressed their delight with the training session that had been organised for them prior to the meeting, and felt that this might be usefully supplemented by hearing about how Scrutiny was actually undertaken in a best-practice Authority. The Committee was reminded that they had previously agreed to participate in the CWIEP Scrutiny Training Project, further information on which would be available shortly.

RESOLVED –

1. Councillor G Baxendale be nominated as the Scrutiny Representative on the proposed Member Development Panel/ Committee; and
2. An approach be made to Tameside MBC to see whether a Member and Officer would be willing to contribute to the Committee's training programme.

14 PROPOSALS FOR A HEALTH & ADULT SOCIAL CARE SCRUTINY COMMITTEE FOR CHESHIRE EAST COUNCIL

In accordance with the request made at the last meeting of the Committee, the Cheshire East Governance Lead Officer submitted a report detailing proposed arrangements to constitute a Health and Adult Social Care Scrutiny Select Committee for East Cheshire, and in particular the draft Terms of Reference (ToR) for the Committee and how it might operate. The ToR included scrutiny of the Authority's own Social Care Services and acknowledged the Government's expectations for the integration of Commissioning between Health and Social Care and that Scrutiny Committees could add best value with focus on that Commissioning.

Health and Social Care was becoming increasingly regulated and inspected. It was important that the Overview and Scrutiny Committee (OSC) should have a good understanding of the NHS workings and key policies and drivers. It was suggested that regular time be set aside to build and maintain relationships with key partners to enable the Committee to be a "critical friend" and help achieve desirable outcomes for the health of the population. Similar consideration would be given to the relationship with the Local Involvement Network (LINK) and drawing up agreed protocols.

It was noted that scrutiny of health issues could span PCT or Local Authority boundaries and may sometimes be on a Sub-Regional or Regional basis – e.g. the Ambulance Services, Cancer Networks or Specialised Commissioning. A Joint Committee currently existed with Wirral MBC and Cheshire County Council to scrutinise the activities of the Cheshire and Wirral Partnership Foundation Trust. The Joint Committee had been influential in sustaining the profile of mental health issues.

Government Guidance stipulated that Health Trusts must bring significant proposals for change to Scrutiny. There was no similar requirement for major changes within social care to be brought to scrutiny. It was suggested that it would be good practice for the Committee to act as even-handedly as possible and therefore to use internal mechanisms such as the Forward Plan and Call-In to achieve this.

Consideration was given to the establishment of a separate Health and Adult Social Care Scrutiny Committee within the Authority's structure and the extent to which there would be cross representation with the Councils

main Scrutiny Committee; where representation on any external Joint Health Scrutiny Committee would be drawn from, together with the issue of co-option of non-voting sector representatives for the perspective they bring. It was noted that the Committee's recommendations would be referred to the Governance and Constitution Committee for advice prior to adoption by the full Council.

Members referred to the extra workload that Health and Adult Social Care issues would place on members of this Committee. It was also noted that Cheshire County Council was currently represented on the Cheshire and Wirral Health Partnership that considered issues relating to mental health for the whole of Cheshire. It was suggested that consideration to continued involvement in this Partnership be given at the first meeting of the Health and Adult Social Care Scrutiny Committee.

RESOLVED - that the Committee:

1. reaffirm its earlier recommendation that a separate Health and Adult Social Care Scrutiny Committee be established within the Council's Political Structure with terms of reference as set out in the Appendix to the report;
2. recommend that the proposed Committee consist of 14 Members but that no action be taken as regards Co-option for the time being;
3. support the principle of continuing Joint Scrutiny arrangements of the Cheshire and Wirral Partnership NHS Trust and authorise further discussions with the Authorities concerned with a view to bringing forward more detailed proposals; and
4. refer these proposals to the Governance and Constitution Committee for consideration of the constitutional aspects and the provision of advice to Council.

15 SCRUTINY: BUILDING THE FRAMEWORK

The Committee gave further consideration to the development of the Council's scrutiny function. Members were reminded that at its first meeting, the Committee had considered a paper on Key Issues for Scrutiny within the New Council. The paper had posed a number of questions designed to assist the Committee in building a robust and responsive operational framework for Scrutiny within the Authority. The key points were set out in the Appendix to the report and were discussed in detail by the Committee. It was noted that some of the points had been discussed informally at the earlier Induction Event. During the discussion the following matters were raised:-

- Consideration might be given to the development of a Scrutiny newsletter/Press Release.

- The third of the proposed Key objectives in the Appendix should be amended to read: "...whilst improving service quality".
- Members suggested there was merit in arranging to spend time with each Partner to build links with them very early on. Members requested that a list of key Bodies and major partners be submitted to the next meeting.
- There may be pan Cheshire issues that will require scrutiny to be shared with adjoining Councils.
- Performance reporting to scrutiny should be on a 6 or 12 monthly basis and individual Portfolio holders should be invited to attend Scrutiny meetings where Performance reporting was on the agenda to answer prepared questions and to give them the opportunity to set out the biggest challenges/issues facing them.

RESOLVED

1. to agree in principle to the framework for Scrutiny being developed as set out in the Appendix (subject to the changes referred to above) and to commission further work as appropriate; and
2. an opportunity be provided at the next meeting to enable Members to discuss how to operate the Scrutiny function and the procedural rules/protocol for dealing with witnesses including Cabinet Portfolio holders.

The meeting commenced at 2.00 pm and concluded at 3.25 pm

Councillor A Thwaite (Chairman)

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EXTRACT FROM CHESHIRE EAST SHADOW COUNCIL CONSTITUTION
Scrutiny Procedural Rules in the Constitution dealing with Call-Ins

12 Call-in

- 12.1 When a decision is made by the Cabinet, or a Committee or Sub-Committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, the decision shall be published, by electronic means, and shall be available at the main offices of the Shadow Council normally within 2 clear working days of being made. All Members of the Shadow Council will be sent an electronic record of all such decisions within the same timescale.
- 12.2 Subject to paragraphs 12.3 and 12.4 below a decision taken and to which paragraph 12.1 above refers will not come into force, and may not be implemented, until the expiry of 5 clear working days after the decision was made and recorded.
- 12.3 Where a decision referred to in paragraph 12.1 has been made, any 8 or more Members of the Shadow Council may submit a call-in notice, in writing, within the period specified in paragraph 12.2 above, to the Interim/Appointed Monitoring Officer. Where the notice is valid, the decision cannot be implemented until the procedures in this section have been followed. Where a valid notice is received the decision shall stand referred to the Scrutiny Committee for advice.
- 12.4 Where as a result of a corporate electronic system failure or planned shutdown, which prevents the issuing of or access to Cabinet decisions or the submission of a call-in notice by electronic means in accordance with the Shadow Council's call-in provisions, the periods for notification or submission shall be extended by the period of delay, provided that period is in excess of four hours. When, in the opinion of the Interim/Appointed Monitoring Officer, the period of delay is likely to extend beyond two clear working days, he/she shall agree with the Chairman of the Scrutiny Committee, alternative arrangements to avoid any delay in implementing Cabinet decisions not subject to "call-in".
- 12.5 The decision will be referred to the first available meeting of the Scrutiny Committee, subject to the Access to Information Procedure Rules.
- 12.6 The Committee may decide to offer no advice, in which case the decision may be implemented. Where advice is offered, the Cabinet will reconsider the decision as set out in paragraph 12.8 below.
- 12.7 Once the Scrutiny Committee has decided to offer advice or not to offer advice, no further call in notices may be served in respect of that matter subject to the decision in question. This does not prevent the matter being scrutinised further by the Committee after the decision has been implemented in accordance with these rules.

- 12.8 Where a matter is considered and advice is offered by the Scrutiny Committee, its advice will be submitted to the Cabinet for a decision to be made on the matter. The Cabinet shall consider the advice but shall not be bound to accept it in whole or in part. It shall have sole discretion to decide on any further action to be taken in relation to the decisions in question, including confirming with or without amendment, of the original decision or deferment pending further consideration, or making a different decision. There are no further rights to enable a Member of the Shadow Council to submit a call-in notice. The decision may then be implemented.
- 12.9 If under this procedure the Scrutiny Committee, having considered the matter, indicates that it does not wish to offer any advice to the Cabinet, then the decision can be implemented immediately.
- 12.10 A submitted call-in notice can only be withdrawn with the written consent of all of its signatories.
- 12.11 The “call-in” facility does not apply to the determination of a Motion under Standing Order 12 (Notices of Motion) – Appendix 2.

13 Call-in and Urgency

- 13.1 The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay, caused by the call-in process, would be likely to seriously prejudice the Shadow Council's or the public's interests. The Chairman of the Scrutiny committee or, in his/her absence, the Chairman of the Shadow Council must agree that the decision should be treated as urgent, and that the call-in procedure should not apply. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required.

CHESHIRE EAST

SCRUTINY COMMITTEE

Date: 10 October 2008
Report of: Governance Lead Officer
Title Appointment of Statutory Co-opted Members to the Scrutiny Committee – Elected Parent Governors and Nominated Church Representatives

1.0 Purpose of Report

- 1.1 To advise the Committee of the statutory requirement to have co-opted representation on the Scrutiny Committee when dealing with Education matters. These appointments will have voting rights on those Educational matters.

2.0 Decision Required

- 2.1 To recommend the Governance and Constitution Committee:-
1. To authorise the appointment at least two but no more than five parent governor representatives to the Scrutiny Committee for the purposes of dealing with Education matters.
 2. To make arrangements for appointments by election (if contested) and overseeing of the election of representatives by secret ballot.
 3. Whether or not to divide the representatives into particular categories eg particular school types or maintained schools in a particular area.
 4. To determine the period of office – being a period of not less than two years or greater than four years.
 5. To agree to provide for co-opted nominated representation from both the Church of England and the Roman Catholic Diocese.

3.0 Implications for Transitional Costs

- 3.1 None

4.0 Background and Information

- 4.1 Under the provisions of the Local Government Act 2000 and the Parent Governor Representatives (England) Regulations 2001, local authorities must appoint representatives of parent governors at maintained schools to Scrutiny

Committees which deal with Education matters. This is to enable parents to have a direct input to policies on Education provision for pupils of school age.

- 4.2 Under the provisions of Section 499 Education Act 1996 pursuant to which the Secretary of State issued a Direction (with Guidance) - DfEE Circular 19/99 - local authorities must appoint diocesan representatives to Scrutiny Committees which deal with Education matters. The Church representatives will have voting rights in relation to any decision relating to: - schools maintained by the local authority, pupils who attend schools maintained by the local authority or are educated by the local authority in some way but not the other business of the Committee. This is to enable denominations to have a direct input to policies on Education provision for pupils of school age.
- 4.3 Current procedures for parent governor representatives, eligibility and guidance on voting rights etc. are attached at Appendix 1. Appendix 2 outlines a typical timetable for an election of parent governors' representatives to take place.
- 4.4 Appendix 3 outlines the requirements of local authorities in England to provide Church representatives with voting rights on Scrutiny Committees dealing with education and the scope of direction. These duties will fall upon Cheshire East Council.

For further information: -

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Background Documents: -

- ***Local Government Act 2000***
- ***Parent Governor Representatives (England) Regulations 2001***
- ***Education Act 1996***
- ***DfEE Circular 19/99***

Documents are available for inspection at:

Cheshire East Democratic Services

C/o Westfields

Middlewich Road

Sandbach

CW11 1HZ

CURRENT PROCEDURES

**APPOINTMENT OF PARENT GOVERNOR REPRESENTATIVES
TO SCRUTINY COMMITTEES**

1. INTRODUCTION

Under the provisions of the Local Government Act 2000 and the Parent Governor Representatives (England) Regulations 2001, local authorities must appoint representatives of parent governors at maintained schools to Scrutiny Committees which deal with Education matters. This is to enable parents to have a direct input to policies on education provision for pupils of school age.

2. REPRESENTATION

Cheshire County Council currently has two appointed parent governor representatives on the Children's Services Scrutiny Select Committee but they may also sit on any other Scrutiny Committee that deals with Education matters from time to time. The current term of office is for two calendar years.

3. ELECTION OF REPRESENTATIVES

The places for the parent governor representatives are filled by election on a countywide basis. A typical timetable for the election process is attached at Appendix 2. All parent governors at schools maintained by the Authority are eligible to vote in the election and ballot papers along with instructions on voting are issued. Governors from any other category are not eligible to vote, even if they are parents of children attending a Cheshire school

4. WHO CAN STAND?

To be eligible to stand, subject to 5 below, a parent governor must be:

- A parent governor at a school maintained by Cheshire Education Authority; and
- A parent of a child at one of Cheshire's schools; or
- A parent of a child who is educated by Cheshire in some other way.

A parent includes carers and other persons with parental responsibility.

The key point is that a nominee for election should be both a parent governor and a parent, as defined above, at the date of the election.

5. WHO CANNOT STAND?

The following parents are not eligible to stand as parent governor representatives:

- employees of Cheshire County Council;
- employees of schools maintained by Cheshire County Council;
- Members of local authorities;
- parent governor representatives at another authority; and
- governors from another category who happen to be the parent of a child at one of Cheshire's schools or educated by Cheshire in some other way

6. NOMINATIONS FOR A REPRESENTATIVE

Those wishing to stand may nominate themselves or may be nominated by other parent governors.

7. ROLE OF PARENT GOVERNOR REPRESENTATIVES

The role of a parent governor representative is to:

- act as an apolitical voice for parents in the Cheshire area;
- liaise with the other parent governor representative;
- attend and contribute to meetings dealing with Education matters;
- establish good relations with other Members and LEA Officers; and
- provide feedback to parents on Cheshire's discussions of decisions on education.

8. VOTING RIGHTS

Parent governor representatives **will** have the right to vote in any decision taken by Scrutiny Committee(s) to which they are appointed (voting rights limited to Education matters only) which relate to:

- schools maintained by Cheshire County Council;
- pupils who attend schools maintained by Cheshire County Council or who are educated by the Authority in some other way; and
- how funds which have already been earmarked for education are to be spent.

Parent governor representatives will **not** have the right to vote on;

- any decisions which determine Cheshire Education Authority's total education revenue or capital budget;
- any matters which would require the Council to raise the level of Council Tax; and
- any matters in which the representative has a pecuniary interest or some other direct interest.

A parent governor representative may participate in any discussions that take place in the Committee whether or not they have voting rights on the topic under discussion.

9. ALLOWANCES

Parent governor representatives will be entitled to claim travelling and subsistence expenses and reasonable travel expenses for attendance at the Cheshire Association of Governing Body meetings.

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A TYPICAL TIMETABLE FOR ELECTION
OF PARENT GOVERNOR REPRESENTATIVES

5 Jan	Issue background documents and nominations forms
28 Jan	Last date for nominations
11 Feb	Issue Ballot Papers and instructions on voting
10 March (noon)	Last date for return of completed ballot papers
10 March (pm)	Count
10 March	Declaration of Result
11 March	Result of Election Circulated
13 March	Formal notification of appointment
16 March	Induction period begins
31 March	Induction completed
1 April	Formally take up office

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APPENDIX 3

CHURCH REPRESENTATIVES ON LOCAL AUTHORITY COMMITTEES DEALING WITH EDUCATION

INTRODUCTION

1. Circular 19/99: contained a direction of the Secretary of State for Education and Employment under section 499 of the Education Act 1996 requiring local authorities in England to appoint representatives of the Church of England and the Roman Catholic Church to their committees dealing with education. These representatives will represent those who appoint foundation governors for voluntary schools in their area. Representatives of other Christian denominations and other faiths who also appoint foundation governors for a voluntary school or schools may request the Secretary of State to make a specific direction.
2. The direction ensures that the contribution made by voluntary schools to the maintained education system is recognised and appropriately reflected in the composition of committees set up by local authorities to carry out their education functions. Non-elected voting members can only be included in committees dealing with education matters if their inclusion is required by the Secretary of State.
3. Where Executive arrangements are adopted, this will apply to any overview and scrutiny committee or sub-committee which deals with education issues.

COMPLIANCE WITH THE DIRECTION

4. The Circular sought to secure Church of England and Roman Catholic Church representation on local authority committees dealing with education in a way which gives them an effective voice in education decisions without restricting how local authorities structure their decision-taking process.
5. Local authorities must provide diocesan representatives with places with voting rights on **any** committee which deals with education matters, whatever structure is used. Education matters are defined as any matter relating to the discharge of a local authority's education functions. This includes any matter relating to maintained schools or to pupils educated at those schools or otherwise.

DECISION MAKING STRUCTURES

6. Where a single body or executive exists (in the form of a mayor or cabinet), and where it takes all the main decisions relating to education, then the authority could have a number of 'overview and scrutiny' committees whose role will be to

scrutinise and put proposals to the executive. It is on these committees dealing with education that it would be expected that the diocesan representatives would sit. If more than one committee exists to oversee and scrutinise the executive's education decisions then diocesan representatives can be expected to be offered a place on each one.

7. Where education forms only one part of a committee's remit, diocesan representatives must still be members of this committee and should vote on education matters. The representatives would be able to speak on all topics covered by the committee. Representatives would, however, be advised to speak only on education topics and topics which have a clear link to education.

VOTING RIGHTS

8. The diocesan representatives have the right to vote on any decisions taken by the committee to which they are appointed by the local authority which relate to:
 - schools maintained by the local authority; and
 - pupils who attend schools maintained by the local authority, or who are educated by the local authority in some other way.
9. Diocesan representatives are allowed to vote on matters—dealt with by the committee(s) to which they are appointed—which affect how funds, already earmarked for education, are spent, such as motions on:
 - how much of the education budget is devoted to schools (compared to other forms of education provision such as adult education or the youth service);
 - what proportion of the schools budget is retained centrally by the local authority to provide services for schools and pupils, and what proportion is delegated to individual school budgets;
 - what proportion of the schools budget retained centrally is devoted to each of the four main funding areas (school improvement, pupil access, special educational provision and strategic management) and how much is contributed to Government grants for other specific activities;
 - the formula by which individual school budgets are calculated; and
 - any other more specific financial matter.
10. Diocesan representatives should **not** vote on:
 - any decision which determines the local authority's total education revenue or capital budget;
 - any matter which would require the council to raise council tax;

- any matter in which the representative had a pecuniary interest or any matter in which the representative had some other personal interest rather than interest related to their role as diocesan representative, including a direct impact on the school at which the representative is or was a governor or where the representative's children are taught (for example, whether that school or another school should be given priority for the replacement of temporary classrooms).

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CHESHIRE EAST

SCRUTINY COMMITTEE

Date of meeting: 10 October, 2008
Report of: Governance Lead Officer
Title: DCLG Consultation: "Communities in Control; Real People, Real Power; Improving Accountability"

1.0 Purpose of Report

- 1.1 To brief the Committee on the content of a Consultation Paper published by the Department for Communities and Local Government (DCLG) which is about developing and strengthening overview and scrutiny, new powers to hold local officers to account and facilitating the work of councillors. Responses to the consultation are to be received by 30 October.

2.0 Decision Required

- 2.1 To determine whether or not to respond to the consultation and to consider the implications of the proposals for the Committee's work.

3.0 Financial Implications for Transition Costs

- 3.1 There are no implications for transition costs, except the provision of appropriate Member development in view of the new roles and responsibilities involved.

4.0 Financial Implications 2009/10 and beyond

- 4.1 To be considered as part of the overall support to be provided to the Scrutiny function.

5.0 Information

- 5.1 In the wake of the recent White Paper "Communities in Control: Real People, Real Power", the Government has published a Consultation Paper "Improving Local Accountability" which is about developing and strengthening overview and scrutiny, new powers to hold local officers to account and facilitating the work of councillors. Responses to the consultation are to be received by 30 October. The Government will take account of responses received before introducing the appropriate primary and secondary legislation.
- 5.2 The relevant sections of the Consultation Paper are attached (Appendix 1) and may be summarised as follows:-

- the enhancement of scrutiny's powers in relation to Local Area Agreement partners and their delivery of LAA improvement targets
- how best to raise the visibility of, and to strengthen, the scrutiny function
- increasing the accountability of chairs and chief executives of local public bodies
- enabling councillors to use technology to participate in meetings and vote remotely

The list of consultation questions is also included. What follows is a synopsis of the Consultation Paper and (in italics) a commentary thereon.

Developing and Strengthening Overview and Scrutiny

5.3 Chapter 2 (paras 2.1-2.8) lays out a definition of overview and scrutiny and briefly traces the history of its development since the Local Government Act 2000 (referring in particular to the scrutiny of local health services arising from the Health and Social Care Act 2001, and of crime and disorder reduction strategies as a result of the Police and Justice Act 2006). *Interestingly, the Consultation Paper takes a fairly rigid view of holding decision-makers to account. Little mention is made for example of the potential for scrutiny to reaffirm the soundness of decisions taken by the Executive, to offer advice on how a consultation underpinning a particular decision might be carried out, or to monitor outcomes from decisions – i.e. scrutiny as the “critical friend”.*

5.4 Paras 2.14-2.20 focus on powers arising from the Local Government and Public Involvement in Health Act 2007 to make Regulations in relation to scrutiny of Local Area Agreement Partners and the delivery of their LAA improvement targets; information which may be sought from Partner authorities; and the publication of scrutiny reports, recommendations and responses. It is likely that Partner authorities (the list is included in Appendix 1) will have to, by Regulation, provide information upon request:-

- where it is information on any target which relates to that partner
- relates to an agenda item of the overview and scrutiny committee concerned
- has been requested by that committee.

The type of information which may be withheld will be specified. The Regulations are unlikely to impose time limits for responses to requests for information or the format of any response.

5.5 *The Cheshire East Council will be the responsible local authority for the LAA, and this Committee therefore the appropriate Overview and Scrutiny Committee. The Committee has yet to take a view on its involvement in monitoring the performance of the LAA. The*

Government's intention is to strike a balance between providing a robust Regulation based framework with the need for local flexibility to enable overview and scrutiny to reflect the concerns of communities. Experience from Health Scrutiny suggests that early and regular engagement with Partners is a prerequisite to success, supplemented by agreed local Protocols on how requests for information should be made and responded to. It is also reasonable to expect that such Protocols should touch upon time limits and formats for responses, rather than this being left completely open-ended.

- 5.6 The Consultation Document (in paras 2.21-2.23) then goes on to provide a timely reminder that, as a consequence of the 2007 Act, overview and scrutiny committees may require a formal response from the Executive to a scrutiny report or recommendations which they have produced and for that response to be published. The Act also details circumstances in which confidential or exempt information must or may be excluded from published overview and scrutiny reports; *the Government propose, quite sensibly, to apply similar restrictions to published responses from the Executive.*
- 5.7 Paras 2.30-2.35 propose ways to strengthen the role of scrutiny, making it more visible and accessible as a means of promoting local participation:-
 - by extending the power to require information from partner authorities to also include matters outside LAA targets
 - a requirement that some dedicated scrutiny resource is provided within each unitary authority
 - in addition to responsibility for considering Councillor Calls for Action, overview and scrutiny committees to hear appeals from the public when they are dissatisfied with a local authority's response to a petition.
- 5.8 *There are a number of important issues to take into account in considering responses to the Questions posed in this section. The first Question concerns area scrutiny committees which, although directed at the position in two-tier areas, clearly has a relevance for the new Unitary Authority also. For Cheshire East, it may be premature to make detailed comments before the overall picture for local/neighbourhood working has been determined; nevertheless there may be pressure – from the CPA process – to at least consider a model for area scrutiny. There may for example be merit in having such a mechanism to give initial consideration to a Councillor Call for Action or Local Petition; but it would require not insignificant resources to sustain such machinery, and the governance arrangements would need to be very carefully drafted.*
- 5.9 *As regards the proposals for dedicated resources, it is clear that if local authorities are to be in a position to respond effectively to the expectations/obligations being placed on overview and scrutiny by*

Inspectors and local communities, some such resources will be required. There is some evidence from the Centre for Public Scrutiny which suggests that the more dedicated the resource, the more esteem the activity has both internally and externally, and the more effective it can be. There is at present a mix of Authorities with/without dedicated resources, but in recent times the trend does appear to be towards making this provision. There is a reference in the Consultation Document to the possibility of putting the issue of dedicated resources on a par with those for the monitoring officer established under Section 5 of the Government and Housing Act 1989. That Act provides that:-

- (1) *It shall be the duty of every relevant authority:-*
- (a) *to designate one of their officers (to be known as “the monitoring officer”) as the officer responsible for performing the duties imposed by this section; and*
 - (b) *to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow those duties to be performed.*

The monitoring officer has certain legal responsibilities arising from the 1989 Act and subsequent legislation. It is not suggested- at present- that similar responsibilities will be placed upon the lead officer for overview and scrutiny.

- 5.10 *The Government has now published its response to the consultation on Councillor Calls for Action (CCfA) and on Local Petitions and how it now proposes to proceed (see Appendix 2). Formal guidance will be published by the end of 2008. There does appear to be an assumption however that overview and scrutiny committees will have a significant role to play in both. There is of course a risk that a plethora of CCfAs could clog up the Agenda of a single Scrutiny Committee without some form of robust filtering system. As regards Scrutiny Committees being the “appeal body” on Local Petitions, this raises questions as to which Council body will determine the Authority’s response and the need therefore to ensure that, in the interest of transparency, no Scrutiny Member has an involvement in that decision.*

Increasing the Visibility and Accountability of Local Public Officers

- 5.11 *Paras 3.3-3.5 build upon the proposal in the White Paper that the chair or chief executive of a local public body should attend a regular public hearing to explain their actions and decisions and to listen to the views and concerns of local people. The Question in the Consultation Paper is whether it should be left to those responsible for the job descriptions of these individuals to determine how precisely this obligation is fulfilled.*
- 5.12 *What is not clear is which “public services” are being referred to. If the formal list of Partner Authorities is to be used, in the Cheshire East*

area this could amount to upwards of 20 bodies. No definition is offered of “local” – is the whole of Cheshire East deemed to be local for example? No indication is given of the role the local authority is expected to play in this – eg arranging such meetings, chairing such meetings or merely attending such meetings. The Consultation Paper does later suggest that overview and scrutiny committees could provide a suitable forum for this, and there is a hint in the words “we recognise that this may result in additional costs for councils to be taken into account through the usual new burdens process”. Perhaps these issues should be explored in the first instance between the overview and scrutiny committee and the public service organisations concerned?

- 5.13 The White Paper had also suggested a new right for people to petition to hold officers to account. Paras 3.7-3.11 propose a requirement for the local authority with its strategic Partners to agree and publish a scheme for how this should work in practice.
- 5.14 *There are clearly a number of practical considerations to be taken into account – the mechanics of drawing up and agreeing local schemes, whether policy and operational matters are to be included, timescale for responses to petitions, vexatious petitioners, sanctions for non-compliance. Some minimum standards would clearly be helpful, but thereafter it would make sense to allow schemes to develop and to be agreed and managed locally.*

Facilitating the Work of Councillors

- 5.15 The Government want to enable councillors to participate in council meetings by voting remotely. Paras 4.5-4.10 sets out an intention to legislate to enable this to happen, subject to appropriate safeguards.
- 5.16 It is probably more for the Governance and Constitution Committee to comment on the detail of this proposal. Nevertheless, video conferencing and other such technologies may also be appropriate for overview and scrutiny committees in for example interviewing witnesses who may not be physically present, or to enable participation by a Member of the Committee when unable to attend. This may of course then limit the choice of venues for such meetings.

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Chapter 2

Developing and strengthening overview and scrutiny

What is overview and scrutiny?

- 2.1 Local government overview and scrutiny is a tool by which a community, through its local democratically elected representatives, can address any issue relating to the wellbeing of that community with the aims of:
- highlighting past or proposed decisions by those responsible for the issues, so that the community is better able to judge the decision takers (eg through the ballot box)
 - making recommendations to decision takers so as to influence their future actions, in particular to tackle past shortcomings, to secure public service improvements, or to obtain better outcomes for the community.
- 2.2 Overview and scrutiny therefore includes but is not limited to examining decisions taken by the council executive, and those which the executive proposes to take in the future. Overview and scrutiny involves examining:
- past actions and decisions of both the council's executive and of the authority – holding decision takers publicly to account, and influencing council decisions and policies by recommending or persuading the executive to change its mind
 - proposed future actions and decisions (policy development), providing input and influencing decisions on future activities
 - issues of importance to the community; stimulating public engagement and influencing outcomes, the responsibility for which might lie with the council, its partners or local stakeholders more generally.
- 2.3 In practice, such an examination might involve an overview and scrutiny committee holding hearings of the cabinet member and council officers responsible for a particular decision as well as seeking views from the public and other stakeholders, leading to a report and recommendations to the authority's executive. Equally, it may involve an overview and scrutiny committee reviewing a council policy – using a working group to collect evidence to enable members to be aware of the broader issues, seeking the views of local residents, business and various other stakeholders, again leading to a report and recommendations to the executive.

- 2.4 So overview and scrutiny can be a powerful tool for empowering communities and enabling local people through their councillors to participate in decisions which affect their day to day lives. Its statutory framework was established by Part II of the Local Government Act 2000. Central to its operation are councils' overview and scrutiny committees which the 2000 Act required all councils operating executive arrangements to appoint. The 2000 Act and associated regulations also required those small district councils operating a streamlined committee system ("alternative arrangements") to appoint one or more similar committees.
- 2.5 Following the 2000 Act the practice of overview and scrutiny has developed across local government. The Health and Social Care Act 2001 extended the statutory framework providing a statutory basis for councils to scrutinise local health services. The framework was further extended by the Police and Justice Act 2006, which brought bodies preparing a crime and disorder reduction strategy within councils' scrutiny arrangements.
- 2.6 Within this extended framework a number of councils adopted imaginative and wide ranging approaches to overview and scrutiny. More generally, councils across the country were strengthening the effectiveness of their scrutiny arrangements, so that by 2006 a survey¹ showed that over 80 per cent of recommendations from overview and scrutiny had been accepted by the council's executive or policy committee.
- 2.7 However, as the White Paper *Strong and prosperous communities*² recognised in 2006, while overview and scrutiny committees are good at reviewing service outcomes and involving external stakeholders, they are weak at reconciling community opinion or providing a forum for community debate.
- 2.8 In the Local Government and Public Involvement in Health Act 2007 we legislated to enhance the ability of councillors through overview and scrutiny to champion the interests of local people across a range of local issues. This included providing a new responsibility for overview and scrutiny committees to consider Councillor Calls for Action (CCfA) on issues of local concern. Our 2008 White Paper *Communities in Control: Real people, real power* has now committed us to raise the visibility of the scrutiny function and to further enhance its effectiveness.

¹ The 2006 survey of overview and scrutiny in local government; the Centre for Public Scrutiny; 2007

² Strong and prosperous communities; The Local Government White Paper; Communities and Local Government; 2006

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

- 2.9 We are now proposing to implement the 2007 Act provisions, which are designed to enhance councils' scrutiny powers in the context of Local Area Agreements (LAAs). There is already a duty on the LAA's lead council (ie the responsible local authority for the LAA, namely the unitary council, London borough council, or in the case of two tier areas the county council) to publish a memorandum relating to their LAA, setting out to local people how partners are going to tackle and measure progress against their LAA. Guidance on Local Strategic Partnerships, including governance, engagement arrangements and implementing LAAs following the 2007 Act is set out in *Creating Strong and Prosperous Communities: Statutory Guidance*.
- 2.10 This consultation focuses on those powers to make regulations in relation to the scrutiny by council overview and scrutiny committees of LAA partners and their delivery of LAA improvement targets. In particular on the power to make regulations in respect of:
- overview and scrutiny committees' requiring information from partner authorities
 - publication of scrutiny reports, recommendations and responses
 - establishment of 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.
- 2.11 We set out the specific approach we are proposing to adopt to implement each of those new provisions. In each case, implementation will involve not only bringing the relevant provisions of the 2007 Act into force, but also making regulations and publishing guidance as appropriate.
- 2.12 Our intention is to achieve an appropriate balance between providing a sufficiently robust regulation based framework so that councils have the powers they need, and equally ensuring that councils, their overview and scrutiny committees, and local partners have that local flexibility necessary both to allow for innovation and for overview and scrutiny effectively to serve and empower local communities. We are also proposing that wherever possible guidance should take the form of sector led best practice guidance. We intend to develop this with the Local Government Association, stakeholders, and practitioners.
- 2.13 Consistent with this approach, our proposals for implementing each of the new provisions are set out below.

Requiring information from partner authorities

- 2.14 This provision is about the information (other than information about policing or local health services for which separate provision is made³) which the partners in a LAA should make available to overview and scrutiny committees of that LAA's lead council. The partners are the partner authorities of the lead council for the LAA concerned. A full list of possible partner authorities is at Annex B. The provision also covers the information which in a two-tier area, the county council or partners (other than a police authority or chief constable) – described in the legislation as 'associated authorities' – should make available to a district council overview and scrutiny committee in relation to that LAA.
- 2.15 We propose that in the context of an agreed LAA, guidance should reflect our expectation that a partner will make available to the lead council's overview and scrutiny committee such information as it may request for the purposes both of examining progress on any LAA target with which the partner is concerned and of undertaking studies of local issues connected to such a LAA target. We also expect that wherever practicable partners should provide such overview and scrutiny committees with other information they might have which the committee has requested as facilitating its work more generally. Committees should ensure that any requests for information are well focused and thought through. Equally they should take care not to unduly burden partners and to avoid duplication and any unnecessary requests.
- 2.16 Similarly, we propose that in a two-tier area the lead council or any partner in an LAA should make available to a 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 that area. It will be particularly important that requests from district councils in a two-tier area are co-ordinated and duplication is avoided.
- 2.17 With this proposed approach to guidance we envisage only limited regulations on these matters. Regulations may set out information that must be disclosed and that which may not be disclosed by partner and associated authorities to overview and scrutiny committees.
- 2.18 We propose therefore that partner authorities must provide information where that information:
- is information in relation to any target which relates to that partner
 - relates to an agenda item of the overview and scrutiny committee concerned
 - has been requested by that overview and scrutiny committee.

³ The Police and Justice Act 2006, and the National Health Service Act 2006 respectively.

- 2.19 We also propose to set out the types of information that, and the circumstances in which information, may be withheld by partners. Such information would include personal data covered by the Data Protection Act 1998 and information subject to commercial confidentiality and we intend that these provisions would apply equally to requests from any overview and scrutiny committee to partner or associated authorities. Equally, partner authorities would not be required to provide information where the information requested is already publicly available.
- 2.20 Finally, in the spirit of striking a balance between regulation and allowing local flexibility, we do not propose to specify in regulations any time limits for responses by partner or associated authorities or the format of any such response (whether in writing or attendance at a meeting). We consider that these are detailed arrangements which will necessarily depend on the particular circumstances of individual requests.

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

Publication of scrutiny reports, recommendations and responses

- 2.21 This provision is about the arrangements for publication of scrutiny reports, recommendations and responses. The 2007 Act strengthened the existing powers of overview and scrutiny committees by enabling them to require a response from the local authority or the local authority's executive to a scrutiny report or recommendations.
- 2.22 The provision also enhanced the transparency of the conduct of overview and scrutiny work by providing that where committees publish their report or recommendations, the authority or executive must also publish their response. Equally, where a committee has provided a copy of its report or recommendations to a council member or partner, the executive or authority must also provide a copy of their response.
- 2.23 An overview and scrutiny committee or a local authority, in publishing these documents, or providing copies of these documents to local authority members or partners, will be required to act in accordance with the new section 21D of the Local Government Act 2000 (as will be inserted by the 2007 Act). This section details circumstances in which confidential information and any relevant exempt information must or may be excluded. This provision will extend to the overview and scrutiny committee and local authority only, and we propose to make regulations to extend these provisions without modification to local authority executives where they also publish or provide copies of such documents.

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

Establishment of joint county and district overview and scrutiny committees

- 2.24 This provision is about the establishment of joint overview and scrutiny committees in areas with both county and district councils so that they may work together collaboratively to make reports and recommendations about the attainment of local improvement targets specified in the LAA for the area. A joint overview and scrutiny committee may be established by the county council and one or more of the district councils within the county area. This will provide a framework through which the county and district councils can co-ordinate their efforts with relevant partners on the scrutiny of LAA targets.
- 2.25 We propose that joint committees should have broadly the same powers held by overview and scrutiny committees in responsible local authorities so that they may for example, appoint sub-committees and co-opt members⁴. We also propose making similar provision for joint committees in respect of partners. In doing so we want to ensure that partners are not placed under unreasonable burdens for example, by handling similar requests for information from a joint overview and scrutiny committee and one or more local authority overview and scrutiny committees in the area. On issues of common interest across the area we would expect the joint committee (where one exists) to make requests for information from partners and propose to specify this in the regulation framework. Where a joint committee does not exist, we will expect the arrangements set out in paragraphs 2.14 – 2.20 above to apply.
- 2.26 We also propose that joint committees may make reports and recommendations to those local authorities or local authority executives for which the joint overview and scrutiny committee has been established. Where a joint committee makes a report to such a local authority or local authority executive we propose that they will be required to respond within two months.

Consultation Question 3: 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?

⁴ Due to their nature the 2007 Act did not provide for joint overview and scrutiny committees to be given the power to 'call in' members of the authority or of the executive, or officers of the authority, nor to refer decisions that have not been implemented back to the executive.

Enhancing the powers of district overview and scrutiny committees

2.27 District scrutiny committees in two-tier areas are also given strengthened powers by the 2007 Act. To enable them to play an active role in scrutinising the delivery of LAA targets connected to the district council's area, we propose to make regulations in relation to these powers, broadly mirroring those that will be available to lead councils. Within this remit we propose that:

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

2.28 It will of course be for district overview and scrutiny committees to take decisions on their programme of work. However in doing so, it will be particularly important that they take account of any scrutiny work that is planned or being carried out by an overview and scrutiny committee of the lead council or joint committee to avoid duplication of effort and resources. To minimise the potential for duplication we propose to specify that the requirements on the county council to respond and partner authorities to have regard to such district overview and scrutiny reports on LAA matters will apply in relation to matters on which a joint overview and scrutiny committee in the relevant responsible local authority area has not already considered and reported.

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

Scrutiny in small district councils operating a streamlined committee system

2.29 The new powers in the 2007 Act currently apply only to authorities operating executive arrangements. We have previously applied overview and scrutiny provisions to those small district councils operating a streamlined committee system ("alternative arrangements") and we propose to do so again, applying the enhanced powers for district overview and scrutiny committees as set out at paragraphs 2.27 and 2.28 above, and providing that district councils operating alternative arrangements may also form part of a joint overview and scrutiny committee within the relevant county council area.

Consultation Question 5: Do you agree with the proposal to apply these new powers in councils operating alternative arrangements? Are there any specific implications that should be taken into account in doing so?

Taking forward the 2008 White Paper commitments

- 2.30 The *Communities in Control* White Paper sets out proposals to enhance the power of citizens and make public institutions more accountable. It recognises that the current overview and scrutiny arrangements provide a number of ways in which local people can become involved in holding local decision-makers to account, and seeks to raise the visibility of these current arrangements. The new duty to promote democracy will help to make overview and scrutiny more visible and accessible by encouraging councils to be more innovative about the way they promote local participation.
- 2.31 In raising the profile of the overview and scrutiny function in local authorities, we want to ensure that scrutiny committees have the necessary capacity and powers to respond to the greater public interest. Building on the 2007 Act provisions, we intend to further strengthen the scrutiny function by extending the power to require information from partner authorities to matters outside LAA targets.
- 2.32 We also propose 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. Such area committees would operate within the county area, combining existing district and county resource in a powerful partnership.
- 2.33 Finally, we intend to require some dedicated scrutiny resource in county, unitary and London borough councils across England. This will ensure that every area in England is covered by dedicated scrutiny resource to support the overview and scrutiny function in local government. One way this may be achieved is through making similar provision to that for monitoring officers and their resources as set out in the Local Government and Housing Act 1989.
- 2.34 The white paper also proposed a new duty on local authorities to respond to all petitions, including electronic petitions, relating to local authority functions or other public services where the local authority shares delivery responsibilities. The *Local Petitions and Calls for Action Consultation: Government Response*, sets out more detail.⁵
- 2.35 We want to ensure that local authorities take petitions seriously, and will ensure that petitioners can appeal if they are not satisfied with their response. If the appeals body judges that a local authority's response was not adequate they could trigger a debate of the full council. Overview and scrutiny committees are independent of the Executive and will be responsible for considering Councillor Calls for Action. They are therefore well-placed to consider appeals when petitioners are not satisfied with the local authority response. We therefore propose that appeals about a local authority's response to a petition should be considered by the overview and scrutiny committee.

⁵ www.communities.gov.uk/publications/communities/petitioncallsgovernmentresponse

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

Consultation Question 7: How might the requirement for dedicated scrutiny resource be put into practice?

Consultation Question 8: 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?

Chapter 3

Increasing the visibility and accountability of local public officers

Holding local public officers to account

- 3.1 The ability to hold to account those who hold power locally is central to any real empowerment of local communities. It is for this reason that the *Communities in Control* White Paper is proposing to raise the visibility of local public officers so that they are all open to public scrutiny and questioning from local communities through:
- chairs and chief executives of local public bodies attending regular public hearings
 - a new right for people served by local service providers and agencies to petition to hold local officers to account.
- 3.2 Without cutting across established lines of accountability, including the democratic accountability of councillors to local electors through the ballot box, local people would be more empowered if they have direct means of being able to influence local decisions, and a means by which local decision takers can explain their decisions to the local communities affected by them. It is against this background that we are consulting on how to put in practice a scheme that will allow people to petition to hold local public officers to account. This will be one element of our proposals to develop local petitions (see paragraphs 2.34 and 2.35); we recognise that this may result in additional costs for councils to be taken into account through the usual new burdens process.

Attendance at regular public hearings

- 3.3 The *Communities in Control* White Paper seeks to bring consistency across the range of local public services by proposing that a key part of the role of a chair or chief executive of a local public body should be that they attend a regular public hearing to explain their actions and decisions and to listen to the views and concerns of local people.

- 3.4 A public hearing in this context may mean a public meeting or forum where local people are able to receive information about the recent work of the local public body and have the opportunity to ask questions or raise issues of importance. The expectation is that these meetings should take place every three or four months and that they should be held in places easily accessible to the general public, for example, at a local leisure centre or community hall as opposed to the offices of the body in question.
- 3.5 The requirement to attend such meetings should be reflected in the job descriptions of the chair or the chief executive, and in recognition that a number of public bodies already have similar provision or requirements, such as local health bodies for example, we propose that it should be for those responsible for such job descriptions to determine the precise arrangements by which the chair or chief executive will attend regular meetings.

Consultation Question 9: 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 public meetings?

Petitions to hold local public officers to account

- 3.6 The White Paper also proposes a new right for people to petition to hold local officers to account whereby if enough people served by a local service or agency sign a local petition, then senior officers working for that local public body should be required to attend a public meeting. In developing any scheme for petitioning to hold local officers to account, our intention is to achieve an appropriate balance between providing a sufficiently robust legal framework while retaining that flexibility necessary to allow for local circumstances across the range of local public bodies.
- 3.7 We are therefore proposing that in each LAA area, the lead council with its strategic partners, including local service providers and agencies, should be required to agree and publish locally a scheme for petitions to hold local officers to account. In agreeing such a scheme, the council and its partners will wish to have regard to any other local petition arrangements within the area. In particular we would expect any scheme to complement, or form part of the council's scheme for responding to petitions more generally.
- 3.8 As a minimum, we would expect such a scheme to set out:
- the officers (or category of officers) to whom the scheme would apply locally
 - 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.

3.9 It would be open for Government to specify certain minimum standards for the various elements of the scheme. Such minimum standards might include the timescale by which such schemes should be in place, specified local officers or categories of officers, and specified local service providers and agencies which must be covered by a scheme. For example, it is proposed that this power should apply to senior officers only – perhaps those who are members of the executive board or senior management team. One option for defining such officers in local government could be to specify that in addition to the chief executive, the scheme would apply to “statutory officers” and/or “non-statutory chief officers” as defined in the Local Government and Housing Act 1989⁶.

3.10 As with the policy for chief executives and chairs to attend regular public hearings, we consider the term public hearing in relation to this power to mean an opportunity for a public meeting (this might be an existing meeting of the local authority overview and scrutiny committee for example) at which the officer would be available to discuss the matter and respond to questions.

Consultation Question 10: 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: 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?

⁶ ‘Statutory chief officers’ as defined by section 2(6) of the Local Government and Housing Act 1989 are the chief education officer, the chief officer of a fire brigade maintained under the Fire Services Act 1947, the director of social services, and the officer having responsibility for the administration of the authority’s financial affairs. Similarly, ‘non statutory chief officer’ is defined in section 2(7) as a) a person for whom the head of the authority’s paid service is directly responsible; b) a person who as respects all or most of the duties of his post is required to report directly or is directly accountable to the head of the authority’s paid service; and c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.

Which local public officers would be included?

- 3.11 We propose 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). In doing so the council and its partners will wish to consider those local service providers and agencies whose decisions can have a significant effect on the day to day lives of local people and their communities.

Consultation Question 12: 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?

Chapter 4

Facilitating the work of councillors

Remote attendance and voting by authority members

- 4.1 In an age where it is commonplace for people to contribute to a meeting without being physically present, for instance through teleconferencing, and where the internet allows common use of video conferencing and the almost instant sharing of documents, the Government believes it is right that these technologies are applied to help overcome the barriers of time, circumstance and distance that might discourage members from participating in meetings.
- 4.2 The report of the Councillors Commission *Representing the future*, included the recommendation that Government should introduce legislation in order to enable involvement in meetings including, but never limited to, voting, without the need to attend in person.
- 4.3 The *Government response to the Councillors Commission* report agreed with this recommendation. The Government wants to enable councillors to participate in council meetings and vote remotely and we will introduce legislation to support these activities in the forthcoming Community Empowerment, Housing and Economic Regeneration Bill.
- 4.4 Further, the local government White Paper *Communities in Control*, made it clear that any changes in attendance or voting procedure for the authority would have to be balanced with measures to preserve accountability and transparency, so that citizens can remain confident that they are being properly represented by their councillor.

Legislation and standing orders

- 4.5 We are proposing to legislate to allow authorities to modify their attendance and voting procedures as necessary to allow remote voting. We would envisage that, apart from certain members not being physically present, meetings and votes would continue essentially in the same manner as they did when members were physically present at meetings and votes. This would extend to the public having the same ability to witness proceedings.

- 4.6 It would be for the authorities themselves to decide how much or how little use they wished to make of remote attendance and voting and to consider matters of security and propriety. It is envisaged that in resolving to modify their attendance and voting procedures – most probably through an amendment to the authority's 'standing orders', the authority will in effect have to 'opt-in' to remote attendance and voting and, in doing so, will demonstrate that it has positively considered the effect and consequences of remote attendance.
- 4.7 The legislation would apply to county councils, district councils, London boroughs and parish councils and make certain basic requirements.
- 4.8 Firstly, that at least one member must be physically present at the meeting and that person must be in audio contact with any member attending remotely, with or without a video link. In addition members of the public physically present at the meeting must be able to witness what is happening, at least through audio contact. If the opportunity for the public to participate in the meeting is available, this must be provided for and remote attendees must be able to hear the contributions.
- 4.9 The legislation will contain safeguards to ensure that those attending remotely must be able to participate in and listen to the meeting when and as required. If they are unable to sustain communication, then they are not considered present. The legislation will allow authorities to establish procedures for what the protocols for the meeting would be if contact with a remote attendee were to be lost.
- 4.10 We do not consider that a local authority adopting remote attendance or voting measures would result in additional costs as it would involve the use of existing facilities in a more flexible way. Indeed, it may result in costs savings as travel expenses are cut.

Consultation Question 13: Do you agree with the proposed approach?

Annex A

List of consultation questions

Chapter 2: Developing and strengthening overview and scrutiny

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

- Question 1 Do you agree with our proposed approach in relation to overview and scrutiny committees requiring information from partner authorities?
- Question 2 Do you agree with the proposal to apply the provisions in relation to exempt and confidential information without modification to local authority executives?
- Question 3 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?
- Question 4 Do you agree with the proposed approach to enable district scrutiny committees to review the delivery of LAA targets?
- Question 5 Do you agree with the proposal to apply these new powers in councils operating alternative arrangements? Are there any specific implications that should be taken into account in doing so?

Taking forward the 2008 White Paper commitments

- Question 6 What issues should be considered as part of any new power to establish area scrutiny committees?
- Question 7 How might the requirement for dedicated scrutiny resource be put into practice?
- Question 8 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?

Chapter 3: Increasing the visibility and accountability of local public officers

- Question 9 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 public meetings?
- Question 10 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?
- Question 11 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?
- Question 12 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?

Chapter 4: Facilitating the work of councillors

- Question 13 Do you agree with the proposed approach?

Annex B

List of partner authorities as defined in the 2007 Act

The partner authorities required to co-operate with overview and scrutiny committees are:

- Arts Council of England
- Broads Authority
- District councils in two-tier areas
- English Sports Council
- Environment Agency
- Fire and Rescue Authorities
- Health and Safety Executive
- Historic Buildings and Monuments Commission
- Joint Waste Authorities
- Learning and Skills Council for England
- Local Probation Boards
- Metropolitan County Passenger Transport Authorities
- Museums, Libraries and Archives Council
- National Park Authorities
- Natural England
- NHS Trusts
- NHS Foundation Trusts
- Primary Care Trusts
- Regional Development Agencies
- Transport for London
- Waste Disposal Authorities
- Youth Offending Teams

Appendix 2

**GOVERNMENT RESPONSE TO RESULTS OF CONSULTATION ON
LOCAL PETITION AND COUNCILLOR CALL FOR ACTION**

Introduction

1. In December 2007, the Government launched a consultation on how arrangements for local petitions could be strengthened and how a new system could operate in practice. At the same time it also sought views on the implementation of the Councillor Call for Action introduced under the Local Government and Public Involvement in Health Act 2007. The closing date for consultation was 20 March.
2. The Government has now considered the response to the consultation and has set out its intentions.

Local Petitions

3. The Government now propose:-
 - to place a statutory duty on local authorities to respond to all local petitions, including electronic petitions
 - the subject of a petition must relate to the functions of the local authority, or other public services for which the local authority has shared delivery responsibilities, through for example the LAA. It will not include planning. Local Authorities will not need to respond to frivolous, vexatious or discriminatory petitions.
 - local authorities will act as community advocates for petitions related to Primary Care Trusts
 - local authorities must respond to all valid petitions, signed by those who live, study or work within the local authority boundary (including children and young people aged under 18), and those who are from outside the area
 - to be valid, a petition must contain a call for action, must be clear to which local authority it relates, should include the name, address and date of all signatories
 - the local authority's response to all valid petitions must be proportionate and substantive; thresholds should be in place for triggering debates in Full Council
 - overview and scrutiny committees will act as appeal mechanisms when petitioners are not satisfied with the local authority response.

Councillor Call for Action

4. The Government now propose:
- to implement by the end of 2008 the provisions in the LGPIH Act 2007 empowering all councillors to refer local government matters for consideration by the relevant overview and scrutiny committee
 - other than matters for which there are already statutory processes, (including complaints), exclusions to the scope of the power will be kept to the minimum
 - to issue guidance before the end of 2008 on the principles of CCfA explaining to councillors how they can use the power and advising the local authority on how the deal with CCfAs.

CHESHIRE EAST

SCRUTINY COMMITTEE

Date of meeting: 10 October 2008
Report of: Governance Lead Officer
Title: Training and Development

1.0 Purpose of Report

- 1.1 To assist the Committee in identifying its on-going training and development needs.

2.0 Decision Required

- 2.1 To:
- note the outcomes of the discussions held with representatives of Tameside MBC earlier in the day
 - note the arrangements for the delivery of the CWIEP Member Development Programme on Overview and Scrutiny
 - consider further the Self-Assessment Framework

3.0 Financial Implications for Transition Costs

- 3.1 There are no implications for transition costs, except the provision of appropriate Member development in view of the new roles and responsibilities involved.

4.0 Financial Implications 2009/10 and beyond

- 4.1 To be considered as part of the overall support to be provided to the Scrutiny function.

5.0 Information

- 5.1 The Committee at its last meeting set the following as its initial Key Objectives:-
- make a difference to people's lives
 - hold the Cabinet to account
 - shift policy to improve services
 - save resources whilst improving service quality
 - solve problems through a fresh independent look
 - articulate the concerns of local communities

Relationship building – with the Cabinet and with Partner organisations – and a structured approach to work programming were seen as critical to progress, and the Committee was mindful that it could learn from a Beacon Council in this field. Members may therefore wish to review the outcomes of the discussions held with representatives of Tameside MBC earlier in the day.

- 5.2 The Committee at its first meeting agreed to participate in the Cheshire and Warrington Improvement and Efficiency Partnership (CWIEP) Programme of Overview and Scrutiny Member Development. The Programme will focus on the enhanced role of scrutiny and on equipping Elected Members to undertake scrutiny of non local authority providers and deliverers, and on considering appropriate governance arrangements. Those who are signed-up to CWIEP are Cheshire East, Cheshire West and Chester Shadow Authorities, Warrington Borough Council and Cheshire Fire and Rescue Authority.
- 5.3 Members of the Scrutiny Committees of the four partners over a programme of four events will consider: the strategic role of scrutiny, relationships with the Executive and Partners, scrutinising Partners and the LSP, Health scrutiny, ways of working including the potential for sub-regional joint scrutiny, scrutiny skills and practices. The content will take account of the context of each Authority and the varying experiences of Members. The Programme will be designed and delivered by the Centre for Public Scrutiny, including an experienced Peer Member. An appropriate Officer from each authority will assist with facilitation to support sustainable development. It is hoped that further details will be available at the meeting.
- 5.4 At the last meeting, Members received a copy of a Self Evaluation Framework produced by the Centre for Public Scrutiny and agreed that, as a matter of course, this would be included on the Agenda for all future meetings. A further copy of the Framework document will be available at the meeting.

For further information:

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