



DERBY CITY COUNCIL

SCRUTINY MANAGEMENT COMMISSION 10 APRIL 2007

Report of the Corporate Director of Corporate and Adult Social Services

IMPLICATIONS FOR OVERVIEW AND SCRUTINY OF NEW LOCAL GOVERNMENT LEGISLATION

RECOMMENDATION

1. To a) note the current position b) receive updates as the legislation and guidance develop c) note that the new powers and duties are intended to have effect from April 2008 and d) defer the making of recommendations on any changes to overview and scrutiny structures until central government requirements are finalised.

SUPPORTING INFORMATION

- 2.1 The century old committee system was replaced by the Local Government Act 2000. Instead the Act superimposed on councils the Westminster model of a small executive with backbenchers undertaking a scrutiny role. From an early stage, central government's assessment of local authority overview and scrutiny as a function has generally been favourable.
- 2.2 From 2003 county and single tier councils were given specific duties in relation to scrutinising local National Health Service bodies. The Home Office then identified scrutiny as a means to improve crime and disorder reduction partnerships, some of which are not all as effective as Derby's Community Safety Partnership. To achieve that specific provisions were included in the Police and Justice Bill which has now received royal assent. For single tier councils like Derby this will introduce:
 - a general power to conduct reviews about crime and disorder
 - the new concept of 'community calls for action' – explained below

A scrutiny body will have to be designated as the Crime and Disorder Committee – though this does not mean having to create an additional commission.

- 2.3 Overlapping with the progress of the Crime and Justice legislation, the Department for Communities and Local Government produced the White Paper *'Strong and Prosperous Communities'*. This then became the Local Government and Public Involvement in Health Bill, the Bill, which is currently going through Parliament. This covers many aspects of local government organisation, for example:
- raising the possibility once more of unitary status being awarded to county councils or large districts
 - strengthening the authority of council leaders and introducing the new option of having the whole executive directly elected as a slate
 - enabling the adoption of all out, four yearly elections in councils currently required to operate 'third out' elections
 - revising the ethical framework
 - replacing the current patient and public involvement forums with 'local involvement networks' and extending the remit to social care services – a report will be made to the Adult Services and Health Commission on this important development
- 2.4 Importantly the Bill also has two direct impacts on the scrutiny function. It will put Local Area Agreements on a statutory footing and will enable a range of public sector partner agencies to be subject to local authority scrutiny. However, that will only apply to those agencies' LAA targets and not their general service delivery.
- 2.5 The other direct impact arises from the proposed strengthening of the community leadership role of ward members and links this to an enhanced role for overview and scrutiny. To make a distinction from the crime and disorder route for community calls for action the term 'local government matter' is introduced, meaning:
- relating to the discharge of any function of the authority,
 - affecting all or part of the electoral area for which the member is elected or any person who lives or works in that area.
- 2.6 The parallels between the local government bill and the Police and Justice Act, PJA, mean that the implementation of the scrutiny machinery in the latter has been put back by the Government to April 2008 so that it goes 'live' at the same time as the local government provisions. However, the processes are not identical. The most important difference is that the 'community call for action' in the CJA gives specific rights to citizens. The corresponding machinery for 'local government' community calls for action only gives specific rights to councillors. Both systems will be dependent on detailed guidance to govern the appropriate use of referral to the executive and scrutiny

- 2.7 This raises the prospect of councils having to decide whether an issue is wholly or mainly of a crime and disorder nature or a local government nature. It may mean that an issue that clearly straddles both definitions may have to be dealt with concurrently through both routes. These potential difficulties have been raised during consideration of the Bill. One unsuccessful amendment was to align the community call for action procedures by rescinding those in the PJA to be replaced by those in the Bill. It is because of this flux that it is advised that the Commission be kept abreast of developments but it not attempt to recommend any organisational changes until the legislation is passed and detailed guidance issued.

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Background papers:	None
List of appendices:	Appendix 1 – Implications Appendix 2 – Home Office Community Calls for Action: Flow chart entitled ‘Scrutiny of Crime and Disorder’ Appendix 3 - Dept for Communities and Local Government Community Calls for Action: Flow chart ‘Local Government CCAs’

Appendix 1

IMPLICATIONS

Financial

- 1 One viewpoint is that both forms of community calls for actions simply codify existing good practice, which suggests the costs should be nil or minor. Another view is that local people’s expectations may be raised about the ability of councils and also, for crime and disorder issues, other agencies to respond to problems. If essentially fixed resource levels prevent action being taken on these extra issues, administrative costs will rise if councillors feel obligated as community leaders to use all the available council procedures eg the cost of holding extra executive and scrutiny meetings to process requests, perhaps involving residents as witnesses and/or site visits.

Legal

- 2 The Local Government and Public Involvement in Health Bill will give powers to the local authority overview and scrutiny function to scrutinise public sector partner organisations in relation to LAA targets. It will also create a formal process, to be detailed in subsequent national guidance, for ward councillors to refer community concerns to the Council Cabinet and/or the appropriate scrutiny commission for the issue concerned.

The Police and Justice Act creates a formal process for concerns relating to crime and disorder issues, to be detailed in subsequent national guidance, whereby:

- citizens and councillors can request the Council Cabinet and
- councillors can request a designated 'crime and disorder committee' to consider community calls for action.

The two pieces of legislation are to take effect from April 2008. As well as requiring our structures to be reviewed in terms of fitness for purpose, Article 3 of the Constitution 'Citizens and the Council' shall need to be revised to take account of the new citizens' rights.

Personnel

- 3 None directly arise from this report but some district councils with limited scrutiny support consider that regular usage of the community calls for action will need to be met by an increase in capacity if time is not be diverted from supporting members with reviews.

Equalities impact

- 4 Unknown.

Corporate Priorities

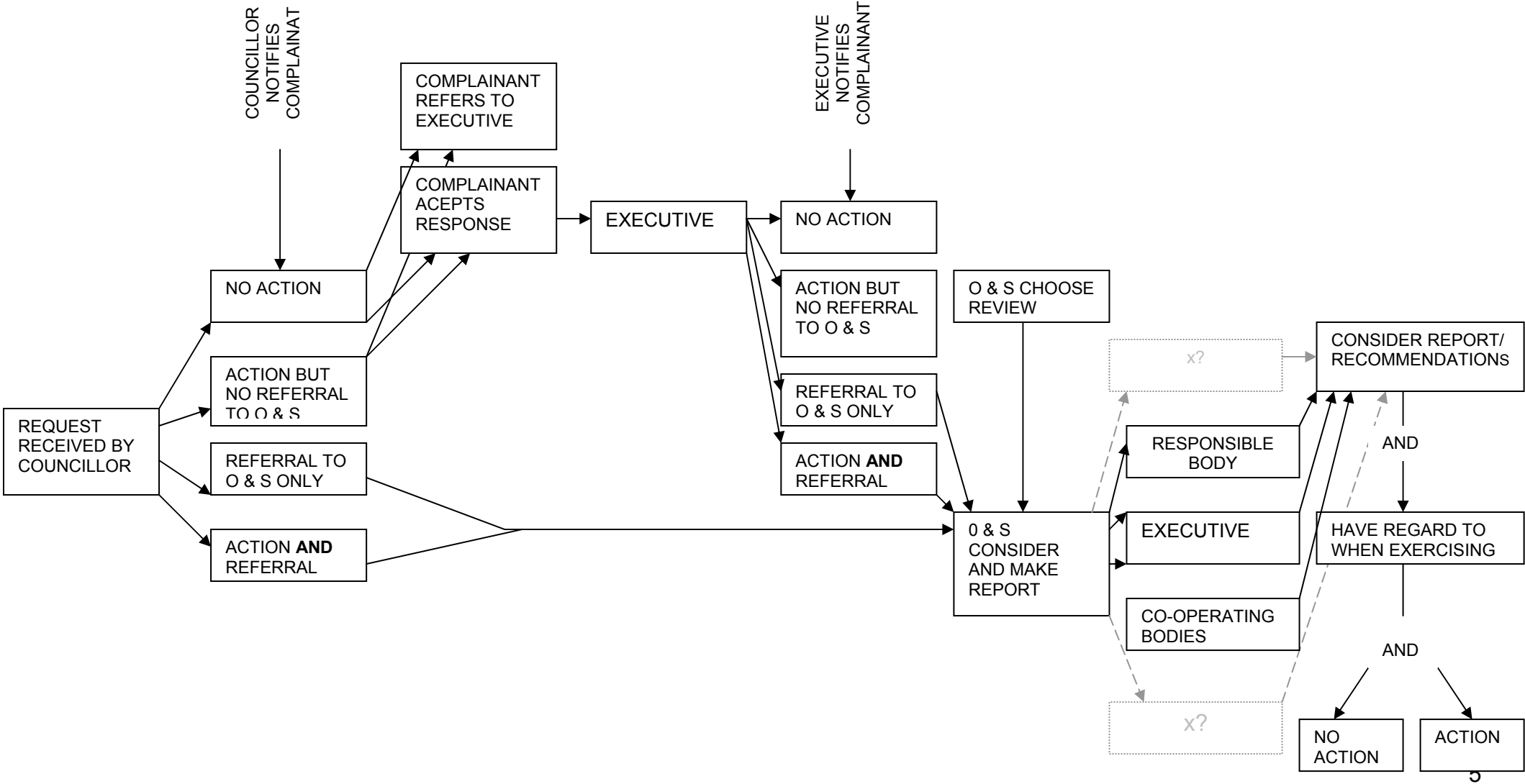
- 5 This report relates to 'giving you excellent services and value for money' and 'making us proud of our neighbourhoods' and lead Derby towards a better environment'

Scrutiny of Crime and Disorder

Appendix 2

SUB SECTION 3
ROUTE

SUB SECTION
1 ROUTE



LOCAL GOVERNMENT COMMUNITY CALLS

Local residents have concerns about persistent or serious problems in their area or want to influence policies.

