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## **OVERVIEW AND SCRUTINY COMMISSION**

**24 SEPTEMBER 2009**

### **SUPPLEMENTARY PAPERS**

**TO: ALL MEMBERS OF THE OVERVIEW AND SCRUTINY COMMISSION**

The following papers were circulated at the above meeting.

Alison Sanders  
Director of Corporate Services

	<b>Page No</b>
10. <b>GOVERNMENT CONSULTATION ON "STRENGTHENING LOCAL DEMOCRACY"</b>	1 - 8
Amended draft response to the consultation.	

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**DRAFT**

**‘STRENGTHENING LOCAL DEMOCRACY’ CONSULTATION BY THE DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT**

**General**

**Responses to consultation questions relating to Overview and Scrutiny**

<b>CHAPTER 1: LOCAL GOVERNMENT AT THE CENTRE OF DECISION MAKING</b>	
<u>Question 1</u>	Do you agree that we should extend scrutiny powers in relation to Local Area Agreement (LAA) partners to cover the range of their activities in an area, not just those limited to specific LAA targets?
<u>Extract from Consultation document</u>	<p><i>'61. We want to examine whether the scope of scrutiny powers should be increased so that they cover all of the issues that matter to the local community. Other than for health, and crime and disorder matters, formal scrutiny powers are currently limited to those bodies that are under a duty to co-operate with a local authority in setting and delivering the priorities established in the Local Area Agreement (LAA). Other than on crime and disorder, and on health, scrutiny committees can only use these powers when the issue at hand falls under the scope of priorities set out in the LAA.</i></p> <p><i>62. But the issues which matter to local people often go beyond the scope of LAAs. And they relate to many other organisations than just those who are responsible for delivering the priorities set out in this agreement. Although in some places, other local service providers who have not formally signed up to the LAA – for example utility companies – voluntarily co-operate with council scrutiny reviews, this is not always the case.'</i></p>
<u>Q1 Response</u>	<p><i>Any increase in powers would have to be exercised with common sense, control and sensitivity. They could only be introduced with regard to those regulatory bodies already endowed with statutory powers over utilities such as OFWAT and OFGEN.</i></p> <p><i>Subject to the availability of suitable administrative resources further powers that allow local authorities to increase the scope of scrutiny to cover those issues of concern to the local community are to be encouraged.</i></p> <p><i>These powers would also give local authorities added authority to gain a response from other organisations and utilities which otherwise might not be attainable. Examples of this could be the severe disruption of services through storm of flood, or, delay in reacting to a breakdown in services that is disadvantageous to local residents. The opening up of footpaths and highways without warning and crude reinstatement of the infrastructure is also often another source of inconvenience and public anger.</i></p>

<u>Question 2</u>	Do we need to make scrutiny powers more explicit in relation to local councils' role in scrutinising expenditure on delivery of local public services in an area? If so, what is the best way of achieving this?
<u>Extract from Consultation document</u>	<p>'63. <i>If they are to act effectively on citizen's behalf, on all the issues which matter to them, we need to further strengthen the scrutiny powers which councils have. This would mean:</i></p> <ul style="list-style-type: none"> <li>• <b><i>broadening</i></b> <i>the number of bodies which can be subject to scrutiny committees: not limited to those responsible for health, crime and disorder or council functions, nor just those responsible for priority targets set out in the LAA</i></li> <li>• <b><i>enabling</i></b> <i>scrutiny committees to make reports and recommendations to a wider range of bodies for their consideration, and these bodies could be required to have regard to the recommendations and formally respond to scrutiny committees'</i></li> </ul>
<u>Q2 Response</u>	<p><i>This follows on from Question 1. If powers are given to local authorities to scrutinise those service providers and organisations not currently obligated to respond to scrutiny under current arrangements, it must be the case that this would include questions about expenditure and budgetary matters generally.</i></p> <p><i>As we emerge from the present recession it is clear that rising recovery costs will be a concern and there is every reason to believe that allowing scrutiny to comment on the manner in which these costs are retrieved, by organisations outside local authorities would be in the public interest.</i></p>
<u>Question 3</u>	Do you agree that we should bring all or some of the local public services as set out in this chapter fully under the local authority scrutiny regime? Are there other bodies who would benefit from scrutiny from local government?
<u>Extract from Consultation document</u>	'64 <i>Subject to views, we propose to offer councils greater scrutiny over: ...police strategies in local authority areas... fire and rescue authorities... local authorities' delivery of high-quality educational provision... probation authorities... provision of public transport and transport infrastructure... Jobcentre Plus...utility companies... young people's education and skills issues'</i>
	<p><i>Local authorities should have the means to scrutinize all public bodies that affect the lives of their communities. Although this must be done in partnership with regulatory bodies, such as OFWAT and OFGEN, that already exist to do this and have the power to make changes.</i></p> <p><i>When these or other utilities understand that they could be held to account and scrutiny it would exercise the minds of the decision makers to be careful to consider their plans properly before executing them.</i></p>

<u>Question 4</u>	How far do you agree that we should extend scrutiny powers to enable committees to require attendance by officers or board members of external organisations to give evidence at scrutiny hearings, similar to the powers already in existence for health and police?
<u>Extract from Consultation document</u>	'63. <i>If they are to act effectively on citizen's behalf, on all the issues which matter to them, we need to further strengthen the scrutiny powers which councils have. This would mean <b>enhancing</b> the powers which these committees have. Officers and board members could be required to appear in front of the committee'</i>
<u>Q4 Response</u>	<p><i>Scrutiny powers should be enhanced to include the right to summon officers or Board members to appear before scrutiny committee's to explain their actions.</i></p> <p><i>As suggested above, greater 'transparency' in these matters would exercise the minds of policy and decision makers to think things through carefully before committing themselves to a process that could be detrimental to the welfare of ordinary citizens.</i></p> <p><i>Again, if powers are enhanced some mechanism must be introduced to enable scrutiny to engage properly with regulatory bodies.</i></p>
<u>Question 5</u>	What more could be done to ensure that councils adequately resource and support the local government scrutiny function to carry out its role to full effect?
<u>Extract from Consultation document</u>	<p><i>'65. Those scrutiny committees which are really effective are those which are well supported by their local authority. We are already requiring lead councils to designate an officer to support the scrutiny committee, which will help raise the profile and visibility of scrutiny.</i></p> <p><i>66. The proposals in this consultation will further increase the status of scrutiny as one of the council's central roles. As the democratically accountable leaders of their areas, it will be a priority for every council leader to ensure that their council's scrutiny activities are effective. This will involve leaders and council executives considering carefully the resources that are devoted to scrutiny and the status accorded to those leading the scrutiny work.</i></p> <p><i>67. One option is to place a duty on council chief executives to ensure that committees have adequate resources to carry out their work. While recognising the importance of scrutiny, this would also mean that final decisions on how best to organise resources are left with those who are best-placed to make them.</i></p> <p><i>68. We also believe that scrutiny should take greater visibility and recognition as befits its vital role. A visible commitment by a local authority to the importance of overview of scrutiny would be ranking the position of chair of certain overview and scrutiny committees in the authority on a par with a cabinet post. This might include the special responsibility allowance for this</i></p>

	<i>post being equal to that of a cabinet member in the authority.</i>
<u>Q5 Response</u>	<p><i>The standard of scrutiny and the way in which elected members deal with it is entirely dictated by the effort and resource an authority is willing to allocate to it.</i></p> <p><i>The usefulness of good scrutiny is becoming increasingly recognised and when applied properly it is a very powerful way in which to exercise control over an Executive to ensure against excess or poor governance. Applied improperly it becomes a vehicle for dissent, inefficiency and confusion this usually occurs when insufficient resource is applied to the process.</i></p> <p><i>Because of this the scrutiny system in any organisation must be:</i></p> <ol style="list-style-type: none"> <li><i>a. Properly resourced to enable it to carry out its function efficiently.</i></li> <li><i>b. Able to provide elected members with the means by which they can carry out their scrutiny duties with confidence.</i></li> <li><i>c. Robust enough to stand challenge itself by the Executive and management who may wish to limit its powers.</i></li> <li><i>d. Led by members who are willing to uphold the principles of best practice and have the status given to them that acknowledges this.</i></li> <li><i>e. Given the responsibility to act sensibly in the work it does; on the understanding that whilst the process is not itself a decision making one its influence, built on constructive systems effectively aids the process of local government.</i></li> </ol> <p><i>There is certainly a strong case for ranking the chair of certain scrutiny committees on a par with Cabinet posts. This would undoubtedly raise the visibility, accountability and recognition of the process which it deserves.</i></p> <p><i><u>It cannot be emphasised strongly enough that If the powers of scrutiny are to be enhanced in any meaningful way the resources to do the job properly must be provided.</u></i></p>
<u>Question 6</u>	How can council leaders ensure that scrutiny is a core function of how their organisations do business and have a full and proper role in scrutinising the full range of local public services?
<u>Extract from Consultation</u>	

<u>document</u>	
<u>Q6 Response</u>	<p><i>Council Leaders have a responsibility to:</i></p> <ul style="list-style-type: none"> <li><i>a. Ensure that the administration they lead functions in a way that best serves the public it represents.</i></li> <li><i>b. Because of this successful Leaders should acknowledge that the 'Cabinet' system was not designed to omit an input on policy and decision by non-Executive members.</i></li> <li><i>c. Accept that provided that the scrutiny function is well resourced, it has an extremely important part to play in delivering good and effective local government.</i></li> <li><i>d. Ensure that members of their cabinet 'buy in' to the scrutiny process, use it appropriately as an aid and avoid trying to circumvent it which could sometimes be the case.</i></li> </ul> <p><i>Unless Council Leaders are fully committed to supporting the whole process ensuring that it functions efficiently – it will fail!</i></p>
<u>Question 7</u>	What more could be done to better connect and promote the important role of local government scrutiny to local communities, for example citizens as expert advisers to committees?
<u>Extract from Consultation document</u>	<i>74. We have a duty to citizens to ensure that bodies spending public money and delivering public services in local areas are open to appropriate, proper challenge and effective scrutiny by the democratically elected councillors for that area. We are also clear that local scrutiny must keep to those issues which affect local service delivery.</i>
<u>Q7 Response</u>	<p><i>The 'Community call for Action' and 'Councillor call for Action' schemes are designed to involve the public more in local affairs. This is improved by public consultation on important issues and the involvement of local community groups and organisations.</i></p> <p><i>Opportunities to co-opt specialists onto scrutiny committees are to be explored and encouraged, when there is good purpose to do this.</i></p> <p><i>However, it must be recognised that public engagement is difficult to enlist unless the matter is specific to local interest e.g. health, education, development (mobile phone masts).</i></p> <p><i>Despite this it is essential that scrutiny is taken outside the local government environment to give the public an opportunity to get involved even if they don't take up the opportunity.</i></p>

## CHAPTER 4: SUB-REGIONAL WORKING

<p><u>Question 17</u></p>	<p>Should the activity of sub-regional partnerships be required to be subject to scrutiny arrangements?</p>
<p><u>Extract from Consultation document</u></p>	<p><i>'146. As sub-regional structures grow in power and influence, it is important that greater power is matched by clear, democratic and accountable leadership</i></p> <p><i>149. As these partnerships of authorities have developed it has become more difficult for citizens to understand who is doing what on their behalf. It is vital that local people and organisations understand how these partnerships work, and how they can influence what takes place at this higher level.</i></p> <p><i>150. We want to ensure that existing and planned mechanisms for joint working between authorities at the sub-regional or city-regional level are as accessible, transparent and accountable as possible.</i></p> <p><i>161. In the first instance there is a strong case for strengthening existing and planned structures through requiring the activity of sub-regional partnerships to be subject to scrutiny arrangements.'</i></p>
<p><u>Q17 Response</u></p>	<p><i>This is already the case with health where in some authorities there is joint partnership working in the scrutiny of the local Health Authorities.</i></p> <p><i>This should certainly be expanded to ensure that other sub-regional partnerships are included in scrutiny arrangements.</i></p> <p><i>If the scrutiny process is expanded to other public services and utility organisations there can be a strong case for including sub-regional partnerships also.</i></p>
<p><u>Question 18</u></p>	<p>Should councils' joint overview and scrutiny committees be able to require sub-regional bodies to provide them with information on the full range of their activities and to consider their recommendations on sub-regional matters?</p>
<p><u>Extract from Consultation document</u></p>	<p><i>158. There are various mechanisms in place or planned for holding these formal sub-regional bodies, referred to above, to account and to allow local people to get involved in their activities. These include an intention to enable local authorities to establish joint overview and scrutiny arrangements to allow them to examine any matter that is of relevance to the area. Authorities could use this mechanism to establish a committee that would be able to scrutinise the activity of local authorities working together at the sub-regional level.</i></p> <p><i>161. In the first instance there is a strong case for strengthening existing and planned structures through enabling joint overview and scrutiny committees to require sub-regional structures, and their partners, to provide them with a broader range of information and to consider their recommendations on sub-regional matters.'</i></p>



<p><u>Q18</u> <u>Response</u></p>	<p><i>The answer to this question is unequivocally 'yes'. There is no purpose in seeking to increase local democracy if those sub-regional bodies, that often influence the lives of the community without proper consultation, are excluded from the process.</i></p>
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