

# **APPENDIX J**

## **WAVERLEY BOROUGH COUNCIL**

**COMMUNITY OVERVIEW AND SCRUTINY COMMITTEE – 9 MARCH 2009**

**ENVIRONMENT & LEISURE OVERVIEW AND SCRUTINY COMMITTEE –**

**16 MARCH 2009**

**CORPORATE OVERVIEW AND SCRUTINY COMMITTEE – 17 MARCH 2009**

**EXECUTIVE – 31 MARCH 2009**

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### **Title:**

#### **NEW POWERS FOR OVERVIEW AND SCRUTINY COMMITTEES – AN OVERVIEW**

**[Portfolio Holders: All]**

**[Wards Affected: All]**

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### **Summary and purpose:**

This report, which was considered by the three Overview and Scrutiny Committees at their meetings in March 2009, provides an overview of recent changes in legislation that will provide new powers for overview and scrutiny committees aimed at empowering communities and enabling local people, through their councillors, to participate in decisions that affect their day to day lives. In some instances these changes will require amendments to the Council's constitution and the development of protocols, taking into account guidance produced by central government and the Centre for Public Scrutiny.

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### **How this report relates to the Council's Corporate Priorities:**

The new powers for overview and scrutiny committee are relevant to all the Council's corporate priorities.

### **Equality and Diversity Implications:**

The new powers will enable overview and scrutiny committees to provide a forum for community debate and to champion the interests of local people from all backgrounds across a range of social issues.

### **Resource/Value for Money implications:**

There are no resource implications associated with this report other than the officer time involved in preparing for the adoption of the new powers, the one exception being the discretionary delegation of council functions to councillors provided by Section 236 of the Local Government and Public Involvement In Health Act 2007. If adopted by Waverley, this new provision could have considerable resource implications, given the significant financial constraints within which the Council is currently operating.

## **Legal Implications:**

There are no legal implications arising from this report.

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## **Overview of recent and proposed changes in legislation affecting overview and scrutiny committees**

1. The Local Government and Public Involvement in Health Act 2007 includes a number of provisions designed to enhance councils' scrutiny powers. These provisions are summarised in the following paragraphs.
  - (i) Councillor Call for Action
2. To help local ward councillors carry out their role as a champion of local concerns, Section 119 of the Act makes provision for a 'Councillor Call for Action' (CCfA) which provides members with the opportunity to ask for discussions at scrutiny committees on issues where local problems have arisen and where other methods of resolution have been exhausted. In Waverley this could involve the matter having been raised with the appropriate Head of Service or equivalent in partner organisations, and a reasonable period allowed for resolving the issue.
3. Any member of an authority can bring a CCfA on any issue they choose, subject to certain exceptions (for example if a CCfA is vexatious, where it deals with an individual complaint or if it concerns an individual licensing or planning matter). CCfA is designed as a long stop to be used when all other attempts at resolution have failed. It is not designed to provide an immediate solution, but offers a chance to bring a pressing issue to a wider audience and to discuss such issues in an independent, neutral forum. Examples of issues that might be the subject of a CCfA include:
  - poor maintenance of a park leading to increased anti-social behaviour;
  - a series of complaints about refuse collection services, which demonstrate a continuing trend of poor performance.
4. Another Act of Parliament, the Police and Justice Act 2006, makes similar provision for a CCfA for crime and disorder and community safety issues.
5. It is up to local councils to specify exactly how CCfA will work in their authority, but a general illustration of how things might operate in practice is given in the attached summary produced by the Centre for Public Scrutiny.
6. Section 119 comes into force with effect from 1 April 2009, and proposals for an interim amendment to Waverley's constitution to take account of the new legislation will be submitted to the Executive on 31 March 2009 and then to full Council at its meeting on 21 April 2009. Officers are working jointly with other Surrey district and borough councils through the Surrey Administrators and Solicitors Group to reduce duplication of effort and work in a coordinated way across the County. A draft proposal for changes to Waverley's Constitution is attached as Annexe 1.

7. It is up to each council to decide how CCfA will work in practice in their authority. However, officers will be developing a Surrey framework for a protocol for operating the CCfA in Waverley, taking into account the guidance published in February by the Centre for Public Scrutiny (CfPS). A summary of the CfPS guidance is attached as Annexe 2 for the information of members. It is intended that a draft protocol will be available for consideration by the committee at its next meeting.

(ii) Delegation of council functions to individual councillors

8. Section 236 of the Act makes provision for councils to delegate some of their functions to individual councillors to allow them to make decisions at a ward level which will bring real improvements to their local areas. However unlike the CCfA, these powers are optional. Officers will report to a future meeting on this.

(iii) Requiring information from partner authorities

9. Section 121 of the Act concerns the information that, in a two tier area, the County Council or partners (other than a police authority or chief constable) should make available to a district council overview and scrutiny committee in relation to targets within the Local Area Agreement. It also covers other information which the County Council or partners may have that might facilitate the work of the overview and scrutiny committee generally. The government envisages making only limited regulations on these matters, setting out information that must be disclosed and information that may not be disclosed by partner and associated authorities to scrutiny committees.

(iv) Establishing joint county and district overview and scrutiny committees

10. Section 123 of the Act allows the Secretary of State to make regulations enabling a county council in a two-tier area to establish a joint overview and scrutiny committee with one or more district councils in the area. The aim of these joint committees is to enable authorities to work together collaboratively to make reports and recommendations on progress being made in meeting LAA targets. The Government proposes to develop this new power further in Clause 28 of the Local Democracy, Economic Development and Construction Bill that is currently before Parliament, which expands the remit of joint committees to include anything that affects the area of the group of partner authorities or the inhabitants of that area.
11. The CfPS is currently preparing guidance on the arrangements around joint committees, and it is hoped that this will be available shortly. Again Surrey Administrators and Solicitors will be working together to co-ordinate this.

(v) Enhancing the powers of district overview and scrutiny committees

12. Section 124 of the 2007 Act enables district overview and scrutiny committees to play an active role in scrutinising the delivery of LAA targets connected to the district council's area. The Government is proposing to make regulations in relation to these powers that will allow district council overview and scrutiny committees to make reports and recommendations on a matter relating to an

LAA improvement target to the relevant county council. The county council will then be required to respond within two months to the district council scrutiny committee's report. The CfPS is also preparing guidance on this new power, although there is no indication yet as to when this will be published.

### **Community Overview and Scrutiny Committee**

13. The Community Overview and Scrutiny Committee supported the recent changes in legislation, which was considered to be a step in the right direction towards broadening the scope of Overview and Scrutiny Committees.
14. The Committee was concerned that the proposal to include a Councillor Call for Action (CCfA) request as a heading only on the agenda in the first instance, to await agreement by the Committee on how it should be dealt with, could cause delay in consideration of the issue. The Committee suggested that the formation of a Sub-Committee to consider those requests in the interim could prevent unnecessary delay.
15. The Committee noted that discussion between Surrey Administrators and Solicitors had taken place regarding the CCfA process, but that the delegation of Council functions would be dealt with by individual Councils and would require careful consideration taking into account resource implications. Further guidance was awaited from the Centre for Public Scrutiny regarding delegation of powers and it would be brought to the Committee when available.
16. The Committee requested that updates on the emerging process be brought to each Community O&S Committee meeting.

### **Environment & Leisure Overview and Scrutiny Committee**

17. The Committee welcomed the proposals for new powers for Overview and Scrutiny Committees.
18. The Committee requested training on overview and scrutiny which was relevant to the Council and its structure once the regulations and guidance had been issued.

### **Corporate Overview and Scrutiny Committee**

19. The Committee welcomed the new powers for overview and scrutiny committees, and looked forward to receiving further guidance on the powers relating to overview and scrutiny of Local Area Agreements targets and their delivery.
20. The Committee felt that it was important that members were involved in the development of the protocol for the operation of the Councillor Call for Action at Waverley. The Committee proposed that a working group of officers plus two members from each of the Overview & Scrutiny committees should be set up to provide feedback on the protocol through the drafting process.

21. The Committee felt that further training for Overview & Scrutiny members would be needed, as further guidance on the new powers was issued.

### **Recommendation**

It is recommended that

1. the Executive notes and approves the observations of the Overview and Scrutiny Committees, and when the guidance is received, asks officers to bring further reports to the Executive;
2. Overview and Scrutiny Committees should develop jointly their own proposals for procedures for dealing with Councillor Calls for Action; and
3. as a first step towards dealing with Councillor Calls for Action, the amendments to the Constitution, as set out at Annexe 1, are recommended to the Council.

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### **Background Papers (CEx)**

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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