

ENVIRONMENT AND COMMUNITY SAFETY OVERVIEW AND SCRUTINY COMMITTEE

Appendix 1

Brighton & Hove City Council

Subject: Statutory Crime & Disorder Committee
Date of Meeting: Council 30 April 2009
Governance Committee 28 April 2009
Report of: Acting Director of Strategy & Governance
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Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 Following consultation over the 2008 Policing Green Paper (*'From the Neighbourhood to the National: Policing our Communities Together'*), the Home Office announced last November its intention to further strengthen the delivery of crime reduction through partnership working and to ensure a clear route of joint accountability for Crime & Disorder Reduction Partnership activity.
- 1.2 The Government aims to achieve this by commencing legislation on 30 April 2009, providing for Crime and Disorder Committees and Councillor Call for Action.
- 1.3 The issue for the Council is how best to accommodate the new legislation alongside the good practice that already exists in Brighton & Hove for holding to account those bodies tasked with reducing crime and disorder.
- 1.4 This report:
 - details the key elements of the new legislation
 - sets out the Council's implementation options and recommends one of these
 - recommends a protocol to ensure effective co-operation and co-ordination between the Community Safety Forum and the new Crime and Disorder Committee

2. RECOMMENDATIONS:

It is recommended that the Committee –

- 2.1 Recommends to Full Council that the Environment & Community Safety Overview and Scrutiny Committee ('ECSOSC') be designated the Council's statutory Crime and Disorder Committee.
- 2.2 Agrees to recommend to Full Council the protocol at Appendix A, governing the interface between the Community Safety Forum ('the Forum') and ECSOSC.
- 2.3 Agrees to recommend that the Chair of ECSOSC (being the Chair also of the Crime and Disorder Committee) become a member of the Forum.
- 2.4 Authorises the Head of Law to put these arrangements into effect, following Full Council approval, including any necessary amendments to the Council's constitution
- 2.5 Instructs the Head of Law to monitor the effectiveness of the arrangements implemented under 2.1 and 2.2 above and, if appropriate, to submit a report to the Governance Committee, as part of the Council's 12-month review of the Constitution, on any changes considered necessary.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Government intends to bring sections 19-21 of the Police and Justice Act 2006 ('the Act') into force on 30 April 2009.
- 3.2 Section 19 will require the Council:
 - (i) to establish a crime and disorder committee ('CDC') with power –
 - (a) to review or scrutinise decisions and actions taken by responsible authorities (the chief officer of police, the police authority, primary care trust, fire and rescue authority, and local authority, for the area concerned) in connection with their crime and disorder functions; and
 - (b) to make reports or recommendations to the Executive with respect to the discharge of those functions;
 - (ii) to make arrangements which enable any member who is not a member of the CDC to refer any local crime and disorder matter to the committee, under the process known as Councillor Call for Action. This will allow ward issues that Councillors have sought to resolve through other means to be raised at the CDC as an option of last resort. The CDC then has power to make a report or recommendation to the Executive in relation to the matter
- 3.3 Draft regulations issued in connection with section 19 give CDCs the power to obtain relevant information from the responsible authorities or cooperating persons or bodies (the latter include local probation boards, NHS trusts and governing bodies of schools), and to require their attendance at a CDC meeting to answer questions.

- 3.4 Whenever a CDC makes a report or recommendation to the Executive, it must provide a copy to the appropriate responsible authorities and co-operating persons and bodies, who in turn must –
- (i) consider the report or recommendations;
 - (ii) respond to the CDC, indicating what action (if any) it proposes to take;
 - (iii) have regard to the report or recommendations in exercising its functions.
- 3.5 The Act requires the CDC to be an overview and scrutiny committee. The Council's constitution satisfies this requirement, as the statutory functions of the CDC fall within the remit of the Environment and Community Safety Overview and Scrutiny Committee (ECSOSC). However, these functions need to be considered in the context of the role performed in Brighton & Hove by the Community Safety Forum ('the Forum').
- 3.6 The Forum has a broad remit relating to all aspects of crime, disorder and community safety. It enjoys the support of and active engagement from the responsible authorities, and indeed the types of issue that may come before the CDC are currently dealt with by the Forum. However, the Forum is not an overview and scrutiny body and cannot, as currently constituted, assume the mantle of CDC with all its attendant powers.
- 3.7 To achieve the dual aims of maintaining the effectiveness of the Forum and complying with the new legislation, the options open to the Council are as follows:

Option 1 Confirm ECSOSC as the statutory CDC with a remit to deal with those crime and disorder matters which must by law or by the Council's constitution be referred to it; and refer all other crime and disorder matters to the Forum.

For the reasons given at 3.8 - 3.11, this is the **recommended option**.

Option 2 Introduce a new overview and scrutiny committee to perform the functions of the CDC, leaving an Environment Overview & Scrutiny Committee to concern itself purely with environmental matters; and refer all other crime and disorder matters to the Forum.

Whilst this would achieve the same result as option 1, a stand alone CDC would increase the number of overview & scrutiny committees to seven, resulting in an overloaded schedule of meetings for Members and difficulties in allocating sufficient Members to the CDC.

Option 3 Refer all crime and disorder matters to a single body, the Forum, but with an inner body of elected overview and scrutiny Members who discharge CDC functions when required. Although this would conform with legislation, it is likely to alienate the majority of Forum members, as the only people who may be co-opted onto the CDC are

employees or officers of the responsible authorities or co-operating bodies or persons; nor could the Chair of the Forum, by virtue of being a member of the Council's Executive, serve on the CDC.

- Option 4 Cease the Forum and transfer all its business to a stand alone CDC which would become the Council's seventh overview & scrutiny committee, leaving an Environment O & S Committee to deal with environmental matters only. This has the disadvantages associated with options 2 and 3 above. Further, it would deprive the majority of existing Forum members of their regular opportunity to participate in debates and discussions about crime and disorder matters at a forum involving all CDRP members. This would be a regressive step at the very time when the Council is about to face new duties to promote local democracy.
- 3.8 The recommended option envisages the Forum retaining its current role. To avoid the risk of the Forum and CDC addressing the same issues, which could result in confusion and duplication of effort and agendas, it is recommended that a protocol based on Appendix 1 be developed that establishes the Forum as the primary channel for crime and disorder reduction, and the promotion of community safety. The role of ECSOSC would be to fulfil statutory CDC functions and maintain a strategic overview of crime and community safety issues. This has a number of advantages:
- (i) all the responsible authorities already attend the Forum. Issues can therefore usually be resolved by those present at the meeting;
 - (ii) the Forum comprises a wider range of organisations than would be permitted on the CDC; this would allow more meaningful debate of the issues, with all interested parties being able to contribute.
 - (iii) ensuring that all community safety and crime and disorder issues are raised at first instance in a single setting (the Forum) will enable the responsible authorities to build up a more complete picture of the type and location of problems of that nature.
- 3.9 Importantly, this arrangement is compliant with draft regulations on the operation of CDCs. The regulations cover the co-opting of additional members, the frequency of meetings, the provision of information by responsible authorities, attendance at CDCs by non-members, and the timescale for responding to reports and recommendations from the CDC.
- 3.10 Although CDC membership is restricted to non-executive council members and a limited number of co-optees, its meetings will be open to the public, enabling Forum members not on the CDC to attend and observe proceedings.
- 3.11 The Government regard Councillor Call for Action as an option of last resort. It is therefore advisable to use the Forum for on-going business but to treat the ECSOS Committee as the formal CDC for those rare occasions when a Member has been unable to resolve an issue through normal channels (including the Forum) and wishes to avail himself of the formal powers available to the CDC.

- 3.12 This saves ECSOSC from being swamped by crime and disorder issues to the detriment of its environment responsibilities; nor would ESCOSC simply be replicating the work of the Forum.
- 3.13 The strategic role of ECSOSC would, to the extent necessary to comply with CDC legislation, focus on:
- o Considering Councillor Calls for Action on crime and disorder matters
 - o Taking performance data regarding community safety issues from the LAA and National Indicator Set
 - o Establishing ad hoc panels to investigate C&D issues – with input from the Forum
 - o Taking updates from the Forum and requiring the Forum Chair to attend before it to answer questions
- 3.14 In order to ensure continuity between the two bodies and the free flow of information, it is suggested that the Chair of ECSOSC be a member of the Forum, with the Chair of the Forum invited to provide 6 monthly updates on its work to ECSOSC.
- 3.15 It is recommended that a review of the effectiveness of the new arrangements be included as part of the 12 month review of the constitution.

4. CONSULTATION

- 4.1 Consultation has taken place with the Leader of the Council, the Leader of the official opposition, the Cabinet Member for Community Affairs, Inclusion and Internal Relations, and the Chair of ECSOSC. Judith Macho, Assistant Director Public Safety, and Linda Beanlands, Head of Community Safety, have also been consulted.

A short presentation on the proposals was given to the Responsible Authorities Partnership / Drug and Alcohol Action Team meeting on 27 March 2009, and questions and comments invited.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The current proposal does not entail any change to the administration of the Community Safety Forum, and hence no additional or reduced operating costs. The work of the Environment and Community Safety O & S Committee may increase slightly as a result of undertaking functions required of the Crime and Disorder Committee, which may require a small amount of additional support and administration from the Overview and Scrutiny team. Any associated costs will be assessed once the CDC is up and running.

Finance Officer Consulted: Anne Silley

Date: 30 March 2009

Legal Implications:

- 5.2 These are covered in the body of the report. Definitive regulations on the exercise of section 19 are expected by 30 April 2009. If these are materially different from the version seen in draft (and used as the basis for this report), officers will notify members accordingly.

There are no specific issues relevant to the Human Rights Act arising from the report.

Lawyer Consulted: Oliver Dixon

Date: 30 March 2009

Equalities Implications:

- 5.3 Under the proposals, all community representatives who currently attend meetings of the Forum can continue to do so. Further, as indicated in 3.10 above, even if they are not members or co-optees of the CDC, they may attend CDC meetings to listen to and observe proceedings.

Sustainability Implications:

- 5.4 There are no sustainability implications arising from the report.

Crime & Disorder Implications:

- 5.5 The purpose of CDCs is to increase the accountability of those bodies responsible for tackling crime and disorder in the local authority area. The statutory requirement on these bodies to respond to reports and recommendations of the CDC and to have regard to their content in exercising their functions should ensure that their actions are more closely aligned to the crime and disorder issues raised by members on behalf of their constituents.

Risk and Opportunity Management Implications:

- 5.6 The risk inherent in operating two bodies with potentially overlapping agendas is addressed in 3.8 above

Corporate / Citywide Implications:

- 5.7 Establishing a CDC engages two of the Council's corporate priorities: fair enforcement of the law; and open and effective city leadership.

SUPPORTING DOCUMENTATION

Appendices

1. Draft protocol

Documents In Members' Rooms

1. None

Background Documents

1. None

Suggested protocol on relationship between the Community Safety Forum and the Environment and Community Safety Overview and Scrutiny Committee (Designated as the Crime and Disorder Committee)

As provided for under the Council's constitution, the Environment and Community Safety Overview and Scrutiny Committee (ECSOSC) is designated the Crime and Disorder Committee for the purposes of section 19 of the Police and Justice Act 2006 ('the Act').

It is recognised that the Community Safety Forum ('the Forum') is in a position to resolve many of the crime and disorder issues that members will wish to raise.

Members wishing to raise a crime and disorder issue should direct the matter in the first instance to the Forum.

The ECSOSC will, when crime and disorder matters are referred to it without first being presented to the Forum, note them and refer them to the next appropriate meeting of the Forum.

In fulfilment of its role as CDC, the ECSOSC shall meet to review or scrutinise the decisions made, or other action taken, in connection with the discharge by the responsible authorities of the crime and disorder functions, no less than twice in every twelve month period. ECSOSC shall perform this role after considering:

- A six monthly update from the Chair of the Forum on its work
- LAA performance data on community safety issues

The ECSOSC shall also:

- Deal with any Councillor Call for Action that has already been to the Forum but remains unresolved
- Consider whether, following input from the Forum, to establish an ad hoc panel on a crime and disorder matter

Nothing in this protocol prevents a Member from raising issues directly at the ECSOSC in accordance with section 19 of the Act. It does, however, provide guidance to allow the most efficient and effective resolution of crime, disorder and community safety issues.