

FOR INFORMATION

**RYEDALE
DISTRICT
COUNCIL**



REPORT TO: CONSTITUTION REVIEW WORKING PARTY

DATE: 8 JULY 2009

REPORTING OFFICERS: COUNCIL SOLICITOR AND MONITORING OFFICER
CORPORATE DIRECTOR (s151)

SUBJECT: CRIME AND DISORDER SCRUTINY COMMITTEE

WARDS AFFECTED: ALL

1.0 PURPOSE OF REPORT

1.1 The purpose of this report is to inform the Constitution Working Party of the introduction of legislative changes that place a requirement on the Council to create or designate a crime and disorder committee to scrutinise crime and disorder matters.

2.0 RECOMMENDATIONS

It is recommended that:

- (i) The Overview and Scrutiny Committee be designated the Council's crime and disorder overview and scrutiny committee;
- (ii) That it be recommended to Council that the terms of reference for the Overview and Scrutiny Committee be amended to include:
 - (a) To review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;
 - (b) To make reports or recommendations to the Council with respect to the discharge of those functions;
 - (c) To have at least one meeting each municipal year dedicated to scrutinising crime and disorder matters; and

3.0 BACKGROUND

3.1 Section 19 of the Police and Justice Act 2006 provides that every Local Authority must have a "Crime and Disorder Committee", with the power:

CONSTITUTION REVIEW WORKING PARTY

8 July 2009

- to review or scrutinise decisions made, or other action taken, in connection with the discharge by the “Responsible Authorities” of their crime and disorder functions
- to make reports or recommendations to the Council with regard to the discharge of the Responsible Authorities’ functions

3.2 The Crime and Disorder (Overview and Scrutiny) Regulations 2009 came into force on the 30 April 2009. In conjunction with Section 19 of the 2006 Act, they set out the requirements for discharging crime and disorder overview and scrutiny arrangements. It is recommended that the terms of reference of the Overview and Scrutiny Committee are amended to reflect the Regulations, as follows:

- to review or scrutinise decisions made, or other action taken, in connection with the discharge by the Responsible Authorities of their crime and disorder functions;
- to submit reports or recommendations to the Council with respect to the discharge of those functions;
- to have at least one meeting each Municipal Year dedicated to scrutinising crime and disorder matters; and
- to have power to co-opt members of the Crime and Disorder Reduction Partnership when reviewing decisions and key policy matters
- to have regard, when exercising crime and disorder committee functions, to the duty placed on the Council pursuant to Section 17 of the Crime and Disorder Act 1998

3.3 For the purposes of the Act and the Regulations, Responsible Authorities are those defined in section 5 of the Crime and Disorder Act 1988, namely:

- The Chief Officer of Police and the Police Authority
- The Fire Authority
- The Primary Care Trust
- The Probation Service

In other words the constituent members of the Crime and Disorder Reduction Partnership.

3.4 Section 19 of the Police and Justice Act defines a “local crime and disorder matter”, as a matter concerning:

(a) Crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment) in the area represented by the member, or

(b) The misuse of drugs, alcohol and other substances in that area.

3.5 A more detailed explanation of the legislation and guidance is included in the attached Annex 1.

4.0 INTRODUCTION

4.1 The Overview and Scrutiny Committee appointed by this Council must include the following general areas of activity:

- To scrutinise the decisions and actions of the “responsible authorities” within the Crime and Disorder Reduction Partnership. The emphasis is on the joint responses on community safety.

- To be the recipient of Councillor references following crime and disorder issues being raised by constituents (the so called Councillor call for action).

4.2 Key points which are of relevance in the Regulations are:

- The Committee may co-opt representatives from partner/co-operating bodies or may choose to invite such representatives to attend the meeting.
- Co-option is specified in the legislation to be by the Review Committee.
- The terms of any co-option can be very flexible. Co-optees may or may not vote, or may be co-opted only for specific purposes. The decision on such arrangements rests with this Council.
- Co-opted membership can be withdrawn by the Committee at any time
- Co-optees may not be on the Executive of an Authority, but can be a member, officer, or other “person”.
- The Committee must meet a minimum of once each year.

4.3 There is therefore a wide degree of discretion in the arrangements that the Council can put in place.

5.0 POLICY CONTEXT

5.1 Ryedale has a long established Crime and Disorder Partnership which meets on a regular basis.

5.2 This partnership forms a part of the Local Strategic Partnership for Ryedale and has a set of strategic priorities which are derived from the annual strategic assessment and from consultation with residents and other interested parties within the district.

5.3 The partnership is also the means whereby Ryedale delivers the strategic priorities within the North Yorkshire Local Area Agreement for crime and disorder. The LAA priorities are coordinated by a county wide crime and disorder partnership on which Ryedale has a seat.

6.0 REPORT

6.1 The Committee should be undertaking reviews of the performance of the Partnership. The Guidance suggests four main areas of work:

- Policy development following in depth investigation of a specific local topic;
- Contribution to the development of Strategies;
- Holding to account through formal hearings – questioning representatives of the partnership about their roles, responsibilities and activities;
- Performance management – examination of the performance of the Partnership.

Issues relating to individual organisations should normally be pursued through existing scrutiny arrangements within that organisation.

6.2 To assist the Committee in carrying out reviews it can:

- Require attendance (following reasonable notice) of any officer or employee or a responsible authority or co-operating person or body;and
- Request information (giving reasonable notice) from responsible authorities, co-operating persons or bodies.

Any information sent/received should be de-personalised, unless personal information is strictly needed. As the majority of the work will be at the policy level, personal information would rarely be necessary.

6.3 Once the Committee has considered an issue its reports and recommendations should be sent to all the key affected parties. The recipient of any such report/recommendations should respond, within 28 days (or as soon as reasonable), saying what they intend to do. The Police and Justice Act 2006 imposes a requirement on them to have regard to the report or recommendations in exercising its functions. The Guidance suggests that pre-circulation of draft reports and recommendations may smooth the process, increase ownership of the findings within the recipient organization and consequently be more likely to influence change.

6.4 In addition to this, following discussions between at the North Yorkshire Scrutiny Officers Network have agreed that where an issue affects more than one District and or the County the opportunity to work collaboratively (Joint Task Group) will be considered.

6.5 In order to fulfill this new role it is likely that the Overview and Scrutiny Committee will need training on their responsibilities and scope of their work. It is important that this scrutiny function concentrates on the issues highlighted in para 3.2 rather than issues which should be resolved by direct contact with one of the partner organisations. Joint training across the County is being considered to cover this issue and the Councillor Call for Action.

7.0 LEGAL IMPLICATIONS

7.1 As detailed in the report.

8.0 RISK ASSESSMENT

8.1 There are no risk management implications if the proposed action is supported. If not supported and no arrangements for scrutinising crime and disorder were put in place the Council would not be meeting its legislative requirement.

9.0 CONCLUSION

9.1 To meet the requirements of the Crime and Disorder (Overview and Scrutiny) Regulations 2009 it is proposed that the Community Wellbeing Scrutiny Panel be designated the Council's crime and disorder overview and scrutiny committee and the terms of reference for the Overview and Scrutiny Committee be amended accordingly.

Background Papers:

The Police and Justice Act 2006

The Local Government and Public Involvement in Health Act 2007
The Crime and Disorder (Overview and Scrutiny) Regulations 2009
Guidance for the Scrutiny of Crime and Disorder Matters – Home Office

OFFICER CONTACT:

Please contact Anthony Winship, Council Solicitor, if you require any further information on the contents of this Report. The Officer can be contacted at Ryedale House, Telephone 01653 600666 ext. 267 or e-mail: anthony.winship@ryedale.gov.uk

Requirements of the Police and Justice Act and the Regulations

Committee structures

- 5.1 All authorities are required to create, or designate, a crime and disorder committee to deal with crime and disorder scrutiny.
- 5.2 The Act and the Regulations do not require councils to alter existing committee structures but there must be a formal place where community safety matters can be discussed. Home Office guidance suggests that the crime and disorder scrutiny role could be undertaken by:
 - a dedicated crime and disorder overview and scrutiny committee (or Sub-Committee). The guidance suggests that this may be required where there is specific demand – for example, in the case of larger authorities or those councils with a well developed system of subject-based sub-committees; or
 - the main overview and scrutiny committee, in those authorities which only have one or two scrutiny committees. The guidance suggests that the committee could establish task and finish groups with the specific remit to deal with crime and disorder scrutiny matters, while retaining the ultimate responsibility to look at community safety issues.

Role of the committee

- 5.3 The terms of reference of the committee are to scrutinise the work of the community safety partnership and the partners who comprise it, **insofar as their activities relate to the partnership itself**. The Home Office guidance emphasises that the role of the CDRP is to scrutinise the CDRP rather than the partners by acting as a 'critical friend' of the partnership and providing it with a constructive challenge at a strategic level rather than adversarial fault-finding at an operational level.
- 5.4 The committee is expected to:
 - consider Councillor Calls for Action. CCfA, which came into force in April 2009, gives councillors a new right to raise matters of local concern with their council's overview and scrutiny committee. Local authorities are expected to ensure that their procedures for CCfAs for both crime and disorder matters (introduced by the Police and Justice Act 2006) and local government matters (Local Government and Public Involvement in Health Act 2007) are the same to minimise unnecessary bureaucracy.
 - consider actions undertaken by the responsible authorities on the community safety partnership.
 - make reports or recommendations to the local authority (and partners) with regard to those functions; and
 - include in its work programme a list of issues which it needs to cover during the year. This should be agreed in consultation with the relevant partners on the community safety partnership and reflect local community need.

Key areas for scrutiny

- 5.5 The Home Office guidance document notes that there are a variety of different approaches to scrutinising community safety issues. While the focus of the Police and Justice Act and the Regulations, is on committees, the guidance notes that a lot of scrutiny work is likely to be undertaken in different ways:
- **Policy development** – the scrutiny committees may carry out in-depth scrutiny reviews focused on a specific topic relevant locally; possibly through a task and finish group. Community safety partners and/or the council's executive will have to respond to any recommendations that are made.
 - **Contribution to the development of strategies** – scrutiny of draft proposals could be built into the production on the partnership's strategy, plans, or policies.
 - **Holding to account at formal hearings** – bringing in representatives of the partnership and questioning them about their roles, responsibilities, and activities. This is the simplest method for scrutiny to “hold the partnership to account”, though the guidance notes that this has limitations in terms of constructive outcomes and should be a small part of interaction between scrutiny and the partnership.
 - **Performance management** – examination of the performance of the partnership, often using high-level scorecards or, where appropriate, more detailed data.

This can be an opportunity to look at performance “by exception” (which will highlight both particularly good, and particularly poor, performance), as part of their existing processes for monitoring performance across the Local Area Agreement.

Frequency of meetings

- 5.6 The regulations leave the frequency of meetings to local discretion, subject to the minimum requirement of once a year. The Home Office guidance suggests that scrutiny functions and partners should work together to come up with local solutions, which might form a combination of formal meetings, informal “task and finish” groups, or other methods of evidence gathering and public involvement.
- 5.7 If a local authority decides to undertake “set piece” community safety scrutiny only once a year, then the Home Office guidance suggests that this annual meeting could be in the form of an event looking at crime and disorder matters and discussing which crime and disorder matters should be considered in the next municipal year as matters of local concern. However, the guidance does indicate that the scrutiny function should consider community safety issues more consistently throughout the year, just as it would with any other subject matter.

Two-tier scrutiny

- 5.8 The requirements under sections 19 of the Police and Justice Act and the Regulations apply to both county and district local authorities. Whilst it is recognised that it will be for each local authority to decide how it will implement crime and disorder scrutiny, the guidance suggest that it makes sense that both tiers work together as far as possible to avoid any duplication and that districts and counties should consider developing a joint approach for looking at community safety issues that cut across organisational boundaries.

Co-option

- 5.9 The regulations allow crime and disorder committees to co-opt additional members to serve on the committee.
- 5.10 Members can be co-opted in accordance with the Regulations, which allow a committee to co-opt additional persons provided that they are an employee, officer or member of a responsible authority or of a co-operating person or body and are not a member of the executive of the local authority. The committee can decide whether they should have the right to vote (in accordance with any scheme in place under Schedule 1 to the Local Government Act 2000). Membership can be limited to membership in respect of certain issues only. Councils should take care to clarify the role of such a co-optee, who may be expected, as part of the committee, to hold his or her own organisation to account.
- 5.11 There is also a general power to include additional non-voting members under section 21(10) of the Local Government Act and paragraph 5 of Schedule 8 to the Police Justice Act.
- 5.12 Police authorities have a statutory role to hold the police to account and the Home Office guidance therefore stresses the importance of community safety scrutiny complementing this role.

Local authorities should, in all instances, presume that the police authority will play an active part at committee when community safety matters are being discussed – and particularly when the police are to be present. The guidance recommends that, where appropriate, the police authority have a direct input into the delivery of task and finish reviews that involve the police. It also recommends that local authorities should take the following steps to involve police authorities in work undertaken by their committees.

- *Option 1:* One member of the crime and disorder committee should be a member of the police authority.
- *Option 2:* A member of the police authority should be issued with a standing invitation to attend the committee as an “expert adviser”. Ideally this would be a police authority member, but subject to local agreement there may be some circumstances, and meetings, where a police authority officer would be more appropriate. For example, the guidance suggests that care will need to be taken when inviting police authority members to attend when they are also councillors. Such an advisor would not be a formal member of the committee, but would be able to participate in committee discussion as an expert witness.
- *Option 3:* Committees to consider co-opting a police authority member onto the committee when policing matters are being considered, and it would be for the police authority to decide the most appropriate member to appoint – this can be an independent or councillor member. This would provide a more direct link between the police authority and overview and scrutiny committee and would be particularly relevant if the committee is considering matters directly relevant to policing.

Responding to requests

- 5.13 As part of the crime and disorder scrutiny process, the relevant scrutiny committee will from time to time request further information from the community safety partnership (such as performance information). When asked, the partnership will be under a duty to provide this information. There

is no specific timescale for this, but the committee can expect a response to be provided as soon as reasonably possible.

- 5.14 The information provided by responsible authorities and co-operating bodies must be depersonalised, unless the identification of an individual is necessary or appropriate for the committee to properly exercise its powers. The information should also not include information that would be reasonably likely to prejudice legal proceedings or current or future operations of the responsible authority or co-operating body. It is thought unlikely that the committee will need to receive reports relating to specific individuals, or that mention specific individuals in respect of crime and disorder matters.
- 5.15 The Home Office guidance states that Schedule 12A of the Local Government Act 1972 should not be used as a method to bypass the requirement to depersonalise information by placing reports which are not depersonalised onto Part II of a committee agenda, as an item to be heard without the press or public present.

Making and responding to recommendations

- 5.16 If a committee drafts a report or recommendations which have an impact on community safety issues, the following should occur:
- Copies of the reports and recommendations should be sent to the such responsible authorities or co-operating bodies as are affected by the report or recommendations, or as otherwise appropriate in accordance with section 19(8) of the Police and Justice Act 2006;
 - The relevant partner (or partners) should submit a response within a period of 28 days from the date the report or recommendations are submitted (or if this is not possible as soon as reasonably possible thereafter); and
 - Following the receipt of the response, the committee will need to agree with the relevant partner(s) how progress in implementing the recommendations will be monitored.

Attending committee meetings

- 5.17 The guidance suggests that as part of the accountability role of the committee, it might be useful to request the attendance of senior members of the partnership at key meetings through the year. This might include the chair of the partnership, the Cabinet member with community safety responsibilities, or senior members of partner organisations, such as the local police commander.
- 5.18 The committee may also request the attendance of a representative of the partnership to give evidence to scrutiny enquiries. Community safety partners are obliged to send a representative to attend unless reasonable notice has not been given to the person of the intended date for the meeting. What is meant by “reasonable notice” is not clarified in the regulations or legislation.