

<b>MEETING:</b>	<b>COMMUNITY SERVICES SCRUTINY COMMITTEE</b>
<b>DATE:</b>	<b>26 FEBRUARY 2010</b>
<b>TITLE OF REPORT:</b>	<b>SCRUTINY OF CRIME AND DISORDER MATTERS</b>
<b>PORTFOLIO AREA:</b>	<b>ENVIRONMENT AND STRATEGIC HOUSING</b>

**CLASSIFICATION:** Open

### **Wards Affected**

County-wide

### **Purpose**

To consider a number of issues in response to the duty on the Council to scrutinise crime and disorder matters.

### **Recommendation(s)**

**THAT:**

- (a) It be agreed that there be no formal co-option and that the Committee should invite other people to participate in its work as circumstances require;
- (b) the protocol for the scrutiny of crime and disorder matters as appended is considered and approved in principle, subject to the agreement of Safer Herefordshire; and the Assistant Chief Executive (Legal and Democratic) be authorised to finalise the protocol after agreement with Safer Herefordshire and in consultation with the Chairman and Vice-Chairman of the Committee;
- (c) a Review Group be appointed to lead on the scrutiny of crime and disorder scrutiny, submitting reports and recommendations to the Committee;
- (d) the Committee appoints a Chairman of the Review Group; and
- (e) the Group submit a proposed work programme to the Committee's next meeting for approval.

### **Key Points Summary**

- The Committee needs to determine an approach to co-option.
- The Committee is recommended to agree a protocol as a method of developing the relationship between the scrutiny function and crime and disorder scrutiny partners laying down the mutual expectations of the Committee and Partners.

- The Committee is recommended to approve the appointment of a Review Group to carry out the detailed work on Crime and Disorder Scrutiny to an agreed work programme, reporting back to the Committee with its reports and recommendations.

## **Alternative Options**

- 1 The Committee may co-opt additional members to serve on the committee subject to various provisions. The Council's Constitution provides that Co-optees should be appointed annually by Council. The recommended approach that there be no formal co-option and that the Committee should invite other people to participate in its work as circumstances require is designed to preserve flexibility in line with the arrangements for the Council's other scrutiny committees.
- 2 The Committee is not required to agree a protocol with the Crime and Disorder Reduction Partnership. However, the Home Office guidance suggests that this should be considered. The content of the protocol is not prescribed.
- 3 The Committee need not appoint a Review Group as proposed. It could carry out the work itself or propose a different way of commissioning work.

## **Reasons for Recommendations**

- 4 The Committee is required to determine arrangements for co-option to the Committee.
- 5 The Home Office guidance suggests that the Committee should consider agreeing a protocol with the Crime and Disorder Reduction Partnership.

## **Introduction and Background**

- 6 The Police and Justice Act 2006 (S19) requires every local authority to ensure that it has a scrutiny committee designated as a "Crime and Disorder" Committee with power 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. The responsible authorities are local authorities, fire and rescue authorities, police authorities, the police, and primary care trusts which together comprise a Crime and Disorder Reduction Partnership and are to include the Probation Service wef April 2010.
- 7 Members were provided with a brief overview of the crime and disorder scrutiny powers and the role of the Crime and Disorder Reduction Partnership (CDRP), known in Herefordshire as "Safer Herefordshire" at a seminar on 22 January 2010.
- 8 The Home Office has issued guidance on the scrutiny of crime and disorder matters. This has been circulated separately to members of the Committee.

## **Key Considerations**

### **Designating a Crime and Disorder Committee**

- 9 The requirement for the Council to have a "Crime and Disorder" Committee does not require a separate Crime and Disorder Scrutiny Committee. It does require that a scrutiny committee is designated as such. When considering matters related to crime and disorder functions of the responsible authorities the Committee must be properly constituted for that purpose and comprise the appropriate membership.

- 10 Council on 13 November 2009 designated the Community Services Scrutiny Committee as the Crime and Disorder Committee.

### Co-option

- 11 Additional members may be co-opted to serve on the committee provided that they are an employee, officer or member of a responsible authority or of a co-operating person or body (probation, parish councils, NHS Trusts, NHS Foundation Trusts, proprietors of independent schools and governing bodies of an institution within the further education sector) and are not a member of the executive of the local authority. The co-option can be limited to the exercise of the committee's powers in relation to a particular matter or type of matter. The co-option can be withdrawn at any time. The Council's Constitution provides that Co-optees should be appointed annually by Council.
- 12 The Regulations also provide that a co-optee shall not be entitled to vote unless the Committee so determines. The Council's Constitution provides that co-optees shall not have the right to vote unless provided for by statute or other specific provision or unless the Council so approves.
- 13 The guidance also comments on co-option and police authorities. It states: "*Local authorities should, in all instances, presume that the police authority should play an active part at committee when community safety matters are being discussed – and particularly when the police are to be present.*" It sets out three options for local authorities to consider in seeking to involve police authorities.
- 14 Option 1 says: "*one member of the crime and disorder committee should be a member of the police authority. We envisage this being the approach that will be adopted by most (but not necessarily all) counties and unitaries*". The implication is that where possible the relevant local authority representative on the Police Authority should be co-opted.
- 15 Option 2 "*is for all other circumstances - covering most districts and those counties and unitaries where having a police authority member on the committee will not be possible*". It is suggested this could involve a standing invitation to a member of the police authority, or in certain circumstances by local agreement a police authority officer.
- 16 Option 3 is "*for 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.*"
- 17 Both the Council's current representatives on the Police Authority are already serving as Members of this Committee.
- 18 The role of a Member of the Police Authority in this context and indeed other co-optees from the groupings prescribed in the Regulations, as described above, does have some complications and contradictions. On the one hand the guidance states that the police authority "*should play an active part at committee when community safety matters are being discussed – and particularly when the police are to be present.*"
- 49 However, the Police Authority is also one of the responsible authorities that is subject to the power of crime and disorder scrutiny. Furthermore one of the Council's representatives on the Authority is also the Police Authority representative on the Safer Herefordshire Strategy Group. This clearly has the potential to give rise to some complications and possible conflict of interest particularly when the Scrutiny Committee is seeking to fulfil its role of holding the responsible authorities to account. (When the Constitutional Review Working Group considered the arrangements for crime and

disorder scrutiny it proposed that a decision in principle be taken that the Council's representatives on the police authority should be co-opted to serve on the Community Services Scrutiny Committee when Crime and Disorder matters are discussed but should not be given voting powers.) The situation will be monitored to see if any particular issues arise that need to be addressed.

- 20 Rather than any formal co-option it is recommended that the Crime and Disorder Committee should invite other people to participate in its work as circumstances require, for example in Review Group work, in which the Council's Police Authority representatives could be invited to participate as the Review Group considers appropriate. This is designed to preserve flexibility in line with the arrangements for the Council's other scrutiny committees.
- 21 The White Paper: Protecting the Public: Supporting the Police To Succeed etc proposes "a review of the statutory guidance for Crime and Disorder Overview and Scrutiny Committees ..... to allow them to co-opt members of the public and community groups, which together will improve the links between the public and community safety partners. "The process and terms of selection and appointment, will be for the Committee itself to decide." A further report will be brought to the Committee when any further Regulations are made.

## **Protocol**

- 22 The guidance states that "partners and the scrutiny function might want to consider developing a short, flexible and meaningful protocol which lays down the mutual expectations of scrutiny members and partners of the community safety process.
- 23 A draft protocol is appended for consideration. The Committee is invited to approve this in principle and authorise it to be finalised in agreement with Safer Herefordshire.
- 24 The proposals in the protocol reflect the provisions in legislation and in the guidance. It includes provisions in relation to the duty on the Partnership to respond to requests for information and what should happen when the Committee makes recommendations and the Council and the Partnership are required to respond.
- 25 Legislation specifies that a response to recommendations should be made within 28 days (or if this is not possible as soon as reasonably possible thereafter). The expectation is that this will be a substantive response, as opposed to a mere acknowledgment of the report. If some of the Committee's recommendations are complex and more time is needed to provide a full response this should be indicated and an explanation given. The protocol proposes that if the 28 day timescale can not be met a revised submission date should be agreed.
- 26 There are no time limits specified for responding to requests for information. The protocol proposes that this should be provided within 10 working days.
- 27 Similarly, there are no time limits as to what constitutes reasonable notice to be given in requesting a partner to attend a meeting of the Committee. Notice of ten working days is proposed.

## **Work programme**

- 28 The guidance emphasises that the role of scrutiny should be focused on the Partnership as a whole and will be more effective if it focuses on the policy issues rather than a single organisation. It states that if issues arise which relate specifically to a particular partner

organisation it may be appropriate to refer such issues to the governing bodies of that organisation for action. The role of the Committee should be as *“a critical friend of the community safety partnership, providing it with constructive challenge at a strategic level rather than operational fault finding at an operational level.”*

29 The guidance notes that at a basic level the role of the Committee is

- To consider actions undertaken by the responsible authorities on the CDRP
- Make reports or recommendations to the local authority (and partners)
- To consider Councillor Calls for Action

30 It adds that, *“The Committee should 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.”*

31 The Regulations require that the Committee meets “as the committee considers appropriate but no less than once in every twelvemonth period.

32 The guidance, does, however, make clear that:

*“In addition the scrutiny function should consider community safety issues more consistently throughout the year, just as it would with any other subject matter.”*

*“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.”*

33 The scrutiny of crime and disorder matters is only a part of the Committee’s work and part of the overall work programmes of the Scrutiny Committees.

34 The Constitution makes clear that the Overview and Scrutiny Committee must oversee, co-ordinate and approve the work programmes of the Scrutiny Committees and approve its own annual work programme. It must also periodically review its and the scrutiny committees work programmes to ensure that overview and scrutiny is effective that there is an efficient use of scrutiny resources and that potential duplication of effort by Scrutiny committees is minimised.

35 Issues proposed for Scrutiny of Crime and Disorder matters by this Committee are subject to consideration as part of this process. The guidance provides a number of examples of effective crime and disorder scrutiny and suggests a number of key areas for scrutiny.

36 Roles identified in the guidance include

- *policy development,*
- *contributing to the development of strategies*
- *holding to account at formal hearings*
- *performance management*
- *Involvement in the Comprehensive Area Assessment (CAA), looking at the results of assessments and using this data to decide which areas of crime and*

*disorder/community safety activity should be the subject of scrutiny and carrying out investigations which feed into the assessment process.*

- 37 Particular strengths for scrutiny are identified as: engagement and involvement of local people and analysis of issues of local concern.
- 38 The guidance also states that, *“the scrutiny of community safety issues is just one part of a wider agenda in local policy making for partnership working” and not a “stand alone” exercise.* It suggests scrutiny can contribute to this agenda through its contribution to the CAA, through monitoring the delivery of partnerships against Local Area Agreement Targets and “understanding the wider implications of community issues, informed by section 17 of the Crime and Disorder Act 1998.

*“The Council has a legal duty under section 17 of the 1998 Act to carry out all its various functions with due regard to the need to prevent crime and disorder in its area (likely to be extended to include reducing reoffending from April 2010.”*

*“Councils should develop ways to integrate the scrutiny of community safety issues within a cohesive and coherent strategy for the scrutiny of other partners and the services they deliver.”*

- 39 The item on the role of the Community Safety and Drugs Partnership to follow consideration of this agenda item, should help identify matters that should be considered as a priority for scrutiny in Herefordshire.
- 40 Currently scrutiny committees use a range of methods to carry out their work including formal meetings of the Committee as a whole and commissioning work through informal Review Groups. It has been proposed that a Review Group should be formed to specialise in the scrutiny of Crime and Disorder matters operating informally and submitting reports and recommendations to the Committee for approval. If this proposal is approved it is further proposed that the Group submits a proposed work programme to the Committee’s next meeting. This would in turn need to be subject to the overall approval of the Overview and Scrutiny Committee which would also be required to monitor the effectiveness of this proposed approach. Members are reminded that the Review Group’s membership can include Councillors who are not members of this Committee.
- 41 It is not proposed that there should be a standing item on crime and disorder matters at each meeting. As mentioned above the scrutiny of crime and disorder matters is only part of the Committee’s remit. The formal Committee meeting is not the correct forum for the dissemination of routine information. Briefing notes will be circulated to ensure that Members are kept informed of important developments and items placed on the agenda, as part of the agenda planning process, where the subject matter merits it to ensure focused scrutiny of the issue. If the proposal to appoint a Review Group is agreed reports and recommendations from the Review Group would be made to the Committee at the appropriate time as part of this process.

### **Councillor Call for Action**

- 42 The 2006 Act as amended also contains provisions allowing a Councillor to refer a local crime and disorder matter to the Crime and Disorder Committee (a Councillor Call for Action (CCfA)). The same CCfA procedure can be followed in relation to crime and disorder matters as for the Council’s other scrutiny committees, except that a crime and disorder matter must be considered by the designated Crime and Disorder Committee. The Council’s CCfA Code is set out at Part 5 section 10 of the Council’s Constitution.

## **Community Impact**

- 43 Effective Crime and Disorder Scrutiny should have a beneficial community impact and contribute to effective partnership arrangements.

## **Financial Implications**

- 44 The work plan for the scrutiny of crime and disorder matters must be managed with regard to the resources available, taking account of the fact that the Home Office has allocated just over £1,800 for 2009/10 with £2,000 allocated for the next financial year (2010/11) as part of the area based grant.

## **Legal Implications**

- 45 The Council needs to comply with the statutory duty to scrutinise crime and disorder matters.

## **Risk Management**

- 46 There is a reputational risk to the Council's if the Committee does not fulfil its statutory remit and make appropriate arrangements for the scrutiny of crime and disorder matters. It will be necessary to ensure that the work programme developed for crime and disorder scrutiny is appropriate and that there are the resources to support it.

## **Consultees**

- 47 The Partnership Manager of Safer Herefordshire has been consulted on the draft protocol. The approval of the Partnership will be sought, subject to this Committee's approval.

## **Appendices**

Draft protocol for the scrutiny of the Herefordshire Crime and Disorder Partnership.

## **Background Papers**

None