

ITEM 10



DERBY CITY COUNCIL

SCRUTINY MANAGEMENT COMMISSION 5 DECEMBER 2006

Report of the Director of Corporate and Adult Social Services

Proposed Changes to Overview and Scrutiny Set Out in the Local Government White Paper 'Strong and prosperous communities'

RECOMMENDATION

1. That the Commission note the report and consider circulating it to all members of the Council.

SUPPORTING INFORMATION

- 2.1 In October 2006, the Local Government White Paper, 'Strong and prosperous communities' was presented to Parliament by the Secretary of State for Communities and Local Government, the Right Honourable Ruth Kelly MP.
- 2.2 In the preface to the White Paper Ruth Kelly states that its aim is to create strong, prosperous communities and to deliver better public services through a rebalancing of the relationship between central government, local government and local people.
- 2.3 The White Paper proposals are grouped under the headings of:
 - Responsive services and empowered communities
 - Effective, accountable and responsive local government
 - Strong cities, strategic regions
 - Local government as a strategic leader and place shaper
 - A new performance framework
 - Efficiency – transforming local services
 - Community cohesion
- 2.4 Parts 2 and 3 of the White Paper contain details of some proposed changes to the way in which local government overview and scrutiny committees will operate. A more detailed account of the proposed changes is contained in Appendix 2 of this report.
- 2.5 Part 2 of the White Paper proposes that when petitioners are unhappy with the response to their petition they will be able to ask their councillor to take up the matter as a Community Call for Action (CCfA) and the

councillors will be able to refer the issue of the CCfA to their overview and scrutiny committees. The White Paper suggests that this will be particularly appropriate for the more intractable or strategic issues on which councillors will need to work with colleagues and take a broader view. Once they have considered the issue and if necessary conducted an investigation of their own, the overview and scrutiny committees may choose to make recommendations to the executive and relevant service providers. Relevant public bodies will be required to respond to the committee's recommendations and their responses will be publicised.

- 2.6 Part 3 of the White Paper proposes a number of changes to help all councils develop their capacity and effectiveness. One of the changes proposed is the strengthening overview and scrutiny committees to improve accountability. It is intended that this would include
- Enabling committees to review specific actions of public bodies operating in the area. This will not apply to crime and public disorder issues where new scrutiny arrangements are to be introduced under the Police and Justice Bill 2006
 - Making them responsible for considering Community Calls for Action referred to them by councillors acting as advocates for their communities
 - Encouraging them to consider matters raised in petitions
- 2.7 The White Paper also proposes legislation to strengthen the role of overview and scrutiny committees and so to enable local authorities to carry out their place-shaping role. These changes will enhance the ability of councillors to champion the interests of local people across a wide range of local issues.
- 2.8 The Bill containing these proposals was referred to in the Queen's speech on 15 November 2006. The White Paper does not define any specific timescales for the introduction of the new powers and the enabling legislation and merely states that 'it is proposed to seek legislation at the earliest opportunity with a view to having the key building blocks of our reforms in place as soon as possible'.
- 2.9 There will be implications for overview and scrutiny in Derby if the proposals contained in the White Paper and those in the Police and Justice Bill 2006 are implemented. In particular it would seem likely that the scope and workload of the Commissions would increase significantly and that the public would expect greater overview and scrutiny involvement in issues affecting the City.
- 2.10 Frequent use by members of the CCfA would make the Commissions much more 'demand driven' and would probably necessitate the need for more unscheduled meetings.
- 2.11 It is suggested that with the current overview and scrutiny arrangements the Council would find it difficult to deliver the service envisaged in the

White Paper. Consequently, if the proposed changes come into effect, it will be necessary carry out a review of the scrutiny function and support arrangements.

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Background papers:	Appendix 1 – Implications
List of appendices:	Appendix 2 - Strong and Prosperous Communities – Local Government White Paper October 2006 – proposed changes to Overview and Scrutiny

Appendix 1

IMPLICATIONS

Financial

1. None arising from this report. There are likely to be costs if the proposals set out in the White Paper are implemented.

Legal

2. None arising from this report. However the White Paper indicates that the proposed changes will be implemented by legislation.

Personnel

3. There will be implications for staff resources if the changes proposed in the White Paper are implemented.

Equalities impact

4. Effective scrutiny is of benefit to all Derby people. The CCfA will potentially benefit disadvantaged groups.

Corporate Objectives, Values and Priorities

5. This report has the potential to link with all of the Council's Corporate Objectives

Strong and Prosperous Communities – Local Government White Paper October 2006 – proposed changes to Overview and Scrutiny

In October 2006, the Local Government White Paper, 'Strong and prosperous communities' was presented to Parliament by the Secretary of State for Communities and Local Government, the Right Honourable Ruth Kelly MP.

In the preface to the White Paper Ruth Kelly states that its aim is to create strong, prosperous communities and to deliver better public services through a rebalancing of the relationship between central government, local government and local people.

The White Paper proposals are grouped under the headings of:

- Responsive services and empowered communities
- Effective, accountable and responsive local government
- Strong cities, strategic regions
- Local government as a strategic leader and place shaper
- A new performance framework
- Efficiency – transforming local services
- Community cohesion

The White Paper is in two volumes which between them total around 240 pages. The complete document can be downloaded via the following link.

<http://www.communities.gov.uk/index.asp?id=1503999>

The White Paper proposes some significant changes to the current role of the UK Council's Overview and Scrutiny Committees. These changes are explained in Part 2 'Responsive services and empowered communities' and Part 3 'Effective, accountable and responsive local government' and are as set out below:

Part 2 – Responsive services and empowered communities - Listening to and acting on local concerns

One of the proposals contained in this section of the White Paper is the provision to local people of better and more timely information about local services. The authors of the White Paper consider that if more information is available, the more likely it is that people will want action to be taken if they consider services do not meet the defined standard and this may result in more petitions.

The White Paper proposes that when petitioners are unhappy with the response to their petition they will be able to ask their Councillor to take up the matter as a Community Call for Action (CCfA). Members may be aware that the CCfA is being introduced for crime and disorder issues through the police

and Justice Bill, and the White Paper proposes that a similar approach is adopted to cover other more general issues for which local authorities are responsible either alone or in partnership with others.

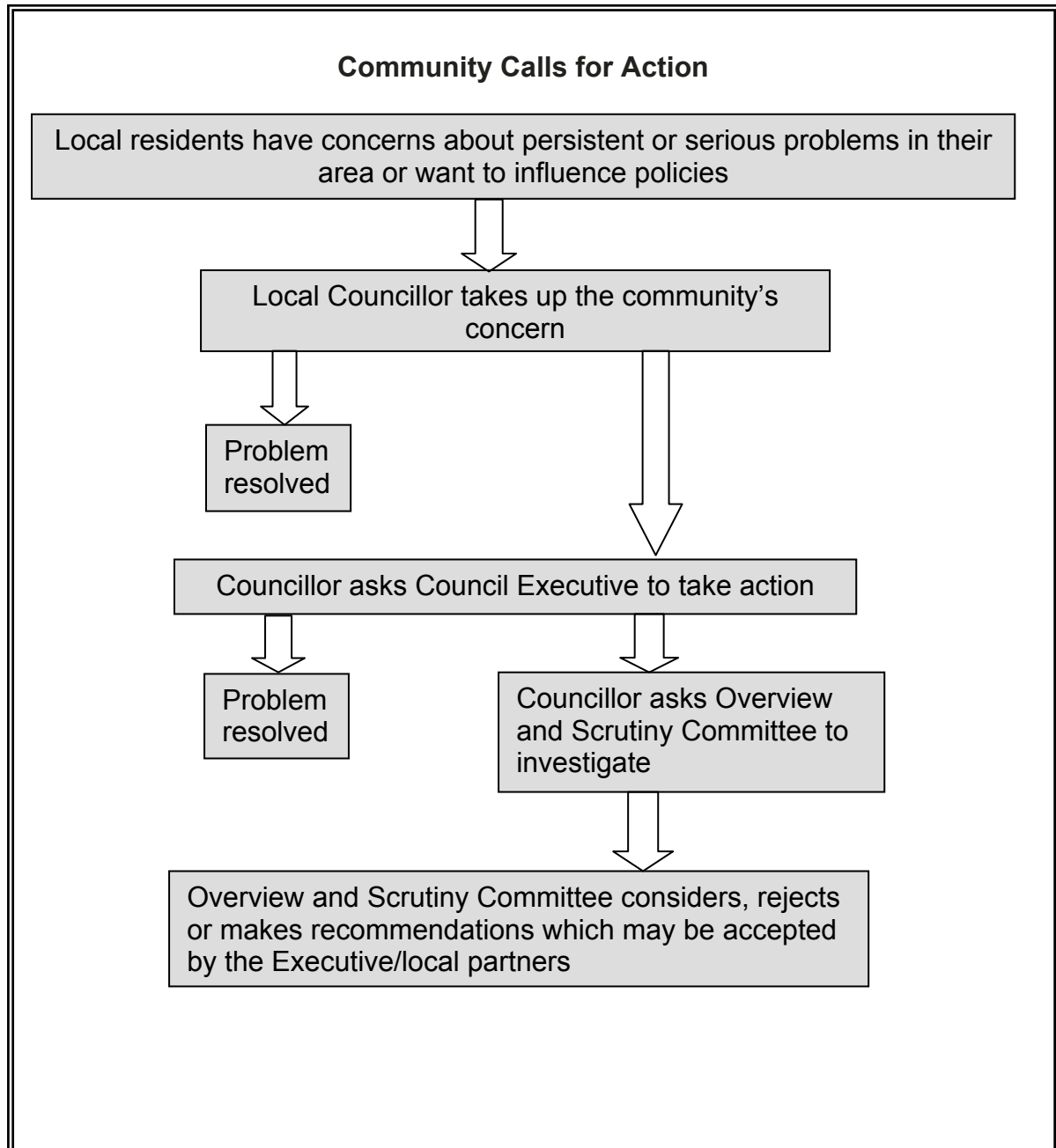
The White Paper proposes that other than for crime and disorder matters the CCfA will work as follows:

- Councillors will, from their correspondence and knowledge of their area and its people, identify issues which are of significant concern to the communities they represent. They may decide that the wider community interest justifies a Call for Action on a particular issue
- As now, councillors will seek to resolve problems by talking informally to the local authority and service providers. Under CCfAs, we will however encourage local authorities to enable their councillors to do more than this. When councillors cannot negotiate a satisfactory solution, we would like them to be able to deal with relatively straightforward issues themselves. By using, for example, budgets delegated to them by the local authority; and
- As for crime and disorder matters, councillors will be able to refer issues to their overview and scrutiny committees. This will be particularly appropriate for the more intractable or strategic issues on which councillors will need to work with colleagues and take a broader view. Committees may choose to make recommendations to the executive and relevant service providers after, if necessary, conducting an investigation of their own. Relevant public bodies will be required to respond to the committee's recommendations; the enhanced powers for overview and scrutiny committees are described in more detail in chapter three. They can respond positively or negatively, but their responses will be publicised.

The potential for inappropriate use of the CCfA is recognised in the White Paper which states that 'The CCfA should not be seen as a charter for making mischief. We will expect local authorities and councillors to demonstrate leadership in dealing with issues raised by the public and where necessary to speak for those who cannot easily speak out for themselves. We will introduce legislative safeguards to ensure that councils and overview and scrutiny committees are not forced to waste time dealing with vexatious complaints, or to act in a way that would prejudice community cohesion.'

The White Paper also states that 'The overview and scrutiny committee will need to act as a gatekeeper to ensure that the issues it deals with are of genuine interest to the community. Our aim is for the call for action to make a real difference. That will require thorough investigation of issues by the overview and scrutiny committee'. However it is also proposed in the White Paper that local committees (presumably overview and scrutiny committees) will be able to set their own rules in the light of local circumstances to ensure that they concentrate their efforts where they can make a difference, and to do this committees might agree a limit on the number of calls for action that individual councillors can bring.

The following flow chart, which has been extracted from the White Paper, shows how it is envisaged that the CCfA will work.



Part 3 - Effective, accountable and responsive local government

The White Paper identifies the need of prosperous and cohesive communities to respond successfully to the demands of the modern world and meet the rising expectations of citizens. This issue was addressed by 25 European Governments at the Bristol Ministerial Informal Meeting on Sustainable Communities in Europe in December 2005, and they concluded that the key elements of effective democratic governance were:

- Effective citizen participation (involving society, social partners and all levels of government) through both representative and appropriate forms of participatory democracy, designed to give communities power and influence over the decisions that affect them;
- Decisions and actions taken at the right level – be it the neighbourhood, local, regional, national or European level;
- Effective leadership of place: to create a vision of the place, gain the community's acceptance of that vision and work with partners to secure its successful delivery; and
- High standards of conduct, skills and communications, in particular communication between different types of profession

To address these issues the White Paper proposes a number of changes to help all councils develop their capacity and effectiveness. One of the changes proposed is the strengthening overview and scrutiny committees to improve accountability. It is intended that this would include

- Enabling committees to review specific actions of public bodies (other than for crime and disorder matters where new scrutiny arrangements are already being introduced.) operating in the area,
- Making them responsible for considering Community Calls for Action referred to them by councillors acting as advocates for their communities
- Encouraging them to consider matters raised in petitions

The proposals to strengthen overview and scrutiny are described in more detail in paragraphs 3.29 to 3.37 of the White Paper. This part of the White Paper is of particular interest to the Council's Overview and Scrutiny Commissions and has consequently been reproduced in full below:

3.29 An essential part of the democratic process is holding to account those who are exercising executive leadership. This is all the more important as we move to enhance the powers of council leaders. The new system will require scrutiny arrangements that are even more effective.

3.30 There is evidence of improving accountability since overview and scrutiny arrangements were introduced in 2000. In 2003, just under half of portfolio holders in authorities' cabinets reported that changes had occurred "sometimes or occasionally as a result of the overview and scrutiny committee"; by 2005, this had increased to 60%. However, research shows that the perception is that while scrutiny committees are good at reviewing service outcomes and involving external stakeholders, they are weak at reconciling community opinion or providing a forum for community debate.

- 3.31 *Overview and scrutiny arrangements can also fail to engage councillors as the representatives of their areas. Only 12% of councillors, 9% of officials and 12% of stakeholders believe that non-executive councillors are more engaged under the new arrangements, despite an increase in the working hours spent by non-executive councillors on council business. This has remained static since 2003*
- 3.32 *We intend to legislate to strengthen the role of overview and scrutiny committees to enable local authorities to carry out their place-shaping role. These changes will enhance the ability of councillors to champion the interests of local people across a wide range of local issues. Local authorities will need to exercise these powers responsibly by focusing on constructive challenge and consideration with a view to improving outcomes for people and communities.*
- 3.33 *Overview and scrutiny committees can currently carry out investigation into any issue of importance to the local area. Our proposals will allow committees to consider specific matters regarding the action of local public service providers and the actions of key public bodies operating in a local authority area. Under the new proposals set out in chapter two overview and scrutiny committees will be required to consider issues raised by councillors as Community Calls for Action.*
- 3.34 *Overview and scrutiny committees currently have the power to compel members of the council executive and council officers to appear before them and provide information. PCTs and certain other local NHS bodies are already under a duty to co-operate with overview and scrutiny. The police are accountable to police Authorities and there are new proposals in the Police and Justice Bill for strengthening the scrutiny of police and their community safety partners. But there is currently no general requirement on those outside the authority, who have been the subject of a committee's recommendation, to provide information to the committee. Nor can the committee take any further action if matters do not improve.*
- 3.35 *To ensure that elected members are in a stronger position to support citizens and communities in reasonably challenging policies and practices for their area, we will require:*
- *Those public service providers (other than the police who will instead be subject to the new scrutiny arrangements set out in the Police and Justice Bill), covered by the duty to co-operate set out in chapter five either to appear before the committee or provide information to the committee within 20 working days (corresponding to the Freedom of Information Act deadline), insofar as their actions relate to functions or service delivery connected with the authority;*
 - *Overview and scrutiny committees to copy to public bodies recommendations affecting them;*
 - *Those bodies to have regard to those recommendations when*

exercising their functions, to the extent that the recommendations are within the duty to co-operate;

- *The council to consider and publicise their response to overview and scrutiny recommendations as soon as possible and no later than two months.*

3.36 Following the publication of this White Paper we will work with local authorities to develop new best practice guidance on overview and scrutiny. This will encourage local authorities to develop further the concept of scrutiny focused on particular areas, communities, or neighbourhoods. A number of authorities have already developed such arrangements, and we will encourage authorities to set up “area” overview and scrutiny committees, comprising local councillors and, by making use of the existing powers to co-opt non-councillors onto committees, other members of the community. Such committees would be able to review the impact of actions of the council and other bodies on the immediate area.

3.37 At the level of the full council, we will also encourage authorities to focus overview and scrutiny on more strategic issues – the priorities agreed as part of Sustainable Community Strategies, Local Area Agreements and other key strategic plans. We will encourage greater use of overview and scrutiny committees in policy development, allowing local councillors to advise the executive and ensuring local perspectives influence decisions. We will also encourage all councils to dedicate appropriate resources to scrutiny, as best practice suggests that the key to successful overview and scrutiny is adequate resourcing and support.

Part 9 – Steps towards implementation

The White Paper contains very limited information on the timescales for implementing the proposals it contains. However paragraph 9.3 of Part 9 of the White Paper says ‘it is proposed to seek legislation at the earliest opportunity with a view to having the key building blocks of our reforms in place as soon as possible’.

DRR 15 November 2006.