

**TELFORD & WREKIN COUNCIL**

**SCRUTINY LEADERSHIP BOARD – 9<sup>TH</sup> JULY 2009**

**UPDATE ON NEW LEGISLATION FOR INFORMATION**

**REPORT OF THE HEAD OF FINANCE & AUDIT**

**1.0 PURPOSE**

1.1 The purpose of the report is to summarise the progress of new legislation that will affect scrutiny, for member's information.

**2.0 RECOMMENDATIONS**

2.1 **Members note the progress of the following legislation, that will affect the remit of Scrutiny:**

- **The Local Government and Public Involvement in Health Act 2007;**
- **The Police & Justice Act 2006;**
- **The Local Democracy, Economic Development and Construction Bill 2008-09.**

2.2 **Members note the progress of the Department of Health review of Health Scrutiny.**

**3.0 PREVIOUS MINUTES**

3.1 Not applicable.

**4.0 INFORMATION**

4.1 There are currently three pieces of legislation that will affect the way that scrutiny is approached in the future. These are:

- The Local Government and Public Involvement in Health Act 2007 which came into effect on 1<sup>st</sup> April 2009;
- The Police & Justice Act 2006 which came into effect on 30<sup>th</sup> April 2009;
- The Local Democracy, Economic Development and Construction Bill 2008-09.

The Department of Health is also reviewing Health Scrutiny.

#### 4.2 The Local Government and Public Involvement in Health Act 2007

The Act enables scrutiny committees to scrutinise the actions of certain public service providers in relation to the delivery of Local Area Agreement targets for that area. It also enables scrutiny committees to require a response from the executive/council and partner authorities will have to have regard to reports and recommendations from scrutiny.

Following enactment of the Act on 1<sup>st</sup> April 2009, draft regulations have now been issued for comment and they implement provisions of the 2007 Act relating to overview and scrutiny committees which broaden their role in respect of scrutiny of Local Area Agreements (LAA). A copy of the draft regulations are attached as Appendix A. It provides overview and scrutiny committees with enhanced powers enabling them to review the actions of service providers and key public bodies operating in the local area. In particular they:

- give district councils the power to allow their overview and scrutiny committees the ability to effectively scrutinise the operation of the LAA (Part 2) by requiring the county council to respond to, and its partner authorities to have regard to, reports and recommendations of the committees;
- set out what information overview and scrutiny committees can obtain from certain other public bodies that are their partners or associates in the Local Area Agreement (Part 3);
- provide that when executives of local authorities publish their responses to reports and recommendations of overview and scrutiny committees, the same rules regarding exempt and confidential information apply as when the report or recommendations, are published (Part 4).

#### 4.3 The Police & Justice Act 2006

The Police & Justice Act 2006 was enacted on 30<sup>th</sup> April 2009, and since then regulations and guidance have been issued on scrutiny of local Crime & Disorder Reduction Partnerships, (the Safer and Stronger Communities Partnership in Telford & Wrekin). A copy of the guidance is attached as Appendix B.

The main objective of this legislation is to enable Scrutiny to scrutinise its local Safer & Stronger Communities Partnership:

- The Council is required to have a Crime & Disorder Scrutiny Committee; in Telford & Wrekin the Scrutiny Leadership Board has been designated to deal with Crime & Disorder Scrutiny;
- It will be for the Scrutiny Leadership Board to scrutinise the Safer & Stronger Communities Partnership and the partners who comprise it, insofar as their activities relate to the partnership itself;
- The Scrutiny Leadership Board can decide if they wish to undertake Crime & Disorder Scrutiny through the committee itself or to establish a Review group/Spotlight reviews or Special Interest Meetings;

- The regulations leave the frequency of meetings to local discretion, subject to the minimum requirement of once a year;
- The regulations allow co-option and the Scrutiny Leadership Board at its last meeting on 23<sup>rd</sup> June agreed to co-opt a member of the West Mercia Police Authority when policing matters are being considered;
- The Safer & Stronger Communities Partnership will be under an obligation to provide information requested by scrutiny in a reasonable timeframe and to respond to recommendations within 28 days of the report being submitted;
- A more detailed report on how scrutiny of the Safer & Stronger Communities Partnership could potentially operate will be brought to Scrutiny Leadership Board in September for consideration.

#### 4.4 The Local Democracy, Economic Development and Construction Bill 2008 - 09

The Bill seeks to create greater opportunities for community and individual involvement in local decision making. The main issues for scrutiny in the Bill are:

- Introducing a requirement that local authorities with lead responsibility for the Local Area Agreement must designate one of their officers as a "Scrutiny Officer", which recognises the inconsistent availability of dedicated scrutiny officer support across the country and that scrutiny works best with dedicated officer support;
- Widening the opportunities for more than two scrutiny committees to undertake Joint scrutiny in addition to Joint Scrutiny Committees introduced in the Local Government and Public Involvement in Health Act 2007 for Local Area Agreement scrutiny;
- Introducing a duty on the Council to respond to local petitions and with this giving the organiser of a petition to appeal to Scrutiny Leadership Board if they are not satisfied with the response to a petition. It is also proposing a new right for petitions to call senior officers to attend a Scrutiny Leadership Board meeting and give evidence.

The Bill is currently in Committee Stage, but the Department for Communities and Local Government, (CLG) hope that it will receive Royal Assent before summer recess of Parliament on 21<sup>st</sup> July. They foresee at the moment that for the statutory scrutiny officer and Joint Scrutiny parts of the Bill the power would come into effect in September with guidance following shortly after. The petitions part of the Bill is not likely to come into force until April 2010.

#### 4.5 Review of Health Scrutiny by the Department of Health

The Department of Health (DoH) is undertaking a review of Health Scrutiny, which it began by running a number of listening events in the autumn of 2008. The two drivers for the review are:

- a) Lord Darzi's review of the NHS and the reconfiguration of health services prompted the DoH to look at whether timescales should be introduced for the determination of substantial variations by Health Scrutiny and the process for referral to the Secretary of State by scrutiny of NHS consultations;
- b) The legislation on Health Scrutiny was introduced 6 years ago and the structure of the NHS has changed significantly with the introduction of Foundation Trusts, and the developing role of PCT's through commissioning.

The DoH's current position is that there is no case for the introduction of timescales in relation to determining substantial variation and that these should continue to be worked out locally by Health Scrutiny members and local NHS partners. There are no plans to reduce the remit of Health Scrutiny to determine substantial variation of services. The DoH has also highlighted concerns around the interaction of Health Scrutiny and Foundation Trusts from the listening exercises which it wants to address.

The DoH will be running two further listening events on 13<sup>th</sup> and 27<sup>th</sup> July, which will be facilitated by the Centre for Public Scrutiny, with a view to sharing draft guidance in the Autumn 2009.

**Briefing paper prepared by Alison Smith (Scrutiny Manager), Tel: (01952) 383113**