

CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of Meeting: 19 November 2009
Report of: Democratic Services Manager
Subject/Title: Police Authority Representation on the Sustainable Communities Scrutiny Committee

1.0 Report Summary

- 1.1 To enable the Governance and Constitution Committee to consider proposed changes to the existing arrangements in relation to the membership of the Sustainable Communities Scrutiny Committee and to make a recommendation to Council in order for changes to be made to the Constitution.

2.0 Recommendations

2.1 That

- (1) Cheshire Police Authority be informed that the Council supports the appointment of a Police Authority representative to the Sustainable Communities Scrutiny Committee in accordance with option 2 as contained in the Home Office Guidance on Sections 19 and 20 of the Police and Justice Act 2006;
- (2) the Borough Solicitor be authorised to make such changes to the Council's Constitution as he considers necessary to give effect to the wishes of Council to recognise that Cheshire Police Authority receives a standing invitation to attend meetings of the Sustainable Communities Scrutiny Committee, in order for the Police Authority representative to act as an 'expert adviser' in respect of Community Safety matters; and
- (3) the Sustainable Communities Scrutiny Committee be requested to develop a Protocol which sets out the mutual expectations of Scrutiny Members and partners in connection with the involvement of the Committee in the Community Safety Scrutiny Process.

3.0 Reasons for Recommendations

- 3.1 In order to ensure that the Council's statutory responsibilities in respect of Scrutiny of Community Safety matters are discharged.

4.0 Wards Affected

- 4.1 N/A

5.0 Local Ward Members

5.1 N/A

6.0 Policy Implications

6.1 Any changes to the Council's governance arrangements, which are agreed by Council must be reflected in the Constitution. These will then govern the way in which the Council, its Members and Officers operate.

7.0 Financial Implications for Transition Costs

7.1 There appear to be no financial implications for Transition Costs.

8.0 Financial Implications 2009/10 and beyond

8.1 There appear to be no identifiable financial implications 2009/10 and beyond.

9.0 Legal Implications

9.1 Any changes to the Council's governance arrangements must be reflected in the Constitution. Constitutional changes cannot take place until Council has considered a recommendation of the Committee and Council approval has been given.

10.0 Risk Management

10.1. There would seem to be no risks associated with the proposed change. The change proposed will provide clarity for Officers and Members as to the role of Sustainable Communities Scrutiny Committee in relation to the scrutiny of public safety matters.

11.0 Background and Options

11.1 The Council has designated the Sustainable Communities Scrutiny Committee as the committee to discharge the Council's responsibilities for crime and disorder functions in accordance with Section 19 of the Police and Justice Act 2006.

11.2 The Home Office has issued guidance in connection with Sections 19 and 20 of the Police and Justice Act 2006 which states 'Local Authorities should, in all cases, presume that the Police Authority should play an active part at committee when community safety matters are being discussed – and particularly when the police are to be present'.

11.3 The guidance contains 3 options for ensuring Police Authority involvement in community safety matters.

Option 1

One Member of the committee should be a member of the Police Authority. This is not possible, however, if the Member is an Executive Member.

Option 2

A member of the police authority is issued with a standing invitation to attend the committee as an 'expert adviser'. Ideally, this should be a Police Authority member, but subject to local agreement, there may be some circumstances, and meetings, where a police officer may be more appropriate. The guidance suggests that steps should be taken to ensure that, where appropriate, the Police Authority should have a direct input into the delivery of task and finish groups. These details should form part of a protocol between the Council and its partners.

There should be clear and sustained engagement between the police authority and local authority, beyond attendance at the committee.

Option 3

Committees can co-opt a Police Authority member onto a committee when police matters are being considered. It would be for the Police Authority to decide the most appropriate member to appoint. It could either be a Council Member or independent member.

The Police Authority has written to the Chief Executive in support of option 1, on the grounds that this is the option the Home Office expects that most authorities will adopt.

12.0 The Way Forward

- 12.1 Cheshire East Council has three Police Authority representatives: Councillors J P Findlow, B Silvester and A Arnold. Councillors Findlow and Silvester are ruled out of options 1 and 3, as Cabinet Members cannot be members of overview and scrutiny committees. It is also debatable whether it would be appropriate for the Cabinet Members to receive the standing invitation in option 2 on the grounds that there should be a clear and distinct separation between the 'Executive' and Scrutiny functions and Cabinet Members would only be allowed to advise, but not influence, the Committee.
- 12.2 The Council has not introduced a scheme under Schedule 1 of the Local Government Act 2000 to allow Co-opted members to have full voting rights on O&S committees and therefore in order for the Police Authority representative to have voting rights, only one Member, Councillor Arnold, could fulfil this roll in accordance with option 1, but

he has indicated that due to other commitments he would support option 2.

- 12.3 Option 2 would appear to give the Police Authority flexibility to send different representatives to individual meetings of the Scrutiny Committee depending on the subject matter before the Committee.
- 12.4 The guidance also recommends developing a protocol between partners and this is to be welcomed.
- 12.5 Scrutiny of Community Safety matters will receive greater prominence as the new CAA regime develops. The Council has a duty to involve the Police Authority at a formal level in Overview and Scrutiny committees when Community Safety matters are the subject of Overview and Scrutiny Activity. The wishes of the Police Authority and the interest of the Council have to be balanced in order to achieve the best solution for all parties. At the moment it would better suit the Council to make arrangements in accordance with option 2, but to perhaps undertake a review in twelve months' time. Option 2 also gives the Police Authority flexibility to change its representative at the Sustainable Communities Committee when the need arises.

13.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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