

REGENERATION, COMMUNITY AND CULTURE OVERVIEW AND SCRUTINY COMMITTEE

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SCRUTINY OF CRIME AND DISORDER

Report from: Director of Regeneration, Community and Culture

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Summary

This report explains the effect of new legislation relating to scrutiny of crime and disorder. Every local authority is now required to have a designated crime and disorder Overview and Scrutiny Committee with power to make recommendations regarding the functioning of their local Crime and Disorder Reduction Partnership (in Medway this is the Community Safety Partnership). In addition, any Councillor Call for Action relating to crime and disorder matters will be dealt with by this committee as the designated crime and disorder Committee.

1. Budget and Policy Framework

- 1.1 Changes to the Constitution were approved by the Council at its meeting on 30 July to give local effect to the provisions of the Local Government and Public Involvement in Health Act (LG & PIH Act)2007. These changes relate to the introduction of a Councillor Call for Action (CCfAS) together with provisions in the Police and Justice Act 2006 relating to arrangements for scrutiny of issues relating to crime and disorder. This Committee has been designated as the Council's crime and disorder Committee and will also deal with any crime and disorder related CCfAs.
- 1.2 These new powers for Overview and Scrutiny Committees may have a positive impact in delivery of LAA target NI4 – the percentage of people who feel they can influence decisions in their locality. In addition there are a range of LAA indicators relating to crime and disorder

2. Background

- 2.1 The Local Government and Public Involvement in Health Act 2007 gives Overview and Scrutiny Committees new powers to require information from and scrutinise partners in relation to LAA targets. In addition the crime and disorder scrutiny provisions of the Police and Justice Act 2006 took effect from 30 April 2009. Regulations and Home

Office guidance on crime and disorder scrutiny have now been published. In summary these legal provisions, regulations and guidance:

- a) require local authorities to designate an Overview and Scrutiny Committee with power to review or scrutinise decisions made, or other action taken in connection with the discharge by the “responsible authorities” of their crime and disorder functions and to make reports or recommendations to the Council or Cabinet with respect to the discharge of those functions. In practice this is a new obligation to scrutinise the work of the Community Safety Partnership as a whole. (Note: the responsible authorities are those who are responsible for crime and disorder strategies. These are the Council, the police force, the police authority, the fire and rescue authority and the PCT – in other words, the Community Safety Partnership)
- b) allow the designated Crime and Disorder Committee to co-opt additional members (subject to certain restrictions) with or without voting rights, although the Home Office guidance seems to encourage informal contributions or participation by others as non-voting members. It is a matter for the committee to determine whether to co-opt members and whether to give co-opted members voting rights, but the role of any co-opted members should be made clear.
- c) require the designated Crime and Disorder Committee to meet to review or scrutinise the decisions made, or other action taken, in connection with the discharge by the Community Safety Partnership of its crime and disorder functions no less than once in every twelve month period effective from 30 April 2009
- d) require responsible authorities or co-operating bodies (probation authorities, parish councils, NHS Trusts, NHS Foundation Trusts, proprietors of independent schools and governing bodies of institutions within the further education sector are co-operating bodies) to provide information requested by the designated Crime and Disorder Committee and for an officer or employee of responsible authorities or of a co-operating body to attend meetings subject to reasonable notice being given
- e) require the Council, Cabinet and responsible authorities and co-operating bodies to consider any report or recommendations from the crime and disorder committee, to respond in writing within 28 days or if this is not reasonably possible, as soon as reasonably possible thereafter and to have regard to the report or recommendations in exercising its functions
- f) encourages the crime and disorder committee to include in its work programme a list of issues it needs to cover during the year which should be agreed with the Community Safety Partnership, to develop a protocol for scrutiny of crime and disorder and to ensure that overview and scrutiny activity complements the role of the police authority in holding the police to account by, for example, appointment of one of the designated Crime and Disorder Committee to the Police Authority.

- g) require local authorities to make arrangements to enable any member of the Council who is not a member of the Crime and Disorder Committee to refer any local crime and disorder matter to the Committee and for the Committee to have power to make a report or recommendations to the Council or Cabinet. This is the crime and disorder CcfA.
- 2.2 For the purposes of the crime and disorder CCfA the definition of a local crime and disorder matter means a matter concerning:
- (a) crime and disorder (including, in particular, forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment,) or
- (b) the misuse of drugs, alcohol and other substances,
- in each case which affects all or part of the ward for which the member is elected or any person who lives or works in that area.
- 2.3 A copy of the Home Office guidance has been circulated to all members of the Committee under separate cover with the agenda for this meeting. The guidance has been written for those working in community safety introducing them to local government and also for Councillors and officers working in local authorities.

3. Options

- 3.1 The Council has agreed to designate this Committee as the Crime and Disorder Overview and Scrutiny committee and also that this Committee should develop detailed procedures and protocols for implementation of the new scrutiny powers as appropriate.
- 3.2 At this point the Committee is invited to consider the following key issues and related options and to agree the way forward:
- the timing and format for scrutiny of the Community Safety Partnership (CSP) in 2009/2010 and in future years and the mechanism for identifying related and emerging items for inclusion in the Committee's work programme
 - whether or not to exercise the power to co-opt additional members to the Committee at this stage
 - how the Committee might complement, but not duplicate, the work of the Police Authority

4. Key issues

4.1 Timing and format for scrutiny of the CSP in 2009/10 and future years:

- 4.1.1 At least once a year the Committee **must** meet to review or scrutinise decisions made or other actions taken by the CSP and has power to make reports or recommendations to the local authority with respect to

the discharge of those functions. This must be done no less than once in every twelve month period effective from 30 April 2009.

- 4.1.2 There is an obligation on the “responsible authorities” involved in the CSP and the “co-operating bodies” as set out above to provide information requested in writing by the Committee and to attend committee meetings to answer questions subject to reasonable notice being given.
- 4.1.3 Home Office guidance emphasises that Community Safety Partnerships have a relatively long history, which means that relationships are likely to be well established and there may be some concern among partners about the impact of these new scrutiny powers. The guidance says it is up to each authority - along with its partners – to decide on the best way to put procedures in place for crime and disorder scrutiny ensuring that overview and scrutiny focuses on policy issues, holding the CSP to account in terms of its overall performance and providing constructive challenge at a strategic level rather than adversarial fault-finding at an operational level. The guidance also states that ideally the introduction of crime and disorder scrutiny should enhance existing partnership arrangements by developing a clear structure for overseeing and reviewing the delivery of joint responses on community safety and by creating a clearer link between partner agencies and the public on community safety.
- 4.1.4 Good scrutiny of crime and disorder has the potential to provide “critical friend” challenge to the CSP, enable the voice and concerns of the public and its communities to be heard and ultimately drive forward improvement in public services. As always the Committee can achieve this by using a range of different techniques including involvement in policy development through in-depth Task Group review work, contributing to the development of strategies by the CSP, holding the CSP to account at formal hearings and examining performance information at regular intervals.
- 4.1.5 In Medway the CSP is one of the thematic partnerships attached to the Local Strategic Partnership (LSP) and participated in the events held in October and December 2008 to bring together Overview and Scrutiny members, the LSP and its thematic partnerships to discuss the accountability framework for the Local Area Agreement. In particular these events considered how Overview and Scrutiny Committees can exercise their new powers (under the LG and PIH Act 2007) to effectively and constructively scrutinise and challenge the LAA lead partners laying the groundwork for the enhanced role overview and scrutiny in relation to partners.
- 4.1.6 This Committee now needs to agree how it wishes to specifically undertake its duty to scrutinise the CSP which must be done before 30 April 2010 and then at least annually thereafter. Beyond the requirement to scrutinise the CSP at least once a year, the Home Office guidance leaves frequency and format of the process for determination at a local level. The guidance says that if the Committee decides to undertake a “set piece” community safety scrutiny only once a year, this could be in the form of an event looking at crime and disorder issues and discussing which crime and disorder matters could

be included in the Overview and Scrutiny work programme as matters of local concern over the forthcoming year. The guidance envisages overview and scrutiny committees considering community safety issues more consistently throughout the year, just as they would any other subject matter, using a combination of formal meetings, informal task groups or other methods of evidence gathering and public involvement.

4.1.7 In addition the guidance suggests that partners and the scrutiny function might want to consider developing a short, flexible and meaningful protocol which lays down the mutual expectations of scrutiny members and partners of the community safety process. In Medway there are plans to develop an overarching protocol for partnership scrutiny which could pick up any issues specific to scrutiny of the CSP.

4.1.8 In light of the new powers and responsibilities of this Committee in relation to crime and disorder scrutiny it is recommended that:

- i) there should be a briefing session on the role and responsibilities of the CSP, its priorities, performance framework and targets for the future together with an overview of the role of the Police Authority and a review of successful and effective community safety scrutiny work undertaken elsewhere to ensure that members of the committee have a sound grounding in the subject and scope of their new powers
- ii) that for 2009/2010 the activities and decisions of the CSP should be reviewed by way of an invitation to the CSP to present a formal report to the Committee in the New Year at which time specific community safety issues for inclusion in the work programme can be identified and
- iii) that in future years an annual report should be requested to the Committee at its first meeting after Annual Council so that any new members have a broad introduction to the CSP early on in the Municipal year and that items for further detailed consideration can be definitively programmed at that stage.
- iv) That senior members of the CSP should be invited to attend for the annual report and other meetings where specific community safety issues are discussed throughout the year.
- v) that the development of a protocol for partnership scrutiny should incorporate specific reference to any areas and relationships of particular significance for crime and disorder scrutiny.

4.2 Co-option of additional members

4.2.1 The Crime and Disorder (Overview and Scrutiny) Regulations 2009 provide for co-option of voting or non-voting additional members to this Committee and the Committee may limit the voting rights of any co-optees and their membership to the exercise of the committee's powers in relation to crime and disorder matters. A co-optee's membership may be limited to the exercise of the committee's powers in relation to a particular matter or type of matter. It should be noted that in order to allow a co-opted member full voting rights Medway would need to put in place a formal scheme for this as required under

Schedule 1 of the Local Government Act 2000 and this would require a report to Council. Co-optees cannot be a member of the Cabinet and must be an employee, officer or member of a “responsible authority” or of a co-operating person or body.

- 4.2.2 The associated guidance says that co-optees can be specialists in particular areas and can bring great value and expertise to the committee’s work. However it is pointed out that it is important to clarify the roles of any co-optees, who may be expected, as part of the committee, to hold their own organisation to account.
- 4.2.3 At this stage it is suggested that representatives of other organisations should be invited to attend and participate in overview and scrutiny meetings in an informal capacity only as appropriate for particular items of business. This will enable the Committee to revisit the option of appointing co-optees at a later stage in the light of experience of exercising these new scrutiny powers and emerging best practice..
- 4.2.4 Paragraph 4.3 below addresses the relationship between the Police Authority and overview and scrutiny as the Home Office guidance encourages an active role for the police authority at Overview and Scrutiny Committee meetings when community safety matters are under discussion.

4.3 The Police Authority and crime and disorder scrutiny

- 4.3.1 The Home Office guidance on scrutiny of crime and disorder clearly states that overview and scrutiny activity should complement the role of the police authority in holding the police to account. Local Authorities should, in all instances, presume that the police authority should play an active part at Committee meetings when community safety matters are being discussed - and particularly when the police are to be present.
- 4.3.2 The guidance says that, as a minimum, local authorities should take one of the following three steps to involve the Police Authority in work undertaken by their committee:
- Option 1: one member of the overview and scrutiny committee should be a member of the police authority or
 - Option 2: a standing invitation should be issued to the police authority to send a member along to attend the Committee as an “expert adviser” and to have input to any indepth Task Group work undertaken by the Committee that involve the police or
 - Option 3: formal co-option of a police authority member onto the committee when policing matters are being considered.
- 4.3.3 Currently Councillors Reckless and Godwin represent Medway on the Kent Police Authority and as Councillor Godwin also serves on this Committee the Council meets one of the minimum requirements for police authority involvement in crime and disorder scrutiny as set out in 4.3.2 above.

- 4.3.4 It is suggested that a meeting between the Chairman and Opposition spokespersons of this Committee and Anne Barnes JP, the Chairman of the Kent Police Authority, should be sought after the member training session to explore in more detail how the work programme of this Committee and the Police Authority can be regularly reviewed to achieve a co-ordinated approach and to identify and collaborate on areas of shared interest and concern.

5. Risk Management

- 5.1 The recommendations in this report minimise the principal risks associated with the new crime and disorder scrutiny powers by recognising the importance of constructive dialogue with the organisations making up the CSP and also the importance of co-ordinated and collaborative working with Kent Police Authority.

6. Financial and legal implications

- 6.1 There are no direct financial implications arising from this report.
- 6.2 The new powers for scrutiny of partners in relation to relevant LAA targets, the introduction of CCfA and crime and disorder scrutiny derive from the Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006.

7. Recommendations

The Committee is asked to agree:

- 7.1 there should be a briefing session on the role and responsibilities of the CSP, its priorities, performance framework and targets for the future together with an overview of the role of the Police Authority and a review of successful and effective community safety scrutiny work undertaken elsewhere to ensure that members of the committee have a sound grounding in the subject and scope of their new powers
- 7.2 that for 2009/2010 the activities and decisions of the CSP should be reviewed by way of a request to the CSP to present a formal report to the Committee in the New Year at which time specific community safety issues for inclusion in the work programme can be identified
- 7.3 that in future years an annual report should be requested to the Committee at its first meeting after Annual Council so that any new members have a broad introduction to the CSP early on in the Municipal year and that items for further detailed consideration can be definitively programmed at that stage.
- 7.4 that senior members of the CSP should be invited to attend meetings of the Committee for the annual CSP report and other meetings where specific community safety issues are discussed throughout the year.
- 7.5 that at this stage representatives of other organisations should be invited to attend and participate in overview and scrutiny meetings in an informal capacity only as appropriate for particular items of business. This will enable the Committee to revisit the option of

appointing co-optees at a later stage in the light of experience of exercising these new scrutiny powers and emerging best practice..

- 7.6 that a meeting between the Chairman and Opposition spokespersons of this Committee, the Partnership and Crime Reduction Chief Inspector at Medway Police Station and Anne Barnes JP, the Chairman of the Kent Police Authority, should be sought after the member training session to explore in more detail how the work programme of this Committee and the Police Authority can be regularly reviewed to achieve a co-ordinated approach and to identify and collaborate on areas of shared interest and concern
- 7.7 that the development of a protocol for partnership scrutiny should incorporate specific reference to any areas and relationships of particular significance for crime and disorder scrutiny

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Background papers

Home Office guidance for the Scrutiny of Crime and Disorder Matters – England – published in May 2009