

COUNCIL MEETING – 21 OCTOBER 2008

**SUPPLEMENTARY RECOMMENDATION FROM OVERVIEW AND
SCRUTINY MANAGEMENT COMMITTEE MEETING – 17 OCTOBER**

**COMMUNITIES IN CONTROL – RESPONSE TO WHITE PAPER
CONSULTATION**

RESOLVED – that Council be recommended that the response to Questions 1 to 8 in the Consultation Paper be as set out in Appendix A to the OSC Report.

Communities in control: Real people, real power Improving local accountability consultation

Head of Service: Tim Capper, Heads of Democratic Services
Report Author: Neil White, Scrutiny Support Officer

Recommendation: that the Committee advises full Council on what response it feels the Council should make on the questions which relate to Overview and Scrutiny within the Government's Communities in control: Real people, real power – Improving local accountability Consultation.

BACKGROUND

This is the first in a series of Communities in Control (Real people, real power) consultations flowing from the recent white paper (July 2008). The consultation also covers implementation of the overview and scrutiny provisions in the Local Government and Public Involvement in Health Act 2007. It seeks views on how to develop overview and scrutiny powers; to hold local officers to account and how to facilitate the work of councillors.

This consultation is about passing power into the hands of local communities. It is part of the Government's wider agenda to modernise the democratic system and to strengthen participatory democracy, by passing more power to people through every practical means. It sets out a range of policies to achieve this, aimed at improving local accountability via

Chapter 2: Developing and strengthening overview and scrutiny

- Through implementing the provisions of the 2007 Act – enhancing councils' scrutiny powers in relation to scrutiny of Local Area Agreement partners and their delivery of LAA improvement targets,
- Overview and Scrutiny committees requiring information from partner authorities,
- Publication of scrutiny reports, recommendations and responses,
- The establishment of joint county and district Overview and Scrutiny committees and enhancement of their powers,
- Raising the visibility of, and to strengthen, the scrutiny function as laid out

the Communities in Control White Paper,

- Scrutiny in small district councils operating a streamlined committee system.

Chapter 3: Increasing the visibility and accountability 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 local people to petition to hold officers to account.

Chapter 4: Facilitating the work of councillors

By modernising the way they do business to enable them to use information and communications technology to participate in meetings and vote remotely.

It is understood that further consultation papers will be published over the coming months on:

1. making and enforcement of bylaws
2. revised Code of Conduct for members
3. mayors
4. time off entitlements, extending the right to time off for public duties
5. Code of Recommended Practice on Local Government Publicity

FINANCIAL IMPLICATIONS

None at this stage. However, the Committee should be aware that the agenda on which the Government is now consulting has a strong reactive element which could result in additional pressures on the staffing and financial resources of the Council and its partners, over time. The Government is making no additional funding available to local authorities in this regard.

CONCLUSION

The consultation gives the opportunity to influence future guidance and legislation. The Government will take account of the responses received before introducing primary and secondary legislation on the particular topics discussed in this paper.

Responses to the consultation must be received by 30 October 2008. Full council is due to consider the consultation paper at its meeting on 21 October 2008. The Committee is requested to advise full council what response it feels the council should make to the consultation on the questions which relate to

Overview and Scrutiny (Questions 1 to 8). A draft response is provided at Appendix "A" for the committee's consideration.

List of Appendices

- (A) Suggested response to the Consultation
- (B) Department for Communities and Local Government August 2008 – Communities in control: Real people, real power – Improving local accountability Consultation
- (C) Empowerment White Paper "Communities in Control" July 2008

List of Background Documents:

None

Local Accountability Consultation
Communities and Local Government
Zone 5/A2
Eland House
Bressenden Place
London SW1E 5DU

17 October 2008

Dear Sir/Madam

'Communities in control: Real people, real power. Improving local accountability'.

I am responding on behalf of Copeland Council to the questions raised in the DCLG consultation 'Communities in control: Real people, real power. Improving local accountability'.

The Council's views are:

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

Response:

The ability for a District Council in a two tier area to require information from partner authorities is essential.

This is because Local Area Agreements require local authorities to pursue a number of broad targets, some of which could have significant local implications in a district and many of which they cannot achieve alone but only through the joint action of a range of agencies.

To ensure that there is not a democratic deficit in those Districts, information from Partner Authorities on how they propose to assist in meeting those targets and how they are performing against the targets will enable the scrutiny committee to better understand how its own local authority is managing and directing its resources.

In Cumbria, a two-tier area, we are setting up a joint scrutiny committee (covering all the authorities) for the Local Area Agreement and appropriate support. One of the roles of this committee will be to avoid duplication and "information overload" on the partner authorities.

Under paragraph 2.20 it would be helpful to include a reasonable time limit for a response to enable an Overview and Scrutiny Committee to consider the response at their next meeting. This could be a holding response which seeks the agreement of the Scrutiny Committee to a timetable for the response.

The partners listed in Annex B of the Consultation, being those organisations required to co-operate with Scrutiny Committees, does not include, for example, any government departments, nor registered social landlords, nor other public bodies whose work may well be of relevance to a subject under scrutiny.

There is no indication in the Consultation as to what Scrutiny Committees may do if a partner organisation refuses to provide the information requested, and without any means of redress, this proposal seems to lack strength.

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?

Response:

Yes. However, Overview and Scrutiny committees work best when as much of its reports as possible are published in the public domain.

When local authorities apply the confidential and exempt information rules to determine whether to allow public access to meetings and reports, they are required to apply a public interest test before excluding access to exempt information. Is it intended that this test will also be required under this section?

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?

Response:

Joint Committees have a number of benefits particularly in sharing resources to achieve a common aim.

As mentioned above, one is to be set up in Cumbria to look specifically at the Local Area Agreement. The Cumbria Health and Well Being Committee works well on an agreed protocol for how to deal with locality health issues. A similar protocol for Joint Committees would be important in making them open and transparent and ensuring that all partners understand what is required of them.

We would, however, anticipate that in a region as diverse as Cumbria that there will be occasions where there are localised issues where scrutiny may well be carried out at a local level by District Council Scrutiny committees, co-ordinating with the joint committee.

For these circumstances it would be helpful to have a general discretionary power to set up committees and sub committees that can go wider than just the Local Area Agreement targets. It would also enable authorities to undertake a joint project and establish a joint Overview and Scrutiny Committee, or Sub-Committee, to monitor and review that project, and as a vehicle for wider community involvement.

It is essential that the membership of a Joint Committee is not dominated one authority.

The response of within two months in 2.26 should also be for partners as well as for the local authority as some recommendations may well be best dealt with by the partner rather than the local authority.

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

Response:

There may be an occasion as happened here recently on a health matter where the Joint Committee looked at an issue and made some recommendations that generally dealt with the issue. They did not pick up the specific local issues which were causing great concern to a large number of members of the public. The District's recommendations did address these and have made the partner authority reconsider its plans. This would not have happened if they had followed the Joint Committee's approach.

In light of this the requirement to respond "will only apply in relation to matters on which a joint overview and Scrutiny committee in the relevant responsible authority area has not already considered and reported" is too prescriptive.

There also need to be some flexibility when an issue surfaces, which may have been overlooked in a previous scrutiny, is a very local issue or which has only just come to light.

Question 5: Not applicable.

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

Response:

The powers that will be given to the committee will need to clearly defined.

A voluntary approach is the best way forward which allows local circumstances to be taken into account. It may also be helpful to make provision for joint task and finish groups, when a scrutiny committee of each authority agrees the need. This allows the flexibility of more ad hoc joint working responding to need and has already been used in Cumbria informally.

Question 7: Not applicable.

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?

Response:

No. In a small authority with only one Scrutiny Officer achieving the committee's work plan each year is a hard enough task. The Centre of Public Scrutiny research has highlighted that capacity is one of the biggest hurdles to effective Scrutiny.

The work load will be added to through Councillor Calls for Action. To add petition appeals will be too much.

The only way for a small authority to cope would be to increase officer resources however the authority will already be challenged to maintain resources for priority services and this will increasingly be the case following the Comprehensive Spending Review 2007.

There is also a concern as to where the additional elected member capacity to do all this extra Overview and Scrutiny work will come from.

Furthermore Overview and Scrutiny has no powers to force the Executive or full council to make a decision it only makes recommendations. This could result in a lengthy period of considering a petition with a result that could also frustrate the petitioner.