

POLICY OVERVIEW CO-ORDINATING COMMITTEE

Wednesday, 9th September, 2009

10.00 am

**Darent Room, Sessions House, County Hall,
Maidstone**





AGENDA

POLICY OVERVIEW CO-ORDINATING COMMITTEE

Wednesday, 9 September 2009 at 10.00 am Ask for: Paul Wickenden
Darent Room, Sessions House, County Telephone: 01622 694486
Hall, Maidstone

Tea/Coffee will be available 15 minutes before the meeting

Membership (10)

Conservative (9): Mrs A D Allen, Mr C J Capon, Mr M C Dance, Mr C Hibberd,
Mr G A Horne MBE, Mr E E C Hotson, Mr P W A Lake,
Mr R F Manning and Mrs E M Tweed

Liberal Democrat (1): Mrs T Dean

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

Item No

- 1 Substitutes
- 2 Election of Chairman
- 3 Election of Vice Chairman
- 4 Declarations of Interests by Members in items on the Agenda for this meeting.
- 5 Minutes - 11 February 2009 (Pages 1 - 6)
- 6 Proposed Response to the Consultation on "Strengthening Local Democracy"
(Pages 7 - 18)
- 7 The Potential to Refocus and Restructure the Overview and Scrutiny Function
(to follow) (Pages 19 - 28)

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass
Head of Democratic Services and Local Leadership
(01622) 694002

Tuesday, 1 September 2009

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

KENT COUNTY COUNCIL

POLICY OVERVIEW CO-ORDINATING COMMITTEE

MINUTES of a meeting of the Policy Overview Co-ordinating Committee held in the Darent Room, Sessions House, County Hall, Maidstone on Wednesday, 11 February 2009.

PRESENT: Mr E E C Hotson (Chairman), Ms A Harrison (Vice-Chairman), Mr C J Capon, Mr B R Cope, Mrs T Dean, Dr M R Eddy, Mrs S V Hohler, Mr R F Manning, Mr J D Simmonds and Mr D Smyth

IN ATTENDANCE: Ms D Fitch (Assistant Democratic Service Manager (Policy Overview)), Ms L McMullan (Director of Finance) and Mr P D Wickenden (Overview, Scrutiny and Localism Manager)

UNRESTRICTED ITEMS

30. Minutes - 10 September 2008

(Item 3)

Matters arising from the minutes

(1) Mr Wickenden reminded Members that following the County Council meeting on 11 December 2008, there was still more work to be done to agree the process for the launching and publishing of Select Committee topic reviews at County Council meetings. He referred to the meeting of the County Council on 30 April 2009 where the Select Committee topic reviews on Passenger Rail Services in Kent, Provision of Activities for Young People and Autistic Spectrum Disorder were due to be considered. It was important that the outstanding Select Committee Topic Reviews were considered by the County Council before the election of a new County Council in June. Members discussed this issue and the views expressed included the following: -

- As a Select Committee had already debated the content of their report and it would have been considered at Cabinet there was not the need to have that type of debate at council. The County Council meeting should therefore focus the debate on what would happen with the recommendations.
- Although it had previously been suggested that there should be a maximum limit of two hours for each select committee slot at County Council the objective should be to keep this item as short as possible
- It was suggested that the process at County Council should be to have brief statements on the report, and the Leader or Cabinet Member(s) should then set out how the report was going to be implemented including the resources required and its value to the Council and the people of Kent,

(2) Mr Wickenden also informed the Committee that the following suggestions for Select Committee topic reviews had been put forward by Members: -

- Dementia
- Adult protection and safeguarding

(3) He added that he would be encouraging Cabinet Members and Chief Officers to put forward topics for Select Committee reviews.

(4) Mr Wickenden undertook to supply Mrs Dean with a list of current IMG's supported by Democratic Services.

(5) It was noted that there would be an additional meeting of the committee on 17 July at 2 pm to agree the next two-year work programme.

(6) It was confirmed that a meeting would be arranged between the POCC Chairman and spokesmen and the Chairman of the County Council to discuss the launching of the three Select Committee topic reviews at the County Council meeting in April.

(7) RESOLVED that the minutes of the meeting held on September 2008 are correctly recorded and that they be signed by the chairman.

31. Policy Overview Committees (POC's) consideration of the Medium Term Plan

(Item 4)

(1) Ms McMullen was invited to comment on the report that had been circulated with the agenda which set out how each Policy Overview Committee (POC) had considered the MTP relating to their portfolios. She stated the POC had all considered their MTP's in different ways, for example the Corporate POC had a debate on the MTP at their main committee meeting but also set up an IMG to look in more detail at parts of the MTP in an informal setting. In contrast the Communities POC had a long and constructive debate at their POC meeting, following this they did not feel the need to hold their own IMG. Both methods had produced constructive outcomes so she did not believe that there was a "one size fits all" for this process.

(2) If a POC did decide to establish an IMG this should be organised well in advance so that Members who wish to take part had the opportunity to do so. An advantage of having an MTP IMG was that it gave the opportunity to ask detailed questions of Cabinet Members and Officers and raise and discuss speculative suggestions in an informal setting.

(3) The Chairman expressed the view that even if a POC set up an IMG to consider its MTP it was important this did not replace the opportunity for the full POC to debate the MTP. Mrs Dean suggested that no decision on the establishment of MTP IMG's should be made at this time, but that it should be for each POC to decide the process that they wished to follow.

(4) In relation to MTP IMG's, Dr Eddy stated that it would have been useful to have the notes from these meetings at the Cabinet Scrutiny Committee in January when they considered the budget and asked that this be done if MTP IMG's are held in future.

(5) The Chairman agreed with Ms McMullan that in terms of the early budget planning process, the July cycle of POC meetings was as important as the November cycle.

(6) Ms McMullen referred to the discussion at the Cabinet Scrutiny Committee on the future Economic Management Group, and whether its remit should be subsumed into the Cabinet Scrutiny Budgetary Issues IMG. Mr Smyth, as Chairman of the Budgetary Issues IMG, stated that although he would be happy for this IMG to take on this task there was a question of overloading this IMG which consisted of three Members. Ms McMullen stated however the remit of this group was covered, it was essential that the terms of reference for considering economic management board matters were right. These matters would need to be considered on a quarterly meetings basis to pick up on issues and trends and if the Budget IMG extended its remit to include this then other Members could be invited to attend when these issues were discussed.

(7) The Committee also discussed other ways in which the POC's could build capacity to carry out their work. The Chairman suggested that consideration be given to the use of rapporteurs who could be responsible for specialist areas of work and report back to the POC.

(8) The success of the Children's Champions Board was also mentioned. This Board looked at a significant issues relating to Looked after Children's Safeguarding issues. This format of having a specialist group that reported back to the POC could be replicated in relation to other issues.

(9) Mr Capon stated that in relation to the Children's, Families and Education POC, as this POC covered a very large area of work and tended to have long meetings to cover its business, it would be very helpful to have IMGs for specific issues for example special needs transport. He explained that as a matter of practice reports were taken as read and officers added any additional information and took questions from Members, this made the most effective use of meeting time.

(10) Mr Wickenden stated work was being carried out by the IMG on Members Information to assist with building capacity for members. Also the IMG on Member Development was looking at Member training including the role of the elected members.

(11) RESOLVED that the feedback given by members on the value of POC's using an IMG to consider their MTP be noted and that the individual POC's be asked at their July 2009 meeting to consider whether they wished to set up an IMG on their MTP to meet in November 2009.

32. Select Committee Topic Review Programme - Update

(Item 5)

(1) The Committee received an update on the current topic review programme and the resources available to deliver it. Mr Wickenden reminded Members that a two-year topic review programme was an aspiration within the Constitution. It would be helpful to work towards a provisional programme which could be considered at a

July meeting of the POCC so that the Select Committees could start their work in September 2009.

(2) Members mentioned the perception that the terms of reference for Select Committee reviews tended to be drawn up by officers with little input from Members. Mr Wickenden referred members to the agreement at County Council on 11 December 2008 that Members should be engaged in developing the terms of reference for Select Committees at an early stage. Therefore, the terms of reference would be developed by a small cross party group of members group, from the membership of the Select Committee prior to approval by the Select Committee. Mr Wickenden also mentioned the importance of involving the Cabinet Member and Managing Director at the beginning, middle and end of reviews to get engagement and sign up.

(3) It was also important that the inaugural meeting of the Select Committee agreed its timetable so that it was clear when the Select Committees would be considered at Cabinet and County Council.

(4) Dr Eddy referred to the appointment of Mrs Taylor, in September 2008 to the post of Research Officer for the Cabinet Scrutiny Committee. He and the spokesmen on Cabinet Scrutiny Committee expressed their thanks to Mrs Taylor for the support that she had given to the Committee.

(5) An issue raised by Mrs Hohler was what happened once the Select Committee had completed their work and had held their one year monitoring meeting. There was often a need for this work to be taken forward with a Member input. Mr Wickenden stated that once the monitoring of the Select Committee had held their monitoring meeting, work to carry the recommendation rested with the Executive, assisted by the Directorate(s). The Executive had established a number of task groups to take forward Select Committee recommendations such as the one on Physical Social and Health Education. Mrs Dean expressed the view that once a Select Committee had finished its work its ownership was at an end and their role was to monitor the recommendations, there was a tendency to expect too much of Overview and Scrutiny Members.

(6) In relation to officer support Mrs Dean pointed out that the IMG on Members Information had been supported by the Liberal Democrat Staff Officer, the Leader had agreed to this arrangement. She raised a word of caution and on the overuse of IMGs, as these were not meetings that were held in public and therefore should not be used to consider issues which were of general interest. She commended the annual monitoring process of Select Committee reviews which gave Select Committee Members the opportunity to comment on the outcomes achieved.

(7) Mr Wickenden stated that in relation to offer support for Select Committees there were 2.5 full-time equivalent Research Officers. Mr Wickenden was planning to submit a joint report with Robert Hardy to the April meeting of the POCC to look at the resource issue as part of a wider report he was preparing on the options for restructuring the Overview and Scrutiny Committees.

(8) Regarding the "one year on monitoring report's for Select Committees" which were submitted to the POCC for information, a number of comments were made including the importance of Members not accepting the response "work was being

undertaken". The monitoring reports should include measures of success and timescale for further progress.

RESOLVED That (a) the progress of the Select Committee Topic Reviews Accessing Democracy, Autistic Spectrum Disorder, Provision of Activities for Young People be noted
(b) the process for establishing a two year Select Committee topic review programme be endorsed
(c) the resources available to support overview and scrutiny and deliver the Select Committee topic review programme be noted
(d) the adoption of the "Public Relations Protocol for Select Committee Reviews and Reports" and the ongoing work to agree a process for launching Select Committee reports be noted
(e) the monitoring of Select Committee recommendations as set out in Appendix 1 be noted
(f) the Overview, Scrutiny and Localism Manager submit a report to the April meeting of the Committee on the structure of POC's and staff resources.

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By: Alex King: Cabinet Member for Localism and Partnerships & Deputy Leader

To: Policy Overview Co-Ordinating Committee – 9 September 2009

Subject: Strengthening Local Democracy: Consultation

1. Background

(1) The overriding theme of this consultation is that of the central – local Government relationship referred to in the recent House of Commons Communities and Local Government (CLG) Select Committee report - *The Balance of Power: Central and Local Government*.

Whilst the consultation deals with issues such as:

- Giving greater powers to the scrutiny function;
- The ‘well-being’ power; and
- Climate change.
- Sub-regional structures; and
- Placing the central - local Government relationship on a more formal footing.

It fails to include the back-bone issues of the local Government finance system; or councillor recognition.

(2) The Government would like this consultation to be the blue-print for local Government debate during the next five to ten years and some of the options will require primary legislation. Given the timescales though (this consultation will close on 2 October 2009) there is not time for any of this to be implemented prior to the forthcoming General Election. However, this consultation importantly provides the opportunity for the County Council to clearly set out its own views on how the central-local relationship might develop in future.

Proposed Response to the Consultation

2. Attached as an Appendix to this report is a suggested response.

Recommendation

3. The Policy Overview Co-Ordinating Committees views are sought on the proposed response before the response is signed off on behalf of the County Council.

Contact:

Edward Thomas Tel: 01622 69 **4049**

Kent County Council Draft response to Strengthening local democracy: Consultation

August 2009

Chapter 1 - Local government at the centre of decision making

1. Do you agree that we should extend scrutiny powers in relation to Local Area Agreement (LAA) partners to cover the range of their activities in an area, not just those limited to specific LAA targets?

2. Do we need to make scrutiny powers more explicit in relation to local councils' role in scrutinising expenditure on delivery of local public services in an area? If so, what is the best way of achieving this?

These two questions are best answered together:

It is our conclusion that it is imperative for councils' to scrutinise all public money spent and decisions taken by local service providers in the local authority area.

However, this is only part of the story. The Calling Cumbria model that influenced the Total Place Initiative (TPI) is used as an example of "how important it is to have one body monitoring this spending to make sure it is being used to best effect". After all the rhetoric, we are heartened that there is recognition that it has been realised that that power does actually lie with elected representatives ("It is clear this role should fall to councils, with their direct mandate to act on behalf of citizens") and greater scrutiny powers are seen as a way forward to hold unelected service providers to account.

A way of achieving this could be by agreement [in Kent] through the Kent Public Service Board (KPSB). The KPSB comprises leaders from across the public sector as well as from the private and voluntary and community sectors and also includes representation from Government Office for the South East (GOSE) and South East England Development Agency (SEEDA). It is a non-statutory body which can be characterised as the "Group Board" for Kent's public services, each of which continues to operate independently but spending a combined annual budget of over £8 billion. It seeks to join together the totality of public services in Kent and exists within, and is accountable to, the Kent Partnership.

The KPSB Board addresses:

- The major strategic issues confronting the county and an agreed Agenda to improve the quality of life for the people of Kent;
- The progress of the Kent Agreement (i.e. the Local Area Agreement) achieved through a new form of partnership between Kent and Central Government;
- Better co-ordinated direction of public services in the county with the potential to produce 'cutting edge' improvements in service delivery for users and better value for money.
- The need for freedom from regulations and central control.

It is our experience that all Local Area Agreement (LAA) targets, agreed at a countywide level, do not always deliver the focus and drive in the areas that could really make a

difference - consequently, the next Kent LAA will probably include targets at both sub-county and sub-regional level. As a result, we can see the sense in extending scrutiny powers to all activities in an area and not just focussing on LAA targets.

**3. Do you agree that we should bring all or some of the local public services as set out in this chapter fully under the local authority scrutiny regime?
Are there other bodies who would benefit from scrutiny by Local Government?**

Scrutiny was initially seen as providing challenge to the Council's own service performance. That remains one aspect of the role, but much of the most effective work of scrutiny bodies has involved engagement with the wider community and public service issues. As such the list of bodies that local authorities could have greater scrutiny over is a welcome step. We would also include Non-Departmental bodies (quangos) in this list, as it is currently not that easy to understand how the existing quangos spend the public money allocated to them each year. The list to scrutinise could also include the:

- Arts Council;
- Environment Agency;
- Environment Agency;
- Equality and Human Rights Commission;
- Health and Safety Executive;
- Highways Agency;
- Homes and Communities Agency;
- Learning and Skills Council;
- Museums Libraries and Archives;
- OFSTED;
- Regional Development Agencies;
- Sport England; and the
- Tenant Services Authority.

The merits of local Government assuming the powers of some of these quangos could be argued but to gain scrutiny over them is, as we say a move in the right direction.

4. How far do you agree that we should extend scrutiny powers to enable committees to require attendance by officers or board members of external organisations to give evidence at scrutiny hearings, similar to the powers already in existence for health and police?

As part of wider scrutiny powers, this would be an essential component of the scrutiny process.

5. What more could be done to ensure that councils adequately resource and support the local government scrutiny function to carry out its role to full effect?

As the local authority scrutiny function is enshrined in the *Local Government Act 2000* it has to be assumed that a proportionate amount of resources are vested in it, for it to adequately function. However if, as is suggested by this consultation, the scrutiny remit could change and become wider than the statutory [two committees from October 2009] additional resources will be required. Although it is to be noted that no one size fits all

and in the current economic climate it is not clear how any increase will be financially serviced.

6. How can council leaders ensure that scrutiny is a core function of how their organisations do business and have a full and proper role in scrutinising the full range of local public services?

We note that the *Local Democracy, Economic Development and Construction* (LD ED & C) Bill [and this consultation itself] proposes requiring all local authorities to employ a dedicated scrutiny officer. However, we cannot see the logic in an additional appointment given that this responsibility is invested in existing staff, but more than this that the scrutiny function already has a visibly accountable face in its Members. Also of primary importance is engaging all Members in the scrutiny process.

7. What more could be done to better connect and promote the important role of local government scrutiny to local communities, for example, citizens as expert advisers to committees?

There is an emerging view, within Kent County Council, from the Cabinet and the Cabinet Scrutiny Committee that one of the ways of strengthening an Overview and Scrutiny process would be to have a pool of Co-optees (experts, advisors, representatives of organisations, voluntary sector or the public) to call upon to assist the Overview and Scrutiny committee for a specific issue. The challenge, if this is decided by the County Council is an appropriate way forward is to establish an independent mechanism for how this can be achieved.

Chapter 2 - Strong local government operating in the local interest

8. How best should any reduction in numbers of LAA targets ensure that services are responsive to the most important local needs and priorities as well as national entitlements?

13. Do you agree that there should be a review of the structure of local partnerships with a view to identifying unhelpful overlap and duplication? Are there particular issues on which such a review should focus?

These two points are best answered together:

The Kent Partnership (KP) is the countywide Local Strategic Partnership (LSP) for Kent that was formed in 2002 as a result of the *Local Government Act 2000*. It is made up of representatives from the private, public and voluntary and community sectors.

Any reduction in LAA targets should not necessarily be an issue. In line with the 'local leadership' and 'place shaping' roles of local services, the priorities should be driven by an assessment of needs by the local partners, through the LSP. This allows local priorities, which may not lend themselves to national indicator definitions or national comparisons, to be included in LAAs. The LSP will look at their aspirations and their performance in selecting priorities and targets.

The number of targets in the LAA needs to be further reduced and the targets must also be more strategic and support / drive a culture of delivering together. This will

emphasise the absolute cross cutting priorities across the LSP and will serve to bind partners closer together on a recognisable and manageable number of priorities.

Performance Reward Grant has been significantly reduced in the second round of LAAs and given the financial scenario is unlikely to be restored. Alternative ways to incentivise and reward success are required and one avenue to achieve this could be via a 'Power to Direct'. Another could be through the accelerated devolution of power to local partners. Partners in Kent are ambitious for Kent and time and again we feel that it has been shown that what is holding back transformational improvement is the limited room for manoeuvre that local partners have, being forced to deliver and monitor against national strategies. It can be argued that the best approach to secure improvement is to roll out this devolution of power to all partners. However, recognising the risk adverse nature of central Government the process can be started with a radical shift in favour of the best performers. i.e. 'earned autonomy'.

9. Should councils have a power to engage in mutual insurance arrangements?

10. Are there other powers needed to cover engagement in further complex arrangements of a possibly speculative nature outside of existing powers?

These two questions are best answered together:

To address this single issue of "Should councils have a power to engage in mutual insurance arrangements?" is to misunderstand the crux of the issue surrounding the failure of the 'well-being' power.

It is felt that the well-being power, set out in the *Local Government Act 2000*, is not adequate enough and this has been evidenced by the recent [June 2009] Court of Appeal [LAML] judgement that ruled that it was not within the powers of London Boroughs to set up a mutual insurance company, using the power of well-being.

In addition, there is a potential risk to the independence/autonomy of local authorities to implement cuts/changes in service delivery without Government intervention posed by the intervention of the DCMS Secretary of State into the decision by Wirral Metropolitan District Council to close 50% of its library buildings, could have significant implications for local authorities as they plan how to reconcile spending over the next three years whilst being seen to meet their statutory duties.

Lord Justice Pill in his conclusions to the LAML case said that "If Parliament had intended to confer such an unlimited power, it would have done so in very different terms". Consequently the conclusion must be drawn that yes, additional powers are required in the form of a 'General Power of Competence' for local Government to be able to carry out efficiency programmes, in the vein of the Total Place Initiative (TPI) programme, without the concern of legal action.

It has to be noted that a 'Power of General Competence' is backed by the LGA and the CLG Select Committee and the Local Government Chronicle (LGC) - who have started a campaign called 'Untie the Ropes'. We also note that during the recent Committee Stage of the *Local Democracy, Economic Development & Construction Bill* an additional (defeated) Clause was tabled that proposed a 'Power of General Competence' "on the statute book" and on this point we agree that the central-local

Government balance ideally needs to be enshrined in legislation to avoid any further avoidance of doubt.

11. Do you agree that greater powers should be premised on demonstration of local confidence?

How should this be demonstrated? How can council's best reverse the decline in confidence?

There is a suggestion in this consultation that the advent of the 'entitlements' [Government pledges of what to expect from education, health care, policing], referred to in *Building Britain's Future* & the *Operational Efficiency Programme* report, coupled with greater scrutiny powers could herald a reduction in inspection and the number of LAA targets.

We feel that this question should be around capability (or more aptly, competence) rather than 'confidence'. For instance how do you prove 'confidence'? The *Local Democracy, Economic Development and Construction* (LD ED & C) Bill is full of similar ideas and much of this has spilled into this paper i.e. that of restoring public trust in democracy and greater public involvement in decision making and we note that local Government is to be tasked with promoting democracy.

If central Government is willing to devolve based on performance, great but 'earned autonomy' has been offered and not followed through in the recent past with, for example, the Comprehensive Performance Assessment (CAA). Either it is offered to top-tier authorities or it is not.

This paper acknowledges an important fact i.e. that local authorities "are unique among public service providers in being directly elected... That means they are best placed to provide local leadership and make sure that public services are being fairly and effectively delivered". It is this visible, strong local leadership that can help generate confidence in the communities served, giving that assurance locally. As the LGA comment "Local elected politicians... have one tremendous advantage over national politicians, which is that they are fundamentally in and of their places in a way that Westminster politicians rarely can be". But this needs to be backed up with returning more power to locally elected institutions and that way voters will feel that the ballot box has worth. One example would be reducing the number of Non Departmental Bodies (quangos).

However, many authorities are already playing an active part in engaging their communities. Kent County Council has an active Citizens Panel, Youth Council and the County Council is also exploring a project whereby County Councillors promote democracy in some of the schools within their electoral divisions.

Working with our partners the County Council has and is continuing to pilot a range of models of community engagement bringing together the three tiers of Local Government, County, District and Parish and in some of the models the Police, Primary Care Trust and voluntary sector.

The County Council is also exploring a range of initiatives which will enhance the community engagement strategy for the Authority:

- A number of elected Members are piloting events where the community make bids for a contribution from the Members Community Grant;
- A scheme for e petitions is being established, which will allow the community online to petition the County Council on issues of concern;
- New Technology is being explored including:
 - How the use of Blogs, Video uploads, social networking;
 - Creation of a virtual County Hall where communities of interest find the CC;
 - The County Council webcasts many of its meetings.

12. Are there core issues that should have greater council control which councils believe they are currently prevented from undertaking? If so what are they and what is the case for councils to take on these roles?

Succinctly, no and much of our response is laid out in Chapters 1 (Pt. 3); Chapter 2 (Pt. 10).

Chapter 3 - Local authorities tackling climate change

A point is that while Climate Change is an important subject, it is felt that this is a tack-on to the general thrust of this consultation – if Climate Change, the subject could easily have been it could have also been worklessness, economic development, the 14-16 agenda...

14. How is the current national indicator system working to incentivise local authorities to take action on climate change? Should Government take new steps to enable local authorities to play a greater role in this agenda?

The current National Indicator system is helping to bring partners together to address climate change issues and galvanises action both within individual authorities and across partners, particularly through inclusion within local area agreements. However, many authorities have limited staff, revenue and capital resources which limits progress in this area. Government should take new steps to enable local Government to play a greater role, in particular strengthening the role of top-tier authorities to enable them to drive co-ordinated action and release resources.

15. Where can local authorities add most value in meeting climate change aims, and what should Government do to help them do so, giving consideration to the proposals set out in this chapter?

Authorities can utilise procurement to drive improvements in the supply chains and create new markets; influence and improve the quality of existing domestic housing stock through retrofitting, and work with local people and businesses to create low carbon communities and economies. In order to maximise these opportunities, greater local influence and powers are needed. Government can enable this through consolidating energy efficiency funding for an area and giving control of how this is allocated to top-tier authorities to drive change and prioritise needs.

Through development of innovative capital finance mechanisms by Government, local authorities can then drive wholesale change through a total place approach. Clear guidance is also needed on the inclusion of carbon budgeting in procurement to ensure

consistency and a fairness. A view is also that local carbon budgets are a distraction, trying to develop carbon into a parallel currency - when we already have an effective currency and accounting system which could be used to manage carbon - if it is properly valued/costed. And the way to properly value and cost carbon is through the taxation system. There is also a need for consistency in planning requirements to ensure a level playing field and drive improvement and change.

16. How do we ensure that national policies reinforce local efforts – for example, around transport, renewable energy, and energy efficiency?

By providing broad principles and parameters but leaving flexibility for local interpretation, national policies can enable authorities to drive change and prioritise needs for their area.

Chapter 4 - Sub-regional working

17. Should the activity of sub-regional partnerships be required to be subject to scrutiny arrangements?

18. Should councils' joint overview and scrutiny committees be able to require sub-regional bodies to provide them with information on the full range of their activities and to consider their recommendations on sub-regional matters?

These two questions are best answered together:

Essentially these questions are covered in our response to Chapter 1. We advocate that sub-regional partnerships should be subject to the same scrutiny arrangements as the bodies' we propose that local authorities could have greater scrutiny over.

In the same vein, sub-regional bodies should be compelled to provide all information required by the relevant scrutinising body. However, Joint Overview and Scrutiny Committees have previously been limited only to examining the performance of LAA targets, but legislation in the *Local Democracy Bill* will see this limitation removed in any case.

19. Should the duty to respond to petitions be extended to sub-regional bodies?

In the name of enhancing partnership working and supporting better community engagement – yes, but the issues are more fundamental as petitions are not the only way of communities engaging with local Government and this is a mistake being made in the current *Local Democracy, Economic Development and Construction Bill*. The legislation is also overly prescriptive on the subject of petitions and should leave much of what is already being carried out by local authorities for them to make decisions locally.

20. Do current and planned models for joint working give people a clear enough voice in decisions that are made sub-regionally?

Much of this is dealt with in Chapter 2 (pt. 11). The simple answer is no. There is already a perceived 'democratic deficit' and a lack of public understanding of the different tiers of governance. Regionalism, currently, only adds to this confusion. The

Leaders Boards' and Economic Prosperity Boards (EPBs) set out in the *Local Democracy, Economic Development and Construction Bill* are not likely to improve this in the short term either.

The real issues sub-regionally are Regional Development Agencies, whose reason for existence even some politicians fail to understand, and the accretion of power to unelected Non-Departmental Bodies (quangos).

21. How could we go further to make existing and planned city- and sub-regional structures more accountable, in addition to the suggestions in this document?

Over the past quarter of a century central Government has chosen to adopt an unremitting policy of centralisation seeking to cajole, steer and monitor more and more functions of local government. Incremental regionalism is best viewed within this paradigm. The SLD consultation offers a hope as to how this paradigm might be reformed principally through greater emphasis on sub-regionalism. Unfortunately, the document does not expand on what local freedoms and powers are promised to be devolved to sub-regions. Accordingly, it remains contested territory as to whether it is possible to achieve an integrated regional strategy in the absence of an integrated organisational context.

We call for clear, democratic and accountable leadership that is accompanied by greater powers and responsibilities for sub-regions. That leadership most appropriately resides with the sole institutional layer at local level that has a democratic legitimacy: local authorities. At the local level sub-regional local authorities should be trusted to act as first amongst equals in the desire to improve their areas economic, environmental and social conditions. The current regional procedures suffer from an absence of democratic legitimacy, governance mandates, funding requirements, structural and abstract boundaries. For sub-regional working to be made more effective it must address these issues.

22. Should we give more powers and responsibilities to city- and sub-regions? If so, what powers or responsibilities should be made available?

We would wish for greater powers to be devolved from central and regional Government to sub-regional conglomerates of local authorities in both City and County-region contexts. In terms of sub-regional powers, the model adopted for the Greater London Authority should be replicated across other areas. A coterie of strategic economic development functions: housing, planning, transport, skills should be devolved to enable local authorities to deliver these challenging agendas. Alongside greater responsibilities, better policy, operational and resource scrutiny and oversight of the totality of public services, including health and police, should occur.

Accountabilities of sub-regional structures

Regional strategies combine formerly separate regional spatial and regional economic strategies. Such a change in regional configurations explicitly empowers Regional Development Agencies (RDAs) at the expense of other local organisations. We would like to suggest that there should be the explicit expectation that the formation of such strategies requires the consent and active support of all participating local authorities within the respective regions. At present there is no requirement to consult with specified local authorities. Without this ingredient, single integrated regional strategies

effectively further disempowers the role of local authorities and adds to legitimate concerns about associated democratic deficiencies.

Leaders Boards

Leaders Boards are envisaged as working closely with RDAs to prepare the integrated regional strategy. Yet, the current proposals exhibit a high degree of uncertainty as to the nature of the relationship between RDAs and Leaders Boards in the preparation and formulation of single regional strategies. RDAs, not Leaders Boards, will be the only body with statutory responsibility for the production of regional strategies. This potentially leaves the local authorities' role over shaping the strategies being largely RDA directed through the publication of evidence gathering initiatives such as the economic needs assessment duty. Consequently, local government's ability to be regarded as an equal player and actively influence regional developments is likely to remain largely symbolic. Plans for Leaders Boards feel ever so much like streamlined but warmed-up reminiscences of regional assemblies.

Economic Prosperity Boards (EBPs)

We should tentatively acknowledge the potential opportunity of EBPs as a welcome first step in enhancing local accountability and empowering local authorities to address their economic development and regeneration needs. Nonetheless, the current proposals remain unclear as to precisely how EBPs will add value, overcome existing confusion and work with other parts of the burgeoning regional architecture – RDAs, GOs, Leaders Boards, RIEPs, Regional Grand and Select Committees. For example, what actual powers are EPBs likely to be entrusted with beyond "economic development responsibilities"? If they are not to receive direct powers than the question remains; what's their purpose above and beyond the existing conflation of regional bodies?

23. Is there a need for direct democratic accountability at the sub-regional level? What would be the best means of achieving this, giving consideration to the options set out above?

Basically the answer is 'no' – see our response to point 21.

Chapter 5 - Clear relationships with local government

24. Should central and local government's roles be more formally established?

25. What are your views on the draft principles set out above as away of achieving this ambition?

Questions 24 & 25 really need to be answered together as they are interrelated.

The proposed draft 'principles' have more substance to them than the *Central-Local Concordat*. A concern though is that like the *Local Democracy, Economic Development and Construction Bill*, some aspects that do not necessarily need to be codified are proposed and other more pertinent issues are omitted – but overall the idea of the 'principles' is a move in the right direction.

However, what is really required is a power vested in local Government that keeps central Government from dictating the direction of travel. The obvious option here is for

the Government to deliver on the 'principles' laid out in the *European Charter of Local Self Government* (ratified in 1998 but never enshrined into British law) which sets out the "subsidiarity principle", i.e. a "hierarchy of decision making which respects and places on a statutory footing the rights of a local community to determine a great deal more of what should or should not occur within their locality, and how the full range of public services are delivered in their area and integrated with each other".

Although the intention of the *European Charter of Local Self Government* is that it be included in the Written Constitution of the said Country the issue could be that the UK does not have a codified Constitution. However, there is an argument, recently articulated by the House of Commons Justice Select Committee (in their report - *Constitutional Reform and Renewal*) that this should not be prohibitive of Local Government powers being enshrined in legislation - "In comparison with many other democracies, local Government in England remains relatively weak in relation to central Government... This raises the question of whether the powers and structures of local Government would or should be recognised in a written constitution, with a specified process for any changes to be made in them." It would be then up to central Government to set the parameters of what local Government cannot undertake, rather than the status quo.

26. Do you agree that an ombudsman-style arrangement and a joint select committee of both Houses of Parliament are the correct approaches to oversee and enforce these principles, if adopted?

It is agreed that a local Government ombudsman and/or a Parliamentary joint Select Committee would be a necessary and effective way of monitoring the central/local Government relationship if the proposed 'principles' are implemented. However, an observation is that none of this type of bodies' decisions will be binding. This is the principle reason why we propose that local Government powers should be enshrined in legislation.

By: Alex King, Deputy Leader

To: Policy Overview Co-ordinating Committee – 9 September 2009

Subject: Potential to Refocus and Restructure the Overview and Scrutiny Function

1. Context

This paper represents current thinking from a variety of sources to develop a recommendation to full Council in October. The paper needs to be seen in the context of:

- a) the emerging Strategy for Localism for the County Council and the various models and Frameworks for Localism being established across the County in conjunction with our Partners;
- b) the development of the Member role(s) and County Council's application for the South East Employers Organisation Member Development Charter;
- (c) implementation of the recommendations arising from the Informal Member Group: Member Information;
- (d) the opportunities, working in partnership with Borough/District colleagues that may exist to pool the resources supporting Overview and Scrutiny across the County and to agree shared work programmes on issues which will add value without duplication to the communities which we all serve;
- (e) the emerging scrutiny roles for which legislation/regulations have been published including Scrutiny of the Crime and Disorder Reduction Partnerships; and
- (f) the scrutiny of the public sector bodies advocated in the consultation document "Strengthening Local Democracy".

2. Overview and Scrutiny – the Key Challenges

(1) As the Strategic Authority for Kent the County Council has a unique community leadership role. The challenge to Members is to:-

- Lead the provision of public services in the area;
- Engage with local communities, tiers of local government and stakeholders;
- Define with them the future of the locality; and
- Achieve the strategies and visions which people agree.

(2) That is what the best Councils are doing and their legitimacy for the future will derive from their role as democratic bodies.

(3) All Members of all parties, not just the Executive, have a role in community leadership.

(4) Scrutiny was initially seen to provide challenge to the Council's own service performance. That remains one aspect of the role, but much of the most effective work of scrutiny bodies has involved engagement with the wider community and across all public service issues. It is now incumbent upon the County Council to develop imaginative forms of engagement, to involve local people, service users and others in scrutiny. This is a wider conversation that scrutiny can lead across the county.

3. Challenges

(1) The challenges are as follows:-

- Widening the engagement and understanding of elected Members in effective Partnership working;
- Bringing the knowledge of local issues and communities which elected Members have to service providers involved in Partnerships;
- Holding the leadership of Strategic Partnerships across the public sector including local authorities to account.

(2) Effective Overview and Scrutiny must contribute to effective Partnership working. This can be done through:-

- Using scrutiny projects to bring Partner organisations together to find new ways of working jointly to tackle important local problems (*a good example of this was the work of the Health Overview and Scrutiny Committee in the summer of 2008 which facilitated a discussion between the Acute Hospital Trust, the Primary Care Trust, Dover District Council and the County Council to look at what could be the best outcome for Dover residents in terms of future healthcare provision*);
- Raising the profile of scrutiny and its work priorities to enhance public understanding, and recognition – which has been described as ‘championing the people of Kent’; and
- Building alliances with the Executive and other stakeholders to gain support for recommendations (*another good example is the work of the previous Council, the Select Committees on Autism Spectrum Disorder and Alcohol Misuse where all the Partners that had contributed to the recommendations which were not wholly in the gift of the County Council's Executive to deliver, were brought together before the Select Committee report was published to support the recommendations and take ownership for their delivery*).

(3) It is important that the overview and scrutiny process adds value working towards positive recommendations and improvements and ensuring that it concentrates on what only scrutiny can do. It is not about duplicating the work of Regulators and Inspectorates. It is also about identifying the key issues behind the statistics – *e.g. widening the conversation to engage local people, service providers, neighbourhood users, communities, and the elected Members, verify problems, and develop ideas on how problems can be solved.*

4. Statutory Requirements

The County Council must have:-

- (a) one scrutiny committee responsible for the scrutiny of Cabinet decisions and operating a “call in “ procedure;
- (b) a statutory Health Overview and Scrutiny Committee which encompasses Adult Social Care as well as NHS matters (*in the autumn it is understood that statutory guidance for local authorities and the NHS will be published setting out how overview and scrutiny of health services can be improved*);
- (c) at least one Committee must be designated as the Crime and Disorder Scrutiny on Committee (*these new powers which came into force on 1 April 2009 currently sit with the Communities Policy Overview Committee and are shortly to be the subject of some discussions on how it will operate with the Kent and Medway Police Authority*); and
- (d) statutory co-optees as required, primarily Church Diocesan representatives and Parent Governors who serve on the Cabinet Scrutiny Committee and the education related Policy Overview Committees.

5. Emerging Scrutiny - Scrutiny of the Crime and Disorder Partnerships

(1) Cabinet Members will be aware that the County Council’s role in the scrutiny of the Crime and Disorder Reduction Partnership is currently in the Communities Policy Overview Committee.

(2) Ongoing discussions are taking place with partner organisations to identify how this might be delivered effectively across the democratically elected sector.

6. Consultation - “Strengthening Local Democracy”

(1) The first draft of a response to the consultation launched by Local Government Minister John Denham, on Strengthening Local Democracy has been considered earlier in the meeting.

(2) When launching the consultation, Local Government Minister John Denham, made reference to the proposal to give authorities greater scrutiny over:-

- Police strategies in Local Authority areas
- Fire and Rescue Authorities
- Local Authorities’ delivery of high quality education provision
- Probation Authorities

- Job Centres Plus
- Utility companies
- Young People's education and skills issues

(3) As a consequence, bodies external to the scrutiny authority could be compelled to have regard to the recommendations of the scrutiny committee.

(4) This does present the real opportunity to pool all Overview and Scrutiny resources across the public sector and establish an independent body to scrutinise the decision makers of all these public sector bodies.

(5) The public will have the right to appeal to a scrutiny committee if they do not like the response to a petition

(6) A report on a process for written petitions and electronic petitions is to be the subject of a report to the Selection and Member Services Committee on 13 October and to the County Council on 15 October 2009. Every local authority is required to have a process for e-petitions. It will be important that the Cabinet, Chief Officer Group and the Head of Communications and Media Centre are fully aware of the petitions which have been logged and their closing dates and the mechanisms for responding to the petitioner(s).

(7) There is in a two tier area an opportunity for a petitioner to a Borough/District Council who remains dissatisfied with the response to refer the matter to the County Council. How this can best be organised is to be discussed with Borough and District Council colleagues at a meeting later on this month.

(8) The Strengthening Local Democracy consultation document also suggested:

- (a) duty could be placed on local authority Chief Executives to ensure that Committees have adequate resources to carry out their work;
- (b) that the Chairman of an Overview and Scrutiny Committee might be given the authority commensurate with a Cabinet post - *for example Essex County Council have created a lead role for one of their Scrutiny Chairman who chairs not only a Scrutiny Committee but also the Scrutiny Board (which comprises all the Scrutiny Chairmen and Area Forum Chairmen). The Scrutiny Chairmen have a designated room and the culture in Essex County Council has shifted to one of parity of esteem for scrutiny with the Executive. It was also evident from a discussion I have had with the Chairman of the Scrutiny Board that the culture of Essex County Council has changed and scrutiny is seen as an effective mechanism by the Council and Executive in adding value and outcomes for the residents of the County. Members may wish to consider whether the new model for Kent's Overview and Scrutiny function should strengthen the role of the Policy Overview Co-ordinating Committee to 'gate keep' and commission work for the Scrutiny Committees; and*
- (c) there is also a suggestion that as part of the support required, Committees may call on expert advice from the public.

7. Cabinet Scrutiny Committee

(1) At the meeting of the Cabinet Scrutiny Committee on 21 July the Committee asked for a report back at its 23 September meeting on a range of issues including:-

- (a) exploring how many authorities undertake pre-scrutiny;
- (b) greater use of the media in helping to inform scrutiny;
- (c) co-opting representatives to add rigour and robustness to the Overview and Scrutiny process; and
- (d) the potential to strengthen the information made available to Members through the Forward Plan of Key Decisions.

(2) A number of local authorities responded to our request for information on pre-scrutiny. The responses indicated that the process we have for operating the existing Overview and Scrutiny structure of Committees is not dissimilar to the process described by other authorities as pre-scrutiny.

Forward Plan of Key Decisions

(4) One issue which may warrant attention is the possibility of strengthening the information in the Forward Plan of Key Decision and ensuring that the agenda setting process for each of the Council's Overview and Scrutiny Committees takes this into account.

Co-optees

(5) One view from Cabinet and the Cabinet Scrutiny Committee is that one of the ways of strengthening an Overview and Scrutiny process might be to have a pool of experts, advisors, representatives of organisations, voluntary sector or the public to call upon to assist the Overview and Scrutiny Committee for a specific issue. If this is decided by the County Council as an appropriate way forward the challenge will be to establish an independent/impartial mechanism on how this can be achieved. Discussions have taken place with the Appointments Commission, Improvement and Development Agency (IDeA) and the South East Employers Organisation to see if they can assist but it seems unlikely. It has also been suggested that other South East county authorities who are also exploring this role to strengthen Overview and Scrutiny may be willing to establish a mechanism to support our respective overview and scrutiny processes.

(6) Members will be aware that the County Council process for establishing a Select Committee already includes consideration of the appointment of a co-opted expert/advisor who will be able to assist the Select Committee.

(7) Members will also be aware that Durham County Council have established from 1 April 2009 an Overview and Scrutiny structure which includes a scheme of co-option. Ongoing discussions will continue with Durham to assess how successful this scheme of co-optees has been.

Rapporteurs

(8) Members have expressed a wish in developing a rapporteur scheme whereby an elected Member(s) with a specific interest takes ownership for a piece of work, undertakes the research themselves and prepares a report. The Health Overview and Scrutiny Committee have expressed a wish to pilot a rapporteur scheme.

Involvement of the Media/Press in Scrutiny

(9) Members will be aware that the County Council has agreed a protocol for publicising and launching Select Committee reports (attached as an Appendix to this report).

(10) However, one of the issues which arose at the Cabinet Scrutiny Committee on 21 July 2009 was utilising the media and press more effectively. Having spoken to the Member who raised the issue the suggestion made is that when the Overview and Scrutiny Committees have identified their work programme then working with the Communication and Media Centre the views of the public should be sought through a formal process.

(11) Taking this one stage further it should be possible for the public to email in questions they would like asked as the meeting is progressing. This is an exciting proposal and would need careful consideration on how it is implemented/moderated. Members views are sought.

8. Policy Overview Committees

Members are reminded that the County Councils current Overview and Scrutiny process gives non executive Members the ability to assist the Cabinet with Policy Development. At agenda setting meeting Members can make use of the Forward Plan to put an item on the POC agenda, also there is the opportunity for Cabinet Members to make the POC aware of developing policy areas which the POC could have an input into. Any Member may give notice that they wish an item to be considered at a POC meeting. It is important that Members make effective use of these powers to add value to the work of the County Council for the benefit of all Kent residents.

9. Duty to Involve

There is a correlation between the legislative framework around the “Duty to Involve” with the “Place Shaping Agenda”, the development of the website, the concept of a “Virtual County Hall”,(Kent Space- making Kent Work for You) (a concept whereby communities of interest through Social Networking find the County Council), the Citizens Panel, the Consultation Strategy, petitions and e-petitions, the emerging localism strategy which are all mechanisms, sources of information and evidence which can help to inform the Overview and Scrutiny function.

10. Timetable

(1) To meet the timetable for a report on the structure of the Overview and Scrutiny function to the County Council on 15 October 2009 I set out below a list of meetings which would give the opportunity to the majority of Members to contribute to this discussion.

Environment, Highways & Waste POC - 15 September

Communities POC - **17 September**

C, F & E POCs - **18 September**

Adult Social Services POC - **22 September**

Cabinet Scrutiny Committee - **23 September**

Regeneration & Economic Development POC - **24 September**

Corporate POC - **25 September**

Health Overview and Scrutiny Committee - **2 October**

County Council - **15 October**

11. Recommendation

Members views are requested before Cabinet Members make a recommendation to County Council.

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Kent County Council

PUBLIC RELATIONS PROTOCOL FOR SELECT COMMITTEE REVIEWS AND REPORTS

This protocol has been written as a basis for all communications between Select Committee Members and the media. It will ensure that the corporate communications team is able to maximise opportunities for scrutiny to publicise its work and promote the transparency of the Council's decision-making process.

- All actions should be in accordance with the letter and spirit of the DCLG Code of recommended practice on local authority publicity.
- Media activity should be co-ordinated through the corporate communications team who will make arrangements and ensure that the appropriate Members are put forward, rather than Select Committee Members approaching the media direct to discuss the topic review.
- The Select Committee Chairman should be the official spokesperson for the review report, unless another more suitable spokesperson has been identified by the Chairman.
- Chairmen of Select Committees will be expected to attend or have attended media training.
- There is potential, on rare occasions, for conflict between scrutiny and cabinet on issues. Maintaining the professional reputation of the council in the eyes of the public is paramount and conflicting statements may make the council appear inept or divided. Care should be taken, on all sides, to avoid this situation from arising. But in such circumstances Corporate Communications would present factual information to the media fairly representing both the Scrutiny and Cabinet viewpoints.
- The corporate communications team should be advised of any media enquiries received by Select Committee Members to offer guidance and help if required and to monitor responses.
- Press releases for Select Committees will be drafted by a member of the corporate communications team, in consultation with the Research Officer for the review and approved by Select Committee Chairman, in consultation with the Overview, Scrutiny and Localism Manager.
- Press releases will be fair and representative of the views of the Select Committee. They may include the views expressed in minority reports if those views differ from the main report.
- The media are invited to attend all formal meetings of Select Committee unless matters of an exempt nature are to be discussed.

- When the report of the Select Committee is ready to go into the public domain a member of the corporate communications team, in consultation with the Research Officer to the Select Committee drafts a press release. Where possible the press release should include input from a third party who has been involved with the review. The Press release should be approved by the Select Committee Chairman (with the nominated official spokesman, where appropriate) in consultation with the Overview, Scrutiny and Localism Manager. An embargoed copy of the press release should be sent out with an electronic copy of the report, to the media a day before the public domain with an embargo on it. There may or may not be a press conference but the Chairman, relevant members make sure they are available for interviews.
- Corporate Communications officers are permitted to refuse to prepare press releases, deal with media enquiries or arrange media interviews in the following cases:
 - (i) If the press release or enquiry is political in any way.
 - (ii) If the information in the press release is deemed libellous or malicious
- Corporate Communications officers will not organise interviews between media and individual members of the Select Committee unless there is explicit agreement by the Select Committee Chairman.
- Press releases will not be issued as a matter of course after Select Committee meetings simply to record the proceedings. Post-meeting publicity will, however, be given where there is good reasons for doing so e.g. to promote opportunities for public consultation.

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