

**AGENDA ITEM**

**REPORT TO EXECUTIVE  
SCRUTINY COMMITTEE**

**17 NOVEMBER 2009**

**REPORT OF DIRECTOR OF  
LAW AND DEMOCRACY**

**SCRUTINY OF PARTNERSHIPS AND THE LAA**

**SUMMARY**

The report provides a summary of new legislation which strengthens scrutiny powers to enable Councils to hold LSPs and their partners to account for local action and public spending. The report suggests that it is timely to review the Council's scrutiny arrangements to ensure that our scrutiny structures are fit for purpose and our scrutiny activity focuses on providing effective and robust partnership scrutiny which fully exploits the new scrutiny powers.

**RECOMMENDATIONS**

Executive Scrutiny Committee are asked to consider how they see the Council's scrutiny function responding to the new legislative developments prior to consultation with the Local Public Service Board on how best to involve partners in discussions on developing working arrangements.

**BACKGROUND**

1. Partnership working is of increasing importance for Councils. Working together with other services delivered locally, such as police, health services, bodies involved in economic development and others is an important means of meeting the Council's ambition for place it represents. The Council leads this role by bringing together a Local Strategic Partnership, setting ambitions for the area in a Sustainable Community Strategy and entering into formal agreement with other public services set out in the Local Area Agreement.

2. The Local Government and Public Involvement in Health Act 2007 (LGPIH) reinforced the role of LSPs, introduced statutory Local Area Agreements and a duty on named partners to co-operate. The Act also introduced comprehensive area assessments to review how local services providers work together to improve local outcomes.

***Current Scrutiny Provisions***

3. Alongside, these developments, the Government has also sought to strengthen scrutiny powers to enable Councils to hold LSPs and their partners to account for local action and public spending. Successive White Papers have sought to strengthen overview and scrutiny to allow them to call on local public service providers for evidence and demand a response to reports.

4. New powers enable Council scrutiny committees to:

- Scrutinise local improvement targets (LAA targets)
- Require information from partner organisations signed up to LAA targets
- Require organisation to have regard to scrutiny recommendations which relate to a relevant local improvement target

#### *Scrutiny of Health and Crime and Disorder*

5. Scrutiny of health and scrutiny of crime and disorder partnerships are already covered by separate legislation.

6. The Health and Social Care Act 2001 established the power of health scrutiny for all upper tier councils. Health OSCs have specific powers and roles including:

- To review and scrutinise the operation of health services in its area and to make reports and recommendations to NHS bodies
- The right to refer to the Secretary of State any substantial variations of NHS services that are not in the interests of local people or where the consultation has been inadequate
- The right to establish joint health scrutiny committees to consider issues of concern to two or more existing scrutiny committees and the requirement to establish a joint committee to consider substantial variations affecting more than one OSC

7. Health bodies are required to provide information, make arrangements for officers to attend OSC meetings and answer questions, respond in writing to health scrutiny committee reports and consult the Health OSC at an early stage or any plans for substantial variations or developments of health services.

8. The Police and Justice Act 2006 provides for the scrutiny of the work of Crime and Disorder Partnerships by the designated Crime and Disorder Committee (Housing and Community Safety Committee) at least annually. The members of the Crime and Disorder Reduction Partnerships are required to take part in scrutiny locally. Relevant partners have a duty to cooperate with the Crime and Disorder Committee (Housing and Community Safety Committee) in providing information and attending meetings. In addition, the Police Authority needs to be involved in scrutiny investigations either by invitation or co-option when community safety issues are being discussed and particularly when the Police are giving evidence. Guidance recently issued recommends that work programmes are agreed in advance with relevant partners and that protocols are developed on joint working and information sharing. There are currently no such agreed arrangements with partners in respect of cooption, formal mechanisms for input into work programmes or protocols on joint working.

9. **Annex A** from the Strengthening Local Democracy Consultation provides a helpful summary of the current scrutiny powers and the potential future powers and the partners currently under a duty to cooperate. In addition, new consultation recently published proposes the further strengthening of scrutiny powers.

#### ***Reviewing the Effectiveness of Stockton's Scrutiny Arrangements***

10. In the light of the new and emerging legislation and the advent of CAA, it is clearly timely to review the Council's scrutiny arrangements to ensure that our scrutiny structures are fit for purpose and our scrutiny activity focuses on providing effective and robust partnership scrutiny which fully exploits the new scrutiny powers. With the advent of CAA, it will be important for Councils to demonstrate how they are holding partners to account and scrutinising the LSP and LAA.

11. To date, scrutiny of our partners has been undertaken through:

- Half yearly review of performance information at Executive Scrutiny
- Through Health Scrutiny
- Through individual in depth scrutiny reviews on specific topics e.g. Neighbourhood Policing, Obesity

12. However, there is clearly considerable scope to formalise working arrangements and strengthen scrutiny of the LAA and partners. Discussions with colleagues through the North East Scrutiny Network meetings reveal that other Councils are starting to raise awareness of the role of scrutiny with their partners and are developing closer working arrangements and mechanisms to input into scrutiny work programmes. A review of the Council's approach to partnership scrutiny might, for example, result in:

- More robust consideration of LSP and partner performance by Executive Scrutiny Committee and Select Committees, for example:
  - Increased regularity of reporting of performance information to Executive Scrutiny Committee (currently only twice yearly)
  - detailed scrutiny of performance by Select Committees
  - attendance at scrutiny committees by partners (could be incorporated into "overview" meetings)
- Better understanding and awareness of the "scrutiny map" (ie where scrutiny activity is taking place in other bodies or by other agencies, eg the LINK, Police Authority, Fire Authority and ANEC etc.). Having a better understanding of the scrutiny work of other bodies will help identify scope for streamlining and sharing scrutiny responsibility thereby reducing duplication and identifying opportunities to complement each others work.
- Agreed protocols for information sharing with all key partners, these could set out principles for joint working, for example:
  - Information sharing and timescales
  - attendance at meetings
  - responses to scrutiny reports and recommendations
  - arrangements for follow up (action planning and monitoring)
  - press and publicity protocols
- Establishing mechanisms to enable partners to input into scrutiny work programmes ensuring the choice of review work adds value. (Other than an item placed on the agenda for the LSP Board, there are currently no formal mechanisms to encourage input). Scrutiny Liaison Forum could also be extended to include partner representatives.
- A role for scrutiny committees in considering the Council's self assessment against the KLOE in preparation for CAA
- Greater involvement of partner organisations on scrutiny panels e.g. attendance at meeting by a "link officer" from the relevant organisation for specific reviews
- Joint training for Councillors, partners and officers. This could also link with work on the duty to promote democracy

Strengthening scrutiny of partners could have the following outcomes:

- Better informed Members about the role, work and governance of partner organisations
- Better informed partner organisations about the role, work and governance of the Council

- Provide the Council's scrutiny function with mechanisms to hold partners to account and resolve long standing issues affecting local residents
- Strengthened partnership working
- Improvements to services and outcomes for Stockton residents

13. Executive Scrutiny Committee are asked to consider how they see the Council's scrutiny function responding to the new legislative developments.

14. In taking this issue forward, it is proposed to seek initial views on this issue from the Local Public Service Board (where there is representation from key partners) and seek suggestions on how best to develop working arrangements.

#### *EIT Programme*

15. The level and approach of future involvement of Select Committees in the Council's EIT Programme will need to be reviewed alongside the development of partnership scrutiny to ensure that the scrutiny work programme is achievable and can be adequately resourced.

### **FINANCIAL AND LEGAL IMPLICATIONS**

The report summarises the powers given to scrutiny in recent legislation but the legislation is not prescriptive as to how effective partnership scrutiny is achieved.

There are no financial implications arising from this report, however, developing partnership scrutiny may present opportunities, in future, for drawing in contributions from partners (such as the jointly funded scrutiny post in Durham with the PCT.)

### **RISK ASSESSMENT**

Weak scrutiny of partners and the LAA may result in the Council being criticised under its Corporate Area Assessment.

### **COMMUNITY STRATEGY IMPLICATIONS**

Service Delivery (Enhance Local Democracy).

### **CONSULTATION**

Proposals to strengthen the scrutiny of partners and the LAA will need to be developed in more detail in consultation with:

- All Councillors
- Partners
- Relevant Council Officers

#### **Director of Law and Democracy**

**Name of Contact Officer:** Margaret Waggott  
**Telephone No:** 01642 527064  
**Email Address:** [margaret.waggott@stockton.gov.uk](mailto:margaret.waggott@stockton.gov.uk)

**Name of Contact Officer:** Judy Trainer  
**Telephone No:** 01642 528158  
**Email Address:** [judith.trainer@stockton.gov.uk](mailto:judith.trainer@stockton.gov.uk)

<u>Background Papers:</u>	None
<u>Ward(s) and Ward Councillors:</u>	Not Ward Specific
<u>Property Implications:</u>	None

# Annex A

## Local government scrutiny committee powers

Current powers	Potential future powers
<p>Information can be required from:</p> <ul style="list-style-type: none"> <li>• officers of the council</li> <li>• members of the council executive</li> <li>• local NHS bodies in relation to planning, provision and operation of health services in the area</li> <li>• police forces, Police authorities, fire and rescue authorities, probation authorities and parish councils in relation to crime and disorder functions</li> <li>• LAA partner authorities where the information relates to an LAA target that the partner authority has signed up to (pending regulations)*</li> </ul>	<p>Enabling scrutiny committees to use their powers to require LAA partner authorities to provide information on issues not directly related to LAA targets**</p> <p>and</p> <p>Extend the power to require information from a wider range of authorities and bodies that carry out public services locally, for example to utility companies, and to sub-regional partnerships.</p>
<p>Attendance before the scrutiny committee can be required from:</p> <ul style="list-style-type: none"> <li>• members of the council executive</li> <li>• officers of the council</li> <li>• officers of local NHS bodies</li> <li>• officers or employees of police forces, police authorities, fire and rescue authorities, probation authorities and parish councils in relation to crime and disorder functions</li> </ul>	<p>Extend the power to require attendance to a wider range of authorities and bodies carrying out public services locally and to sub-regional partnerships.</p>

Current powers	Potential future powers
<p>Reports and recommendations can be made to:</p> <ul style="list-style-type: none"> <li>● the council</li> <li>● local NHS bodies and their relevant council</li> <li>● police forces, police authorities, fire and rescue authorities, probation authorities and parish councils</li> <li>● reports and recommendations can be copied to LAA partner authorities</li> </ul> <p>The current arrangements on receipt of scrutiny reports and recommendations vary. For example, LAA partners are required to ‘have regard’ to recommendations, but not required to respond formally, unlike the council, local NHS bodies or police forces etc.</p>	<p>Extend the power for scrutiny committees to make reports and recommendations to a wider range of authorities and bodies carrying out public services locally and to sub-regional partnerships.</p> <p>Extend the current arrangements to require a wider range of authorities and bodies carrying out public services locally to consider and formally respond to scrutiny reports and recommendations and to sub-regional partnerships.</p>

\* Appropriate measures will be put in place, to ensure the protection of sensitive information, if these proposals on information provision are to be taken forward.

\*\* The duty to co-operate in regard to LAAs applies to: unitary and county authorities, district authorities, Environment Agency, Natural England, fire and rescue authorities, JobCentre Plus, Health and Safety Executive, Broads Authority, national park authorities, youth offending teams, police authorities, probation trusts and other providers of probation services, Transport for London Chief Officer of Police, joint waste authorities, primary care trusts, NHS trusts, NHS foundation trusts, regional development agencies, Learning and Skills Council, Sport England, English Heritage, Arts Council, Museum and Libraries Archives Council, Highways Agency, metropolitan passenger transport authorities, Homes and Communities Agency, any other organisations added by an order under section 104(7) of the Local Government and Public Involvement in Health Act 2007.