

OVERVIEW AND SCRUTINY COMMISSION
19 November 2009

GOVERNMENT CONSULTATION ON 'STRENGTHENING LOCAL DEMOCRACY'
(Assistant Chief Executive)

1 INTRODUCTION

- 1.1 At its meeting on 24 September 2009, the Overview and Scrutiny Commission considered its response to the Overview and Scrutiny proposals in the government's consultation document on 'Strengthening Local Democracy'. The Commission delegated to the Chairman the input to the Council's overall response to the consultation and the specific questions affecting O&S. The Council's response has subsequently been finalised in agreement with the Commission Chairman and is attached for information.

2 SUGGESTED ACTION

- 2.1 **That the Overview and Scrutiny Commission notes the Council's response to the government's consultation document on 'Strengthening Local Democracy'.**

Background Papers

Report to Overview and Scrutiny Commission meeting on 24 September 2009:
'Strengthening Local Democracy'

Contact for further information

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BRACKNELL FOREST COUNCIL'S RESPONSE TO 'STRENGTHENING LOCAL DEMOCRACY' CONSULTATION BY THE DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT

The following is a response by the Council's Corporate Management Team, although responses to questions 1 to 7 and 17 to 18 have been provided by the Council's Overview and Scrutiny Commission.

General

Bracknell Forest Council is very supportive of the overall thrust of the Government's proposals to strengthen local democracy, but we set out below our disagreement with some of the detailed proposals.

Responses to consultation questions

CHAPTER 1: LOCAL GOVERNMENT AT THE CENTRE OF DECISION MAKING	
<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>Q1 Response</u>	<p><u>Overview and Scrutiny Commission response:</u></p> <p>Yes. The number of LAA targets is limited, and these do not cover all important aspects of public service provision by LAA partners.</p> <p>Both with this proposal and the other proposals in the consultation document, 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.</p> <p>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.</p> <p>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.</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>Q2 Response</u>	<p><u>Overview and Scrutiny Commission response:</u></p> <p>Yes. 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 policy, income, expenditure and budgetary matters generally.</p> <p>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.</p> <p>The existence of local authority Overview and Scrutiny powers needs to be reflected in the legislation governing all the partner LAA organisations, also those to which the new scrutiny powers would apply.</p>
<u>Question 3</u>	<p>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?</p>
<u>Q3 Response</u>	<p><u>Overview and Scrutiny Commission response:</u></p> <p>Yes. 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.</p> <p>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.</p> <p>The extension of scrutiny powers should apply only to those organisations effectively providing a monopoly service to local residents, and which are already subject to public regulation; there has to be a dividing line between these and the wider private sector.</p> <p>This would be a significant expansion in local authority Overview and Scrutiny, requiring a commensurate increase in resources if it is to be delivered at all well. In the current financial climate, this could only be achieved by the Government granting additional resources to local authorities.</p> <p>Given the succession of piecemeal legislation extending local authority overview and scrutiny, it would be helpful if Government set out its entire</p>

	long-term objectives for the development of local authority scrutiny, and introduced consolidating legislation.
<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>Q4 Response</u>	<p><u>Overview and Scrutiny Commission response:</u></p> <p>Scrutiny powers should be enhanced to include the right to summon officers or Board members to appear before scrutiny committees to explain their actions.</p> <p>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.</p> <p>Again, if powers are enhanced some mechanism must be introduced to enable scrutiny to engage properly with regulatory bodies.</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>Q5 Response</u>	<p><u>Overview and Scrutiny Commission response:</u></p> <p>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.</p> <p>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.</p> <p>Because of this the scrutiny system in any organisation must be:</p> <ol style="list-style-type: none"> Properly resourced to enable it to carry out its function efficiently. Able to provide elected members with the means by which they can carry out their scrutiny duties with confidence; conscious of the fact that some members have limited time and may find enhanced powers difficult to cope with. Robust enough to stand challenge itself by the Executive and management who may wish to limit its powers.

	<p>d. Led by members who are willing to uphold the principles of best practice and have the status given to them that acknowledges this.</p> <p>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.</p> <p>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.</p> <p><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></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>Q6 Response</u>	<p><u>Overview and Scrutiny Commission response:</u></p> <p>Council Leaders have a responsibility to:</p> <ul style="list-style-type: none"> a. Ensure that the administration they lead functions in a way that best serves the public it represents. 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. 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. 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. <p>Unless Council Leaders are fully committed to supporting the whole process ensuring that it functions efficiently – it will fail!</p> <p>Ensuring that scrutiny is a core function of how councils do business is foremost a cultural issue which cannot be sensibly legislated for. Bracknell Forest Council would not be supportive of fuller legal requirements.</p>

<p><u>Question 7</u></p>	<p>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?</p>
<p><u>Q7 Response</u></p>	<p><u>Overview and Scrutiny Commission response:</u></p> <p>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.</p> <p>Opportunities to co-opt specialists onto scrutiny committees are to be explored and encouraged, when there is good purpose to do this.</p> <p>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 (e.g. mobile phone masts).</p> <p>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. This is a real challenge for most local authorities, and various techniques have been deployed (e.g. actively seeking public contributions to the selection of topics for scrutiny review), or are under development (e.g. giving overview and scrutiny a profile in local democracy week). But it would be unhelpful for these or other techniques of public engagement to be centrally dictated by central government. Central government’s role should be more in terms of fostering good practice through organisations such as the Centre for Public Scrutiny, who provide valuable and practicable advice in this field.</p>
<p>CHAPTER 2: STRONG LOCAL GOVERNMENT OPERATING IN THE LOCAL INTEREST</p>	
<p><u>Question 8</u></p>	<p>How best should any reduction in numbers of LAA targets ensure that services are responsive to the most important local needs and priorities as well as national entitlements?</p>
<p><u>Q8 Response</u></p>	<p>The consultation document suggests that the introduction of entitlements (as proposed in Building Britain’s Future document) as well as greater scrutiny powers will mean that performance issues can be addressed earlier.</p> <p>In this case the previous inspection regime’s weakness of the inspectors’ ability to make quality judgements about governance in the widest sense. Inspectors need to be skilled to a high level in assessing good governance in an organisation. If governance is working well then the quality of discussions between councillors, staff, the public, partners and stakeholders should be good enough to enable effective, democratic and transparent decision-making at all levels in the organisation.</p> <p>Specifying service standards so that customers know what to expect is good practice. However, in many cases local circumstances need to be</p>

	<p>taken into account when setting standards. It would not be helpful or appropriate to have nationally prescribed standards for all services i.e. rural context for transport standards.</p> <p>A reduction in numbers of LAA targets must seek to at least retain the current balance between national and locally identified priorities. There is a need to reduce the expensive and inflexible apparatus of central target setting and reporting. It should not be tied to the creation of new central requirements and specifications.</p>
<u>Question 9</u>	Should councils have a power to engage in mutual insurance arrangements?
<u>Q9 Response</u>	<p>Through the budget and performance scrutiny activity we would expect to see creative and pragmatic solutions in reducing costs whilst improving performance and achieving value for money for our residents. The decision in relation to LAML was a clear disappointment for local authorities that are endeavouring to meet central Government's efficiency targets through shared services and innovative working. As such instead of focussing on new service delivery vehicles, supported by reliance on its well-being powers, much greater scrutiny and uncertainty will surround such decisions. This can only result in the stifling of innovation and the continued unwarranted criticism of local authority productivity.</p> <p>As such we would welcome both a specific power enabling Council's to engage in mutual insurance arrangements, but also a review of the well-being powers to include a "financial" well-being power so that councils can confidently move forward in the wide-ranging reviews of services that are necessary in the coming years.</p>
<u>Question 10</u>	Are there other powers needed to cover engagement in further complex arrangements of a possibly speculative nature outside of existing powers?
<u>Q10 Response</u>	See response to question 9.
<u>Question 11</u>	Do you agree that greater powers should be premised on demonstration of local confidence? How should this be demonstrated? How can councils best reverse the decline in confidence?
<u>Q11 Response</u>	<p>The recent universal national decline in citizen satisfaction with councils suggests that this indicator is currently insufficiently sensitive to local circumstances to enable use in this way.</p> <p>The decline in confidence can best be reversed by effective communication of quality of service and the inclusion of such initiatives such as the requirement for local authorities to spell out clearly on their websites local residents' rights in terms of consultation, Freedom of Information, Statement of Community Involvement, petitions, scrutiny, complaints, area committees, Councillor Calls for Action etc. It should also be a requirement that the local authority runs 'how to become a councillor' events and publicity.</p>
<u>Question 12</u>	Are there core issues that should have greater council control which

	councils believe they are currently prevented from undertaking? If so what are they and what is the case for councils to take on these roles?
<u>Q12 Response</u>	There are no comments to question 12.
<u>Question 13</u>	Do you agree that there should be a review of the structure of local partnerships with a view to identifying unhelpful overlap and duplication? Are there particular issues on which such a review should focus?
<u>Q13 Response</u>	Reviews are always healthy to ensure existing arrangements are fit for purpose as long as they focus on the good practice that already exists in the public sector. Any review should be proportionate to the issues involved and should be led by the Comprehensive Area Assessment.
CHAPTER 3: LOCAL AUTHORITIES TACKLING CLIMATE CHANGE	
<u>Question 14</u>	How is the current national indicator system working to incentivise local authorities to take action on climate change? Should Government take new steps to enable local authorities to play a greater role in this agenda?
<u>Q14 Response</u>	<p>It is not clear which indicators are considered to be climate change indicators as they are included under “Environmental Sustainability”, along with non-climate change indicators such as NI190 (animal health), NI195 (environmental cleanliness), and NI 196 (fly tipping).</p> <p>Others have non-climate change policy drivers, although they also have climate change implications: NI187 (fuel poverty); NI191 (residual household waste); NI192 (% household waste recycled); NI193 (% municipal waste landfilled); NI194 (air quality); NI197 (biodiversity); NI198 (children to school transport).</p> <p>Climate change Indicators that specifically address climate change mitigation or adaptation are: NI 185 (CO₂ from LA operations); NI186 (per capita CO₂ in LA area); NI188 (planning to adapt); NI189 (flood & coastal erosion).</p> <p>Although these groupings are open to discussion, they should not carry equal weight for local authority action on climate change.</p> <p>Indicators in the first group should not be considered as climate change indicators at all.</p> <p>Indicators in the second group have climate change relevance but different policy drivers, which were largely in place before the current indicators were published. It is therefore questionable to what extent these indicators are incentivising climate change action in local authorities.</p> <p>Indicators in the third group are specific climate change indicators, with</p>

	<p>NI185 and NI186 addressing mitigation, and NI188 and NI189 addressing adaptation. These indicators are incentivising local authorities to take action on climate change, but not necessarily in the most effective way.</p> <p>LA signatories to the Nottingham Declaration on Climate Change have developed climate change strategies and action plans based on local priorities. These reflect national climate change policies and targets, and incorporate elements of all relevant indicators. An indicator measuring the progress of developing and implementing local climate change (mitigation and adaptation) action plans, including specific targets (e.g. CO₂ reduction), would be far more effective than the current mix and match, and give local authorities a greater role in determining their own priorities.</p>
<u>Question 15</u>	Where can local authorities add most value in meeting climate change aims, and what should Government do to help them do so, giving consideration to the proposals set out in this chapter?
<u>Q15 Response</u>	<p>As Chapter 3 illustrates, local authorities can add value in many ways, given the necessary powers, political will and access to resources.</p> <p>Most value will be gained by providing access to finance by those local authorities wishing to pursue national priorities at the local level.</p> <p>142. Care should be taken with financial reward and punishment schemes such as CRC as this may further undermine weak local authorities already struggling to provide essential services.</p> <p>144. The general aim is supported.</p>
<u>Question 16</u>	How do we ensure that national policies reinforce local efforts – for example, around transport, renewable energy, and energy efficiency?
<u>Q16 Response</u>	<p>As climate change is a global issue, local efforts should reinforce national policy, not the other way round. National policies can reinforce local effort by addressing policy conflicts that inhibit local efforts.</p> <p>Many local authority functions are driven by non-climate change policies and indicators, even though they have climate change implications. In spite of this, local authorities have a growing body of knowledge regarding the practicalities of implementing climate change policies through different functional departments at the local level.</p> <p>More focussed analysis on key local authority functions would reveal policy conflicts and highlight potential solutions.</p> <p>The government response to the summer 2007 floods and the Pitt Report demonstrates the value of a focussed approach to flood risk</p>

	management.
CHAPTER 4: SUB-REGIONAL WORKING	
<u>Question 17</u>	Should the activity of sub-regional partnerships be required to be subject to scrutiny arrangements?
<u>Q17 Response</u>	<p><u>Overview and Scrutiny Commission response:</u></p> <p>This is already the case with health where in some authorities there is joint partnership working in the scrutiny of the local Health Authorities.</p> <p>This should certainly be expanded to ensure that other sub-regional partnerships are included in scrutiny arrangements.</p> <p>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.</p> <p>The regional assembly used to scrutinise the work of SEEDA and others. This has now gone with the abolition of the regional assemblies. Given the geographical scope and potential financial scale of sub-regional partnerships, they should be required to be subject to local authority scrutiny.</p>
<u>Question 18</u>	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?
<u>Q18 Response</u>	<p><u>Overview and Scrutiny Commission response:</u></p> <p>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.</p>
<u>Question 19</u>	Should the duty to respond to petitions be extended to sub-regional bodies?
<u>Q19 Response</u>	This would start to undermine local subsidiarity over local issues. The proposal should be rejected.
<u>Question 20</u>	Do current and planned models for joint working give people a clear enough voice in decisions that are made sub-regionally?
<u>Q20 Response</u>	They appear to be sufficient. Certainly it would be helpful to create additional mechanisms or structures.

<u>Question 21</u>	How could we go further to make existing and planned city- and sub-regional structures more accountable, in addition to the suggestions in this document?
<u>Q21 Response</u>	Nothing to add to the proposals in the light of the comments above.
<u>Question 22</u>	Should we give more powers and responsibilities to city- and sub-regions? If so, what powers or responsibilities should be made available?
<u>Q22 Response</u>	No. A key principle in Bracknell Forest (and one that underpinned the local government reorganisation in Berkshire) is that decisions are dealt with at the lowest possible level. Suitable arrangements exist already to enable sub-regional economic and other issues to be addressed at the most appropriate level.
<u>Question 23</u>	Is there a need for direct democratic accountability at the sub-regional level? What would be the best means of achieving this, giving consideration to the options set out above?
<u>Q23 Response</u>	No. Elected members are already in place that provides such democratic accountability. A further layer of 'accountability' will only confuse residents (and cost public money). See also response to question 22.
CHAPTER 5: CLEAR RELATIONSHIPS WITH LOCAL GOVERNMENT	
<u>Question 24</u>	Should central and local government's roles be more formally established?
<u>Q24 Response</u>	The arrangements are already clear and well defined. The issue is with the way central government departments work together as there are often conflicting roles, guidance and timelines.
<u>Question 25</u>	What are your views on the draft principles set out above as away of achieving this ambition?
<u>Q25 Response</u>	The obligations should be balanced by obligations and expectations on central government to guide its relationship with local government.
<u>Question 26</u>	Do you agree that an ombudsman-style arrangement and a joint select committee of both Houses of Parliament are the correct approaches to oversee and enforce these principles, if adopted?
<u>Q26 Response</u>	No. The ombudsman-style arrangement would distract the Local Government Ombudsman from their primary role in reviewing serious complaints against local authorities, and the proposed joint select committee of both Houses of Parliament would detract from Parliament's role in holding central – as opposed to local – government to account. Furthermore, the proposal would fundamentally undermine local democratic accountability, and be an entirely retrograde step for strengthening local democracy.