

Norwich City Council

SCRUTINY COMMITTEE

REPORT for meeting to be held on 11 September 2008

THE LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007 – IMPLICATIONS FOR SCRUTINY

Summary:

As from October 2007, the Local Government and Public Involvement in Health Act 2007 (LGPIH) became law. The LGPIH extends local authority scrutiny powers in a number of ways.

Conclusions:

The new legislation is only formulating what in many local authorities has been happening since the introduction of the Local Government Act 2000. Even if you have not been carrying out elements of what is detailed in the legislation and summarised in this report, you could have done if need arose. However, what the new legislation does do is to put more legislative weight behind the function of scrutiny. The changes that have arisen from the Act increase the role of scrutiny in partnerships and for the scrutiny of partnerships. Many of the powers are still to be introduced through regulations and therefore are not yet in force. The regulations are not likely to be passed until later this year (2008).

Recommendation:

include on the Scrutiny Committee Work Programme,

- a) the Safer Norwich Partnership Plan
- b) regular SNP performance data update(s)

and that;

- c) once the regulations relating to CCfA's are passed the Scrutiny Committee takes up its role as the referral body for CCfA's as outlined in this report (2.1 to 2.4).

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1. **Summary of Implications for Scrutiny as a Result of the Local Government and Public Involvement in Health Act 2007**

- 1.1 In summary the main implications for scrutiny include the Councillor Call for Action (CCfA), powers of scrutiny over partner authorities and the ability to make representation to the County Council regarding Local Area Agreement – Local Improvement Targets (LITs), the possibility of setting up joint or area overview and scrutiny committees and the involvement of people in shaping health and social care services and priorities.

2. **Councillor Call for Action**

- 2.1 This applies to not just Members of the Scrutiny Committee as any member of the Council will be enabled to refer a **local government matter** for scrutiny. In the event of such a referral, the Scrutiny Committee must discuss it.
- 2.2 The Scrutiny Committee will then be required to decide on appropriate action, if any. For example, make a recommendation; compile a report, set up a Task and Finish Group or do nothing.
- 2.3 A **local government matter** is considered to be one which meets all of the criteria below:
- a) relates to a function carried out by the Council
 - b) affects part or all of the ward of the member making the CCfA
 - c) affects a resident or residents
- It can not be a quasi – judicial matter** such as planning or licensing as these are subject to procedures for appeals etc of their own.
- 2.4 **The CCfA should only be used as a last resort option** when a solution to an issue has not been achieved through exhausting all other options that may be available. By this stage the member should already have fully investigated and tried all of the usual routes towards a settlement.

3. **Partner Authorities**

- 3.1 The Act introduces powers similar to those that are already used for the Scrutiny of health bodies (as used by the Norfolk County Health Scrutiny Committee). When the new regulations are in force, partner authorities will have to attend the Scrutiny Committee if requested or respond to the Scrutiny Committee in writing when required and within a timescale of 20 days. Part 5, Chapter 1, section 104 of the Act provides the full list of relevant partner authorities. Included in that list are; the Chief Police Officer, Waste Disposal Authority, Fire Service, Environment Agency, Regional Development Agencies and the Health and Safety Executive.
- 3.2 Of course it is worth remembering that most outside organisations and partners have a vested interest in being compliant with the scrutiny process, and that they have historically been willing to cooperate in reviews and attend Scrutiny Committees when required. And this has

happened without this legislation. However now our partners are statutorily compelled to cooperate as opposed to obliged to.

- 3.3 Partner Authorities will also have a duty to “have regard to” a report or recommendations made by a Scrutiny Committee. This means that the partner authority will not be able to ignore such a report or recommendation. However, it will not have to provide a formal response. This does not preclude a scrutiny committee from requesting a response though. Importantly though, it is worth noting that a decision made by a partner authority could be challenged if a scrutiny recommendation/report had been ignored when that decision was made.

4. Local Area Agreements and Local Improvement Targets

- 4.1 Arising from the Strong and Prosperous Communities White Paper - **The Government wants Overview and Scrutiny Committees to focus on more strategic issues – the priorities agreed as part of the Local Area Agreement or other key strategic plans.**
- 4.2 The County Council is responsible for leading all of the LAA partners in identifying Local Improvement Targets. LIT's are intended to improve the economic, social and environmental well-being of the area. Overview and Scrutiny Committees at district level will have the right to make reports and recommendations to the County Council on the performance of LITs. This is still dependant on the regulations coming down from Government, but it is thought that the County Council will have to respond to the District Council within a two month time frame.

5. Joint or Area Overview & Scrutiny Committees

- 5.1 Placing the specter of Unitary Governance to one side for the moment, all two tier Local Authorities are now encouraged to set up joint or area Overview and Scrutiny Committees. These Committees should be formed from Local Councillors from the Districts and County Council. Existing powers already enable Overview and Scrutiny Committees to co-opt non elected members, which means that the Joint/Area Committee could comprise of other community stakeholders.
- 5.2 The purpose of Joint Committees would be to avoid duplication and also to emphasise the strategic aspects of scrutiny. This could be especially useful when scrutinising LITs and such issues as public transport (for example) which has cross border implications. This relates to the setting up of the Norfolk County Strategic Partnership – Joint Scrutiny Panel. (See separate Item on this agenda).

6. Health and Social Care Local Involvement Networks

- 6.1 Local Involvement Networks (LINKs) are bodies that have been created out of the LGPIH Act and are designed to involve local people in shaping health and social care services and priorities. LINKs will be comprised from interested members of the public, user groups, and community and voluntary stakeholders. LINKs will replace the Patient and Public Involvement Forums. The difference between Patient and Public Involvement Forums and LINKs is that LINKs will be more

focused on geographic areas rather than particular services. They will operate independently of the National Health Service and Local Authorities.

- 6.2 LINKs will have the right to have an issue examined by the appropriate Scrutiny Committee.

7. Police and Justice Act 2006

- 7.1 Both the Police and Justice Act 2006 and the Local Government and Public Involvement in Health Act 2007 impact upon Overview & Scrutiny.
- 7.2 Contained within The Police and Justice Act 2006, Part 3: Crime and anti-social behavior – Section 19: Local authority scrutiny of crime and disorder matters; is a requirement for every local authority to have a crime and disorder committee with the power to review and scrutinise, and make reports or recommendations, regarding the functioning of the responsible authorities of the Local CDRP. 198. Subsection (9) provides for the crime and disorder committee to be an overview and scrutiny committee for councils operating executive arrangements.
- 7.3 Therefore, The Police and Justice Act 2006 introduces a statutory role for Overview & Scrutiny to look at Crime and Disorder issues and new powers to Scrutinise Crime and Disorder Reduction Partnerships. The Crime and Disorder Reduction Partnership and the component agencies; Police, PCT, Fire and Police Authorities, will have a duty to cooperate with Overview & Scrutiny. As with the LGPIH this is merely a formulation of what is already happening as you can and have already carried out scrutiny investigations regarding some of these partner agencies.
- 7.4 However, there is no requirement on a local authority to set up a separate committee. If there is one committee, i.e. the Scrutiny Committee, including crime and disorder in a range of functions, then this limitation operates on the committee in its capacity as a crime and disorder committee.
- 7.5 Responsibility for the Scrutiny of Crime and Disorder Reduction Partnerships will need to be identified within the Council's Scrutiny arrangements. It may be considered that this new role could contribute to the development of strategy and enable a Scrutiny Review of particular issues of concern which require partnership solutions. To this end, it is suggested that the Scrutiny Committee include on its future work programme, consideration of the Safer Norwich Partnership Plan (possibly for November 2008) and that regular SNP performance data be received by the Committee.