

Council

Crime and Disorder Scrutiny

18 January 2010

Report of Head of Legal and Democratic Services

PURPOSE OF REPORT

This report outlines recent developments in legislation relating to overview and scrutiny as set out in the following:

- 1) Local Government and Public Involvement in Health Act, 2007
- 2) Police and Justice Act, 2006
- 3) Local Democracy, Economic Development and Construction Bill, 2008

This report is public

Recommendations

Council is recommended:

- (1) To agree that the Overview and Scrutiny Committee should be formally designated as Cherwell District Council's crime and disorder scrutiny committee; and
- (2) To agree that the Constitution be amended to reflect the change in the terms of reference of the Overview and Scrutiny Committee as set out below:
 - Terms of Reference and Scheme of Delegation
 - Overview and Scrutiny Committee (page 16 – 17)
 - Insert new bullet point (# 7):

To exercise the powers assigned to a crime and disorder scrutiny committee (under the Local Government and Public Involvement in Health Act, 2007 and Police and Justice Act, 2006)

Executive Summary

Introduction

- 1.1 The attached report (Appendix 1) was considered by the Executive on 7 January 2010. It was previously discussed by the Overview and Scrutiny Committee at their meeting on 10 November 2009 and by the Resources and Performance Scrutiny Board at their meeting on 1 December 2009.
- 1.2 The report provides an overview of recent changes in legislation that provide new powers for overview and scrutiny committees to scrutinise Local Area Agreement targets and crime and disorder matters, individually or in concert with other councils and partner organisations.

Proposals

- 1.3 That in order to comply with the new scrutiny legislation the terms of reference for the Overview and Scrutiny Committee set out in the Constitution should be amended to include a specific responsibility for the scrutiny of crime and disorder matters.
- 1.4 The proposed amendment to the Constitution is:
 - Terms of Reference and Scheme of Delegation
 - Overview and Scrutiny Committee (page 16 – 17)
 - Insert new bullet (# 7):

To exercise the powers assigned to a crime and disorder scrutiny committee (under the Local Government and Public Involvement in Health Act, 2007 and Police and Justice Act, 2006)

- 1.5 That the Head of Legal and Democratic Services and the Democratic, Scrutiny and Elections Manager should be delegated to develop a draft protocol for the conduct of crime and disorder scrutiny in this Council.

Conclusion

- 1.6 In the main the legislation is merely confirming what is already common practice and we should not expect to see wholesale changes in the structure and operation of scrutiny in Cherwell. The main changes are expected to be the formal designation of the Overview and Scrutiny Committee as the crime and disorder scrutiny body and a closer alignment of the scrutiny work programme to Local Area Agreement targets.

Background Information

2.1 See Appendix 1.

Key Issues for Consideration/Reasons for Decision and Options

3.1 The preferred option is believed to be the most appropriate as it recognises the importance that the Council places on crime and disorder matters and at the same time takes account of the resources available to support crime and disorder scrutiny and is in keeping with practice in other Oxfordshire district councils.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

Option One To designate the Overview and Scrutiny Committee as Cherwell District Council's crime and disorder scrutiny committee.

Option Two To designate the Resources and Performance Scrutiny Board as Cherwell District Council's crime and disorder scrutiny committee.

Option Three To establish a new, separate committee to act as Cherwell District Council's crime and disorder scrutiny committee.

Consultations

Head of Safer Communities and Community Development Supports the proposal as it follows the line the other districts are taking.

Implications

Financial: See comments in Appendix 1

Legal: See comments in Appendix 1

Risk Management: See comments in Appendix 1

Wards Affected

All

Document Information

Appendix No	Title
Appendix 1	Report to Overview and Scrutiny Committee, 10 November 2009
Background Papers	
Councillor Call for Action, Report to Overview and Scrutiny, September 2009	
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Overview & Scrutiny Committee

Recent changes to the legislative framework governing overview and scrutiny

10 November 2009

Report of Head of Legal and Democratic Services

PURPOSE OF REPORT

This report outlines recent developments in legislation relating to overview and scrutiny as set out in the following:

- 1) Local Government and Public Involvement in Health Act, 2007
- 2) Police and Justice Act, 2006
- 3) Local Democracy, Economic Development and Construction Bill, 2008

This report is public

Recommendations

The Overview and Scrutiny Committee is recommended to:

- (1) note the contents of this report and to consider the implications for this Council of the recent legislation relating to overview and scrutiny;
- (2) note the requirement to review the overview and scrutiny work programme for 2010/11 and to ensure that it includes topics relating to the delivery of local improvement (LAA) targets connected to the Cherwell area;
- (3) note that there is an option to establish a formal joint scrutiny committee with other local authorities in Oxfordshire to scrutinise local improvement (LAA) targets;
- (4) agree that the Overview and Scrutiny Committee should be formally designated as Cherwell District Council's crime and disorder scrutiny committee and to recommend to Council that the Constitution is so amended;
- (5) agree that the Head of Legal and Democratic Services and the Democratic, Scrutiny and Elections Manager be delegated to develop a

draft protocol for the conduct of crime and disorder scrutiny for future consideration by this Committee;

- (6) note that there is an option to establish a formal joint scrutiny committee with other local authorities in Oxfordshire and partner organisations to look at crime and disorder issues that cut across organisational boundaries.

Details

Introduction

- 1.7 This report provides an overview of recent changes in legislation that provide new powers for overview and scrutiny committees. The changes seek to empower communities and enable local people, through their councillors, to participate in decisions that affect their day to day lives.
- 1.8 In practice the legislative changes that impact directly on overview and scrutiny will not alter significantly the powers that scrutiny members at Cherwell District Council already have. In many ways these changes are formalising what scrutiny committees are already doing e.g. holding partners to account, allowing members to put issues of concern on scrutiny agendas and requiring the Executive to acknowledge and formally respond to scrutiny recommendations.
- 1.9 However, the fact that this is now enshrined in legislation gives overview and scrutiny committees some enhanced powers to require co-operation and responses from the Executive and LAA partners in relation to their activities which are the subject of scrutiny.
- 1.10 The revisions to the Cherwell District Council Constitution in April 2009 took into account the majority of these legislative changes and so it is not necessary to make significant changes to the current version. However, as the way in which overview and scrutiny is conducted at the Council will continue to evolve, it is anticipated that some further (minor) revisions to the Constitution may be necessary.

The Legislation

The Local Government and Public Involvement in Health Act, 2007

- 2.2 Although the Local Government and Public Involvement in Health Act was published in December 2007 the regulations relating to overview and scrutiny did not come into force until 1 April 2009. The new powers cover three main issues:
- 2.3 **Scrutiny of local improvement (LAA) targets**
The Act enables district council overview and scrutiny committees to

play an active role in scrutinising the delivery of LAA targets connected to the district council's area. It allows district council overview and scrutiny committees to make reports and recommendations on a matter relating to an LAA improvement target to the relevant county council and any partner organisations. The county council and any partner organisations will then be required to respond within two months to the district council scrutiny committee's report.

2.4 Joint county and district overview and scrutiny committees

The Act allows a county council in a two-tier area to establish a joint overview and scrutiny committee with one or more district councils in the area. The aim of these joint committees is to enable authorities to work together collaboratively to make reports and recommendations on progress being made in meeting LAA targets. The legislation only applies to joint scrutiny committees which include members of the county council; joint scrutiny committees comprising of members from only two or more district councils have no powers under this Act.

2.5 Annex 1 lists the partner organisations covered by the legislation. Annex 2 illustrates the LAA structure and details the LAA targets that apply to Cherwell.

2.6 The Government proposes to develop this new power further in the Local Democracy, Economic Development and Construction Bill, by broadening the provision for joint scrutiny to include anything that affects the area of the group of partner authorities or the inhabitants of that area (see paragraph 2.12 below).

2.7 The Act also introduced the **Councillor Call for Action (CCfA)**, which allows any ward councillor to refer a local government matter to an overview and scrutiny committee for consideration. The Councillor Call for Action was the subject of a separate report to overview and scrutiny in September 2009.

The Police and Justice Act, 2006

2.8 The crime and disorder scrutiny provisions of the Police and Justice Act 2006 took effect from 30 April 2009. In summary the regulations, contained within Sections 19 – 21, require:

- every local authority to have a crime and disorder committee with the power to review or scrutinise decisions made or action taken by the responsible authorities¹ in relation to their crime and disorder functions;

¹ The responsible authorities are those 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 Crime and Disorder Reduction Partnership (in Oxfordshire these are known as Safer Community Partnerships). In April 2010 the probation service will be added to the list of responsible authorities.

- every local authority to designate a body to serve as the crime and disorder scrutiny committee (this does not have to be the committee's only function);
- the crime and disorder committee to meet at least once a year;
- responsible authorities to provide information requested by the crime and disorder committee and for an officer or employee of responsible authorities to attend committee meetings;
- the Council, Executive and responsible authorities to consider any report or recommendations from the crime and disorder committee, to respond in writing within 28 days and to have regard to the report or recommendations in exercising its functions;
- 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 Executive (this is the crime and disorder element of the Councillor Call for Action);

The legislation also:

- allows the crime and disorder committee to co-opt additional members with or without voting rights; and
- encourages the crime and disorder committee to consider the following:
 - 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;
 - 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.

2.9 The terms of reference of the crime and disorder committee should be *“to scrutinise the work of the community safety partnership and the partners who comprise it, in so far as their activities relate to the partnership itself”*

The emphasis is on scrutiny of the partnership rather than of the individual partners.

2.10 The legislation applies to both county and district local authorities. The accompanying guidance states that whilst it will be for each local authority to decide how it will implement crime and disorder scrutiny (as there will always be local community safety issues which are best dealt with by individual authorities), it makes sense that both tiers work together. It suggests that districts and counties should consider developing a joint approach for looking at community safety issues that cut across organisational and geographical boundaries:

- 2.11 Annex 3 illustrates the crime and disorder arrangements in Oxfordshire and indicates what organisations might become the subject of independent or joint scrutiny.

The Local Democracy, Economic Development and Construction Bill, 2008

- 2.12 The Local Democracy, Economic Development and Construction Bill is expected to receive royal assent in autumn 2009.
- 2.13 The implications of this legislation for overview and scrutiny are:
- the amendment of the Local Government and Public Involvement in Health Act 2007 so that the functions of a joint overview and scrutiny committee are no longer limited to LAA targets (see paragraph 2.4 above);
 - a requirement to designate a proper officer for overview and scrutiny;
 - A provision to allow petitions to call senior officers to account, both of the authority and from stakeholder bodies, through either the scrutiny process or an 'other relevant body'.
- 2.14 The Bill completed its Report and Third Reading stages in the House of Commons on 13 October 2009. Consideration of Commons amendments will take place in the Lords on 9 November 2009 and the Bill is expected to receive Royal Assent later that month. Once the Bill has received Royal Assent these issues will be the subject of a separate report to Executive and Council.

The Issues

Scrutiny of local improvement (LAA) targets

- 3.2 Under the revised Constitution the Overview and Scrutiny Committee has overall responsibility for the performance of all overview and scrutiny functions (under the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007) on behalf of the Council.
- 3.3 Consequently the Overview and Scrutiny Committee is empowered to undertake scrutiny of the LAA or indeed to delegate that responsibility to either the Resources and Performance Scrutiny Board or a Task and Finish Group.
- 3.4 So no further action is required at this time; although in early 2010 the Overview and Scrutiny Committee will wish to review the scrutiny work programme for 2010/11 and include specific LAA target related topics for future scrutiny.

Joint county and district overview and scrutiny committees

- 3.5 The regulations make provision for the establishment of joint committees in a two tier area but they can only be set up on a county – district basis and not simply between districts. In some areas (such as Cumbria) the local authorities have been operating a successful joint committee system for some time and have well developed models and protocols which could be readily replicated here.
- 3.6 But the creation of a joint committee is an option not a requirement and this Committee (and Council), in common with neighbouring authorities, will wish to reflect on the value of establishing a formal joint scrutiny committee in Oxfordshire at this time. This is discussed in more detail at paragraph 3.9.

Crime and Disorder scrutiny

- 3.7 Although the revised Cherwell District Council Constitution does not make direct reference to the Police and Justice Act 2006 or to a crime and disorder scrutiny committee, the wording is considered to be sufficiently generic to demonstrate that the existing Overview and Scrutiny Committee fulfils that role. But it may be prudent to consider making a further amendment to the Constitution to formally designate the Overview and Scrutiny Committee as this Council's crime and disorder scrutiny committee.
- 3.8 Such a constitutional amendment to confirm the role of the Overview and Scrutiny Committee, coupled with the annual Q&A session with the Chief Constable at the spring Council meeting and ad hoc scrutiny reviews into crime and disorder issues (e.g. the current Crime and Anti-social Behaviour Task & Finish Group) would meet the legislative requirements. It is not considered necessary to convene a separate scrutiny committee to look solely at crime and disorder matters.
- 3.9 The Head of Safer Communities and Community Development and his team have been consulted and their views sought on an appropriate structure for crime and disorder scrutiny at Cherwell. They support the proposal that the Overview and Scrutiny Committee becomes this Council's designated crime and disorder scrutiny committee.

What is happening in Oxfordshire?

- 3.10 Work is already underway in Oxfordshire to explore the options for joint scrutiny of local improvement (LAA) targets and specifically crime and disorder matters. The Oxfordshire Chief Executive's Group has commissioned an officer working group to explore options for joint scrutiny. This work will canvass the views of scrutiny members across the county.
- 3.11 The initial conclusions are that it is not necessary to establish a formal joint scrutiny arrangement. This is because the Oxfordshire local authorities have collectively agreed that the Public Services Board and the related thematic partnerships should drive delivery of the LAA, and

that the Public Services Board should hold to account each of the thematic partnerships.

- 3.12 It is proposed that at the start of each year the thematic partnerships should provide a summary of the outcomes it aims to achieve in that year and at the end of each year they should produce an annual report on their performance. These documents can be considered by the individual Oxfordshire local authority scrutiny committees and where there is broad dissatisfaction with LAA performance then a joint scrutiny review may be necessary. In such circumstances a meeting of the appropriate county/district scrutiny chairmen should be convened to agree the arrangements for a joint scrutiny review.
- 3.13 This Committee will wish to reflect on what joint scrutiny committee arrangements, if any, it believes would be appropriate for Cherwell and Oxfordshire at this time.

What are other councils doing?

- 3.14 The guidance on crime and disorder scrutiny suggests that 'local authorities and their partners should consider developing short, flexible and meaningful protocols which lay down the mutual expectations of both scrutiny members and partners of the community safety scrutiny process.'
- 3.15 In some areas the partner authorities are keen to promote a joint, or at least consistent, approach to crime and disorder scrutiny in order to avoid responding to numerous different requests for information. For example the Thames Valley Police Authority is a member of no less than 18 crime and disorder partnerships; and so they are already working with at least one local authority in the region to develop a scrutiny protocol.
- 3.16 It is suggested that the Committee may wish to develop a simple, fit for purpose, protocol which explains how crime and disorder scrutiny will operate at Cherwell and confirms the roles and relationships of the Council and its community safety partners.

Conclusion

- 4.1 In summary the recent changes in legislation afford local authorities the right to scrutinise LAA targets and crime and disorder matters, individually or in concert with other councils and partner organisations. But in the main the legislation is merely confirming what was already common practice and we should not expect to see wholesale changes in the structure and operation of scrutiny in Oxfordshire.
- 4.2 At Cherwell the main changes are expected to be the formal designation of the Overview and Scrutiny Committee as the crime and disorder scrutiny body and a closer alignment of the scrutiny work programme to LAA targets.

Implications

Financial:

At this stage it is not possible to predict the extent to which members will use the new powers and until there are more concrete proposals for joint scrutiny and scrutiny of the Crime and Disorder Reduction Partnership it is not possible to quantify the level of resource required to support those activities. The expectation is that the resources required to deliver the requirements of the new legislation can be accommodated within existing provisions. Regular monitoring will need to take place to consider the impact on officers to resource these additional activities.

Comments checked by Karen Curtin, Head of Finance, 01295 221551

Legal:

The revisions to the Constitution in April 2009 took account of the most recent legislative changes to overview and scrutiny. The way in which overview and scrutiny is undertaken at the Council will continue to evolve in the light of recent legislation and guidance and further (minor) revisions to the Constitution may be necessary.

Risk Management:

The ability to demonstrate effective arrangements for the joint scrutiny of LAA targets is likely to feature prominently in future CAA ratings for all Oxfordshire local authorities. Significant blocks of funding will be released through the LAA targets and it is essential that Cherwell District Council participates in a robust process to review and challenge the performance delivery of those targets.

Comments checked by Rosemary Watts, Risk Management & Insurance Officer, 01295 22221566

Wards Affected

All

Corporate Plan Themes

The new powers for overview and scrutiny committee are relevant to all the Council's corporate priorities.

Executive Portfolio

All

Document Information

Annex No	Title
1	Partner organisations named in LGPIH Act 2007
2	LAA Structure and targets for Cherwell
3	Cherwell Crime and Disorder Structure
Background Papers	
Councillor Call for Action, Report to Overview and Scrutiny, September 2009	
Report Author	Catherine Phythian, Democratic and Scrutiny Officer
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Partner organisations named in LGPIH Act 2007

- Arts Council
- The Broads Authority
- Chief Officer of Police
- District authorities
- English Heritage
- The Environment Agency
- Fire and rescue authorities
- Health and Safety Executive
- The Highways Agency
- Jobcentre Plus
- Joint Waste Authorities
- Joint Waste Disposal Authorities
- The Learning and Skills Council in England
- Local Probation Boards
- Metropolitan Passenger Transport Authorities
- Museums, Libraries and Archives Council
- National Park Authorities
- Natural England
- NHS Foundation Trusts
- NHS Health Trusts
- Police authorities
- Primary Care Trusts
- Probation Trusts and other providers of probation services
- Regional Development Agencies
- Sport England
- Transport for London
- Youth Offending Teams

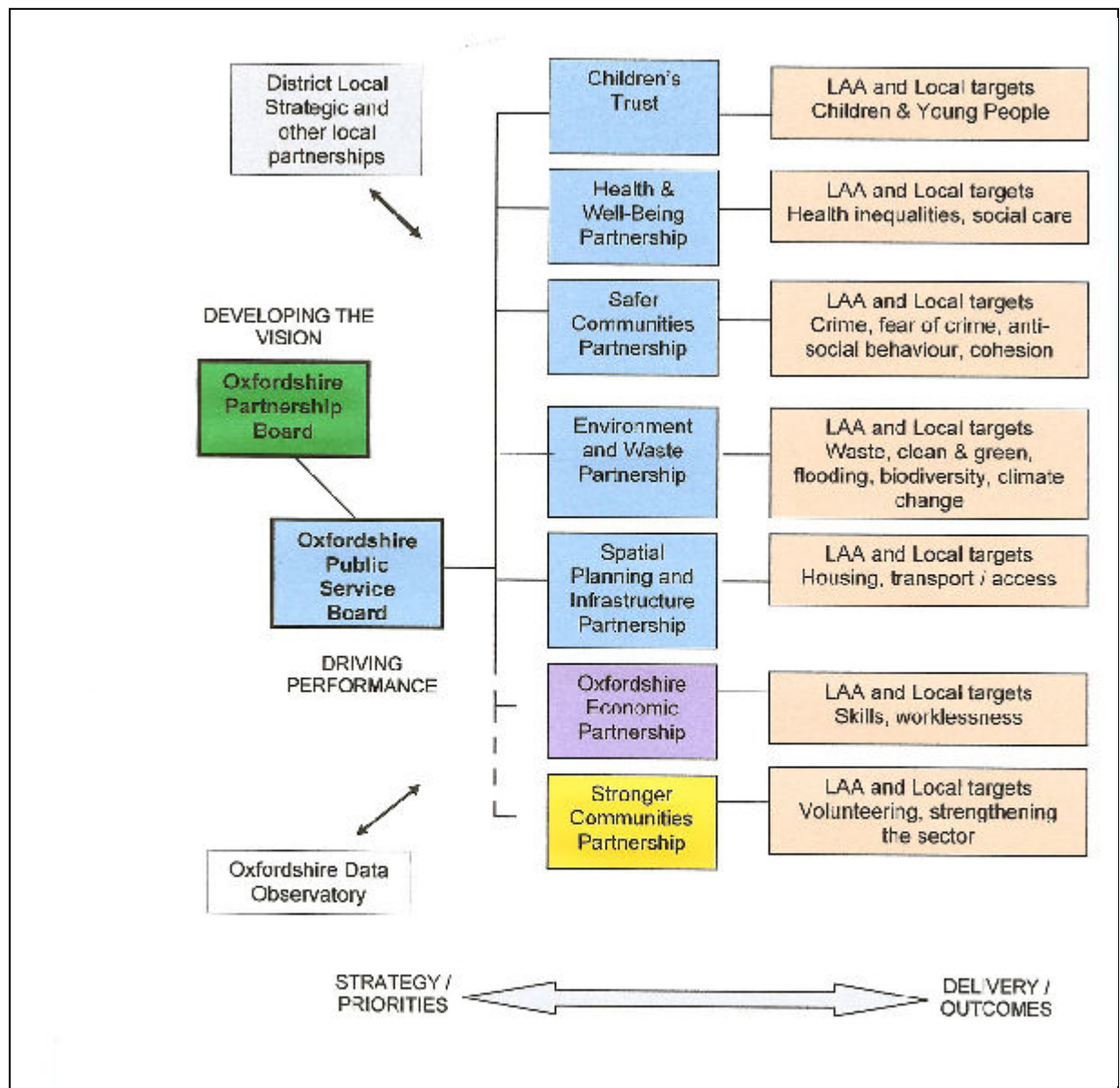
- Any other organisations added by an order under section 104(7) of the Act

Annex 2

Structure of Oxfordshire Partnership and thematic Partnerships

Oxfordshire Partnership Local Area Agreement 2008-11
Refresh March 2009

<http://www.oxfordshirepartnership.org.uk/wps/wcm/connect/OxfordshirePartnership/Local+Area+Agreement/Latest+Local+Area+Agreement+2008-11/>



LAA targets that apply to Cherwell District Council

LAA	
Indicator	Description
NI 5	Overall/general satisfaction with local area
NI 8	Adult participation in sport
NI 21	Dealing with local concerns about anti-social behaviour and crime by the local council and police
NI 110	Young people's participation in positive activities
NI 140	Fair treatment by local services
NI 154	Net additional homes provided
NI 155	Number of affordable homes delivered (gross)
NI 156	Number of households living in Temporary Accommodation
NI 179	Value for money – total net value of on-going cash-releasing value for money gains that have impacted since the start of the 2008-9 financial year
NI 185	CO2 reduction from Local Authority operations
NI 188	Adapting to climate change
NI 191	Residual household waste per head
NI 192	Household waste recycled and composted
NI 195a (litter)	Improved street and environmental cleanliness (level of litter)
NI 195b (detritus)	Improved street and environmental cleanliness (level of detritus)
NI 196	Improved street and environmental cleanliness – fly tipping

Cherwell Crime and Disorder Structure

