



Report of the Head of Scrutiny and Member Development

Scrutiny Board: SCRUTINY BOARD (Adult Social Care)

Date: 17th June 2009

Subject: Constitutional Amendments

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 Purpose of Report

1.1 This report provides the Board with information and guidance reflecting recent amendments of the Council's Constitution, as agreed by Council on 21 May 2009, which directly relate to and/or impact on the work of Scrutiny Boards.

2.0 Background

2.1 The Local Government Act 2000 introduced new models of governance and decision-making arrangements for local authorities in England and Wales. This included putting in place executive arrangements for decision-making through a smaller, more prominent, number of local Councillors (the Executive Board). Within the new arrangements, the overview and scrutiny function was established to hold the Executive Board to account for its decisions and to contribute to evidence-based policy development across the Council.

2.2 Through a number of legislative changes, for example the Health and Social Care Act 2001 which introduced local health scrutiny, the role and responsibilities of overview and scrutiny have expanded significantly; with the function now responsible for investigating the delivery of services provided by a wide range of public, private and third-sector partners.

2.3 This report seeks to reflect on recent legislative changes, its impact on the scrutiny function and the subsequent amendments to the Council's Constitution, through changes to both the Scrutiny Board Procedural Rules and supportive guidance notes.

3.0 Constitutional amendments

- 3.1 Two recent Acts of Parliament, namely the Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006, have had a direct impact on the scrutiny function and required amendments to the Council's Constitution. Such amendments were agreed at the Council meeting in May 2009 and summarised below.

Councillor Call for Action (CCfA) Provisions

- 3.2 The Local Government Act 2000 included provisions to allow Elected Members to raise matters for consideration by the Council's Scrutiny Boards. This was reflected in the Council's Constitution, Scrutiny Board Procedure Rule 12 which made provision for dealing with such requests.
- 3.3 To supplement and strengthen the provisions set out in the Local Government Act 2000, the Government recently enacted provisions at Section 119 of the Local Government and Public Involvement in Health Act 2007. Referred to as 'Councillor Call for Action', these provisions give Councillors the opportunity to ask for discussions at Scrutiny Boards where *local* problems have arisen and where other methods of resolution have been exhausted.
- 3.4 Specific guidance on the process for administering a CCfA is set out in Annex 1 of the attached Guidance Note: *Requests for Scrutiny, Including Councillor Call for Action (CCfA), Local Crime and Disorder Matters, and Health and Social Care Matters*.

Arrangements for the Scrutiny of Crime and Disorder Functions and Local Crime and Disorder Matters

- 3.5 The Police and Justice Act 2006 extends the remit of local authorities to scrutinise crime and disorder functions¹, with Part 3 of the Act stating that every local authority shall ensure it has a 'Crime and Disorder Committee' to fulfill this role. At the Council meeting in May 2009, the Environment and Neighbourhoods Scrutiny Board was assigned to undertake this role.
- 3.6 Overall, in its capacity as a crime and disorder committee, the Scrutiny Board (Environment and Neighbourhoods) has powers to:
- Review or scrutinise decisions made (or action taken), in connection with the discharge of crime and disorder functions by the 'responsible authorities'²;
 - Review or scrutinise any Member referred local crime and disorder matter;
 - Make reports and/or recommendations to the Council or the Executive;
 - Call an officer from a responsible authority to attend its meetings in order to answer questions or otherwise to provide information and to respond to reports or recommendations made by the Scrutiny Board;
 - Co-opt additional members to serve on the committee, either with or without voting rights³

These additional powers are reflected in the revised terms of reference for the Scrutiny Board (Environment and Neighbourhoods).

¹ Set out in Sections 19, 20 and 21 of the Police and Justice Act 2006

² These are the authorities responsible for crime and disorder strategies, as detailed in the Crime and Disorder Act 1998, Section 5. In Leeds, *Safer Leeds* is the city's Crime and Disorder Reduction Partnership, therefore the 'responsible authorities' are those bodies represented on the Safer Leeds Partnership Executive

³ Details are set out in Article 6 (Scrutiny Boards: Co-opted Members)

- 3.7 Alongside the additional scrutiny powers, in its capacity as the Council's crime and disorder committee, the Scrutiny Board (Environment and Neighbourhoods) *must* meet at least once each year to fulfill its role in relation to the responsible authorities.
- 3.8 The Police and Justice Act 2006 also makes provision for elected members to refer local crime and disorder matters to the Council's designated Crime and Disorder Committee.
- 3.9 For this purpose, local crime and disorder matters should be considered to encompass all community safety issues that affect all or part of the ward for which the member is elected or any person who lives or works in that area, including:
- Antisocial behaviour;
 - Other behaviour adversely affecting the local environment;
 - The misuse of drugs, alcohol or other substances
- 3.10 While the Police and Justice Act 2006 clearly provides separate provision for the referral of local crime and disorder matters, in practice the principles and processes involved are essentially the same as for any Councillor Call for Action (CCfA) referral, however any crime and disorder referrals will be considered by the Scrutiny Board (Environment and Neighbourhoods), in its capacity as the Council's crime and disorder committee.
- 3.11 Specific guidance on the process for administering a *Local Crime and Disorder referral* is set out in Annex 2 of the attached Guidance Note: *Requests for Scrutiny, Including Councillor Call for Action (CCfA), Local Crime and Disorder Matters, and Health and Social Care Matters*.

Local Involvement Networks (LINKS)

- 3.12 The Local Government and Public Involvement in Health Act 2007 gave a duty to all 150 local authorities in England with social services responsibilities, to enable the formation of a Local Involvement Network (LINK), to act as the successor to the Patient and Public Involvement Forums (PPIF) but with an extended remit covering social care.
- 3.13 Under provisions in the Local Government and Public Involvement in Health Act 2007, the local LINK has the right to refer both health and social care matters to the relevant Scrutiny Board. In turn, this places responsibility on the appropriate Scrutiny Board to acknowledge any such referrals keep the LINK informed about what actions, if any, will be taken.
- 3.14 Specific guidance on the process for administering a *Health and Social Care referral* is set out in Annex 3 of the attached Guidance Note: *Requests for Scrutiny, Including Councillor Call for Action (CCfA), Local Crime and Disorder Matters, and Health and Social Care Matters*.

Responding to inquiry report and recommendations

- 3.15 The Local Government and Public Involvement in Health Act 2007 also places a duty on the Council or Executive to consider and respond to any Scrutiny Board report and/or recommendations within two months of receipt of the report/recommendations. In referring any report / recommendations, a Scrutiny Board can require the Council or Executive to:
- Consider its report or recommendations;

- Respond, outlining any proposed action;
- Publish the response (if the Scrutiny Board has published its report and/or recommendations);
- Provide a copy of the response to the referring Member, where the matter originated from a “Councillor Call for Action”.

3.16 Where a Scrutiny Board sends its report or recommendations to another body, the body in question will also be asked to send its response to the Scrutiny Board within two months⁴, setting out:

- The views of the body
- Details of any action already taken in response to the recommendations;
- Proposed action and timescales; or
- Any reasons for inaction.

4.0 Other legislative changes

Scrutiny of Partners

- 4.1 Since its inception, it has been widely regarded as good practice for Scrutiny Boards to consider evidence/ information from a variety of sources, including partner and/or other outside organisations. The ability for Scrutiny Boards to require information from some outside organisations (relevant partners) is already covered in other legislation (i.e. NHS Act 2006 at Section 44 relating to Local NHS bodies for Health Scrutiny and section 20(5) of the Police and Justice Act 2006 for Crime and Disorder issues). However, with Scrutiny Boards having limited powers to require outside bodies to provide information, any requests for information have tended to be reliant on the cooperation or good will of the organisation involved.
- 4.2 However, Section 121 of the Local Government and Public Involvement in Health Act 2007 places a requirement on certain partner organisations⁵ to provide information to a relevant scrutiny committee when requested to do so.
- 4.3 While the information will relate to the partners responsibility for the delivery of LAA improvement targets, the Secretary of State has still to make regulations covering exactly what information relevant partner authorities must provide, and/or may not disclose to Scrutiny Boards. Clarity is also required on a number of issues including timescales and whether partners will be compelled to attend Scrutiny Board meetings or simply provide the information requested. Once issued, such regulations are likely to require further amendment(s) to the Council’s Constitution and associated guidance notes.

5.0 Recommendations

- 5.1 In fulfilling the role and function of the Scrutiny Board, Members are requested to note the amendments to the Council’s Constitution outlined in the report.
- 5.2 Members are also requested to note the likely changes resulting from the Secretary of State regulations regarding the provision of information from partner authorities.

⁴ For NHS bodies this time limit is 28 days (the Local Authority (Overview and Scrutiny Committee Health Scrutiny Functions) Regulations 2002. Where a Scrutiny Board has sent a report to a partnership the partnership is not required under these Rules to provide a response. Any partnership not otherwise required to provide a response will be invited to do so.

⁵ Set out in Part 5, Chapter 1 (Section 104).

6.0 Background Paper

The Council's Constitution

Local Government and Public Involvement in Health Act 2007

Police and Justice Act 2006