

**OVERVIEW & SCRUTINY PANEL
(SERVICE DELIVERY)
OVERVIEW & SCRUTINY PANEL
(SERVICE SUPPORT)
CABINET**

5TH FEBRUARY 2008

12TH FEBRUARY 2008

21ST FEBRUARY 2008

LOCAL PETITIONS AND CALLS FOR ACTION

(Report by Head of Administration)

1. Introduction

1.1 The purpose of this report is to advise the Cabinet and Panels on the implications of recent legislative change affecting the overview and scrutiny function and invite comments in response to a consultation paper from the Department for Communities and Local Government (DCLG) on local petitions and calls for action.

2. Legislative Change

2.1 Both the Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006 have enhanced the powers of overview and scrutiny committees. The relevant sections of both Acts are likely to be brought into force later in the year and are subject to regulations and statutory guidance which have yet to be issued. The recent DCLG consultation paper is the first step towards the preparation of the Secretary of State's guidance.

2.2 The key changes to the role of scrutiny can be summarised as follows –

- Provision for any member of an overview and scrutiny committee to refer to the committee any matter of relevance to the functions of the committee.
- Provision for any member of the Council to refer to an overview and scrutiny committee any matter of relevance to the functions of the committee that affects his/her ward.
- A requirement to establish a crime and disorder committee to review, scrutinise and make reports and recommendations to authorities responsible for crime and disorder strategies.
- Provision for any member of the Council to refer to a crime and disorder committee any matter of relevance to the functions of the committee that affects his/her ward.
- Power to scrutinise the discharge of functions by individual councillors in their wards if the Council devolves decision making to ward councillors under the 2007 Act.
- Power for an overview and scrutiny committee to require information from the County Council and certain partner authorities.
- Power for a crime and disorder committee to similarly require information and also require attendance at committee meetings by responsible authorities.
- Power to co-opt additional persons to a crime and disorder committee.
- Discretion for an overview and scrutiny committee to publish its report and recommendations to the executive.
- A duty for the executive to respond in writing to an overview and scrutiny's report and recommendations within 2 months and to publish the response if the committee's report was published.
- Power for a county council and partner district councils to establish a joint overview and scrutiny committee to scrutinise the attainment of local improvement targets specified in a local area agreement.

- Power for a district council to make reports and recommendations to a partner county council relating to the attainment of local improvement targets specified in a local area agreement.
 - Power for councils responsible for crime and disorder strategies to appoint a joint crime and disorder committee to exercise scrutiny functions.
- 2.3 Further information will be brought to the Panels' attention when the regulations and guidance have emerged.

3. Local Petitions

3.1 The Government believes that there should be a duty on local authorities to respond to petitions in the following circumstances –

- The subject of the petition relates to the functions of the authority or other public services with shared delivery responsibilities through a local area agreement or other partnership arrangement.
- The petition has been organised by a local person.
- The petition demonstrates a sufficient level of support from local people.
- The petition satisfies minimum requirements in relation to the manner in which it was submitted, its form and its content.

3.2 It is proposed that petitioners ought to be able to present their petitions either to the council or to a councillor.

3.3 The DCLG has invited comment on such issues as the definition of a local person, the number of signatures required for a petition to be considered, how qualifying signatures could be extended to children and what minimum information a petition should contain.

4. Calls for Action

4.1 The Government take the view that the proposal in the Government's white paper 'Strong and Prosperous Communities' in October 2006 for a 'community call for action' is satisfied by the duty for authorities to respond to qualifying local petitions.

4.2 The legislative changes outlined above that enable councillors to refer a local government matter to the relevant overview and scrutiny committee and a crime and disorder matter to a local crime and disorder committee are regarded by the DCLG as amounting to a 'councillor call for action'. A local government matter is defined as relating to the discharge of any function of the authority which affects a member's ward but which is not excluded by order of the Secretary of State, for example planning and licensing appeals. A crime and disorder matter is defined as relating to crime and disorder (including in particular anti-social behaviour) and the misuse of drugs, alcohol and other substances that affects a member's ward.

4.3 The DCLG has invited comment on any matters that should be excluded from the calls for action and what key issues should be included in the statutory guidance.

5. Conclusion

5.1 The regulations and guidance on the implementation of the changes outlined in this report are likely to be extensive. Further reports will be submitted as these emerge, in particular how the requirement for a crime and disorder committee is to be dealt with.

- 5.2 In the interim, the Secretary of State has invited comments on how certain aspects of the new procedures will work in practice. The questions posed in the consultation paper are listed in the annex to this report, together with suggested responses.
- 5.3 The impact of the changes on the Council's existing governance and scrutiny arrangements will depend upon the extent to which the public and individual members take advantage of the new powers to encourage greater participation in local democracy. Local people already can submit petitions for consideration by the Council and the constitution provides for individual members to include items on a meeting's agenda. Both are used sparingly at the moment but the Government's aim of enhancing public participation and reinvigorating local democracy may lead to wider use of the new statutory powers. This is to be welcomed but the impact on the workload of both the existing overview and scrutiny panels and support staff will need to be monitored and reviewed if there is a proliferation of petitions and calls for action.
- 5.4 This report has been considered by both Overview and Scrutiny Panels. The developments have been welcomed by the Service Delivery Panel and the suggested responses to the consultation document endorsed. The Service Support Panel has stressed the desirability of local discretion in the treatment of local petitions and calls for action to avoid national guidelines being overly prescriptive. Members also remarked upon the potential additional workload both for themselves and officers in the event of the new access to the democratic process being used extensively by the public. The Panel therefore added a comment to the last question posed in the Annex attached to the effect that the costs incurred by local authorities should be acknowledged by Government in the distribution of additional resources through the Revenue Support Grant

6. Recommendations

- 6.1 The Cabinet is

Recommended

- (a) to note the content of this report; and
- (b) to consider the suggested responses to the consultation paper as set out in annex A, as amended in paragraph 5.4 above and comment accordingly to the DCLG.

Background Papers:

DCLG Strong and Prosperous Communities White Paper
DCLG Local Petitions and Calls for Action consultation

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LOCAL PETITIONS AND CALLS FOR ACTION.

The following specific questions are raised by DCLG in the consultation paper –

Petitions

The Government believes there should be a statutory duty on local authorities to respond to local petitions. What conditions should be met before a local authority is required to respond formally to a petition?

Petitions have been used by the public for many years as a way of drawing attention to an issue of concern and many authorities already make provision in their constitutions that formalises the way in which petitions are handled. Although a response to a petition will become a statutory duty, some flexibility must remain to enable individual authorities to decide whether a petition is repetitious, vexatious, frivolous or indeed libellous. The Council should remain the final arbiter in such circumstances. It would be unwieldy and unnecessarily bureaucratic for any form of external appeals mechanism to be put in place for an aggrieved party who disagrees with an authority's rejection of a petition. That person could always approach the Local Government Ombudsman with a claim of maladministration if an authority failed to follow its own procedures.

Further flexibility as to how petitions are to be dealt with would be welcome to enable an authority to decide whether a petition should be submitted to council, executive or scrutiny, how petitions are to be presented personally etc.

A petition must relate to a matter in which the Council has an interest either in terms of the direct or shared provision of services or its wider community well-being role.

In particular, how should we define the level of support required before a petition must get a formal, substantive response?

By a fixed number of signatures?

By a percentage of the electorate in the area?

By a hybrid of the two?

Or in some other way?

It would be preferable to set maximum standards and permit some local flexibility as opposed to a rigid national standard which might be too difficult to attain if set too high or cause an unmanageable proliferation of petitions if too low. As most petitions are likely to relate to local as opposed to authority-wide matters, a fixed number of signatures is preferable to a percentage of the population. A minimum of 100 persons is suggested.

Signatories must have a relevant connection with the authority's area. A reliance upon names appearing on an authority's register of electors would exclude those who work but don't live in the area, children and migrant workers. There does need to be an ability to check the validity of a signature where doubt exists as to its authenticity but simple headings such as name, address, place of work (if non resident in the area), age (if under 18) and e-mail address (in the case of electronic petitions) may be sufficient.

Calls for Action

What, if any, matters should be excluded from the call for action?

Councillors should not be able to raise items that relate to specific quasi-judicial decisions such as planning and licensing applications nor employment issues that relate to individual employees by name or designation.

What guidance should Government provide on the operation of the councillor call for action?

Guidance should include provision for a councillor who is not a member of an overview and scrutiny committee to address the committee on the item that he/she has placed on the agenda. There should also be a limit on the number of items that can be placed on the agenda for each meeting and by an individual councillor within a prescribed period to prevent repetition or an unmanageable proliferation of calls for action.

Overall

Taken together, would petitions and calls for action sufficiently empower communities to intervene with their elected representatives? Should we contemplate other measures?

Much will depend upon the extent to which the public avail themselves of the new opportunities. There are various avenues through which the public can raise issues of concern with councils and ward councillors and no additional measures are required of a statutory nature.

Do you have other views on the operation of the new duty to respond to petitions and the call for action?

No.