

BROMSGROVE DISTRICT COUNCIL

SCRUTINY STEERING BOARD

5TH FEBRUARY 2007

CALLS FOR ACTION – CLG CONSULTATION

Responsible Portfolio Holder	Councillor R. Smith
Responsible Head of Service	Head of Legal, Equalities and Democratic Services

1. SUMMARY

- 1.1 To update Members on the process for Calls for action as now set out in the Local Government and Public Involvement in Health Act 2007, and to inform Members of the consultation exercise currently being carried out by the Department of Communities and Local Government.

2. RECOMMENDATION

- 2.1 That the contents of the report be noted;
- 2.2 That the members of the Board decide on the recommendations they wish to put forward to Full Council in response to the consultation paper at Appendix 1.

3. BACKGROUND

- 3.1 Members will be aware that for some time the government has been working towards introducing a mechanism for issues which are of importance to local people to be subject to an overview and scrutiny process. This has been part of the agenda for empowering communities. Initially the government introduced legislation in relation to the scrutiny of crime and disorder issues in the Police and Justice Act 2006. Section 19 of the Act provided for what became known as a "Community Call for Action". Briefly, the key features included that:-

- ward councillors would be under a duty to respond to a "community call for action" from any member of the public living or working in their ward.
- the ward councillor's response would need to indicate what (if any) action they proposed to take to resolve the matter.
- the ward councillor could refer such matter to the overview and scrutiny committee (OSC) for consideration.
- If a councillor declined to refer the matter to OSC the member of public who originally raised it could ask the executive to look at it and the executive would have the power to refer it to OSC.

3.2 Subsequently a slightly different version of the Community call for action was proposed in the Local Government and Involvement in Public Health Bill. The main differences under the bill were as follows:-

- the power to originate a call for action would rest with a councillor or member of a local authority.
- the Councillor could refer the matter to the OSC .
- the subject matter of the call for action can be any matter relevant to the function of the OSC or any local government matter (except crime and disorder and any other matter that is excluded).
- If a councillor decides not to refer a matter no further action can be taken.

In public consultation on the bill concerns were raised about the fact that two different systems for calls for action were being proposed and the confusion as to how the processes would operate that this would cause.

3.3 The present position is that the Local Government and Public and Involvement in Health Act received the royal assent in October 2007. Under the final drafting of the legislation the government has attempted to align the two versions of the “Community call for action”. This has been done by amending section 19 of the Police and Justice Act to take out the “Community call for action” triggered by the public and leaving the more simple procedure originating from the Local Government and Public Involvement and Health Bill which is now being referred to as a “Councillor call for action”. The relevant section of the new act is section 119.

3.4 The key features of the Councillor call for action are as follows:-

- The power to originate a call for action will be vested in councillors rather than members of the public.
- The overview and scrutiny committee when receiving a call for action will be required to put the matter on its agenda and discuss it at a meeting.
- The overview and scrutiny committee is not required to take any further action, although if it feels it to be appropriate it can carry out inquiries and make recommendations to the executive in the usual way.
- The issue in question must be of direct concern to the ward which the councillor represents; a councillor can refer a matter even if no citizen has asked for it to be considered, and there is no requirement in multi member wards for all councillors to agree; any of them can refer a matter independently.

3.5 The legislation as now drafted provides for a distinction to be made as regards the subject matter of the call for action. Where the issue relates to crime and disorder or misuse of drugs, alcohol or other substances, mechanisms should be in place for this to be referred to a Council’s crime and disorder scrutiny committee; where the issue is of a more general nature it should be referred to a general overview and scrutiny committee.

- 3.6 Further details are awaited as to what the implementation dates will be for section 19 of the Police Justice Act and section 119 of the new Local Government Act. The information available from the Department for Communities and Local Government states only that consultation on Councillor Calls for Action will take place in 2008 and implementation will take place in 2008. Clearly the Scrutiny Steering Board is going to have to give consideration to the practical implications of dealing with Councillor Calls for Action, and the more general issue of arrangements to provide for scrutiny of crime and disorder. However, in view of the lack of detail available at this time, officers would propose presenting a further report on this issue later in the year.
- 3.7 In the meantime, the government have started a consultation exercise which covers both Local Petitions and Councillor Calls for Action. Members are referred to the consultation publication which is attached at Appendix 1. Officers will be consulting all Members on both these issues, but it was felt that the SSB Members as a group should have the opportunity to raise any comments on the issue of Councillor Calls for Action. There is something of a overlap in the government's approach to the consultation, as the legislation referred to at 3.6 above is already on the statute book, whilst at the same time comments are also invited on the green paper "Governance of Britain" which was published in July 2007. This also includes a section on empowerment of Local communities, the relevant extract of which is attached at Appendix 2.
- 3.8 The main issues on which views are sought are:-
- Topics which should be excluded from calls for action and why.
 - Key issues which should be covered in the guidance to be issued when the provisions for Councillor calls for action are brought into force.
 - Whether in addition to Councillor calls for action and responses to local petitions, there are any other examples of community empowerment that should be considered.
 - Any other views on the operation of the call for action.
- 3.9 The consultation period runs until 20th March 2008. The constitution provides that the official response on behalf of the Council shall be made by Full Council. Accordingly the consultation paper will be considered at Full Council on 27th February 2008. SSB members are therefore asked to consider their response to the consultation and formulate appropriate recommendations which will then be forwarded to Full Council. If any Member wishes to submit an individual response, officers would ask that these are forwarded to the Monitoring Officer no later than **Friday 8th February 2008**.

4. FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications from this report.

5. LEGAL IMPLICATIONS

5.1 As referred to above, this report advises Members of the latest developments relating to calls for action under the Local Government and Public Involvement in Health Act 2007 and under the Police and Justice Act 2006. Changes will be needed to the operation of SSB once the relevant legislation comes into force; however at this stage the government have not stated when this will be.

6. COUNCIL OBJECTIVES

6.1 The report links to the objective of Sense of Community and Well being (C03) and the priority of Sense of Community.

7. RISK MANAGEMENT

7.1 The main risks associated with this report would be as follows:-

- The risk of failing to respond to the consultation and therefore members losing the opportunity to influence the government actions on this issue.
- The risk of the Council failing to be ready and have suitable procedures in place for when the new legislation on calls of action when it comes into force. Officers will be planning for this, although as stated above the government has not yet announced the implementation date.

These risks are being managed as follows:

- Procedures are in place for a response to be submitted on behalf of the Council and the issue will be on the agenda for the Full Council meeting on 27th February.
- To monitor the risk associated with the failure to be ready for the implementation of the legislation, this issue will be added to the Risk Register – see 7.2.

7.2 Currently the risk identified in the second bullet point in 7.1 is not addressed by any risk register and will be added to the Legal Equalities and Democratic risk register as follows:

- Monitor the implementation of the Local Government and Public Involvement in Health Act and associated statutory instruments and guidance (including implementation of section 19 of the Police Justice Act 2006) with a view to identifying the key areas of impact on the operation of the Council and implementing any associated changes required to the constitution/ practice and procedure.

8. CUSTOMER IMPLICATIONS

8.1 There are no customer implication arising out of this report which at this stage is only considering consultation rather than implementation.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 There are no equality and diversity implications arising out of this report.

10. VALUE FOR MONEY IMPLICATIONS

10.1 There are no value for money implications arising out of this report.

11. OTHER IMPLICATIONS

Procurement Issues - None
Personnel Implications - None
Governance/Performance Management - See 5.1 and 7.1 above
Community Safety including Section 17 of Crime and Disorder Act 1998 - When implemented there will be a link between community safety and scrutiny of crime and disorder.
Policy - None
Environmental - None

12. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	Yes
Executive Director (Partnerships and Projects)	No
Executive Director (Services)	No
Assistant Chief Executive	No
Head of Service	Yes
Head of Financial Services	No

Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

13. **WARDS AFFECTED**

All wards

14. **APPENDICES**

- Appendix 1 Description Department of Communities and Local Government Consultation Paper – Local Petitions and Calls for Action Consultation
- Appendix 2 Extract from the green paper - The Governance of Britain – pages 49 to 52 re Local Communities

[A complete copy of the green paper can be found at:
<http://www.official-documents.gov.uk/document/cm71/7170/7170.pdf>]

15. **BACKGROUND PAPERS**

- Green Paper – The Governance of Britain
- Section 19 of the Police and Justice Act 2006
- Section 119 of the Local Government and Involvement in Public Health Act 2007

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