

# CHESHIRE EAST

## SCRUTINY COMMITTEE

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

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### **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.

#### **For further information:**

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