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**Scrutiny Management Committee**

**18<sup>th</sup> December 2006**

Report of the Chief Executive

**Strong and Prosperous Communities: the Local Government White Paper and its implications for the scrutiny function**

**Summary**

1. This report brings to members' attention proposals for an extended scrutiny function, announced in the recently published White Paper on Local Government.

**Background**

2. The Local Government White Paper was published in October 2006 and its aim is to reflect the government's vision of 'revitalised local authorities, working with their partners, to reshape public services around the citizens and communities that use them'.
3. To achieve its vision, the Government plans to:
  - Give citizens and communities a greater say in how local services are provided.
  - Enable local partners to respond more flexibly to local needs.
  - Reduce the amount of top-down control from central government.
4. Proposals in the White Paper include new accountability and leadership arrangements for elected members, community empowerment initiatives and also a new performance framework. More specifically, the White Paper also includes proposals for extending the role of scrutiny in local authorities:
  - Community Call for Action – Local residents with concerns about their neighbourhood or who want to influence policy can raise these matters with their local councillor. The councillor will then deal with the issue informally by discussions with the executive and local service providers or by referring the issue to scrutiny. Exempt issues are: Planning, licensing, council tax and non-domestic rates because these have a statutory appeals process. Also exempt are crime and disorder issues as these are covered by a similar process under the Police and Justice Act 2006.
  - Extended scrutiny powers over services external to the council – Specified partners to be legally required to take part in council scrutiny and to have regard to scrutiny recommendations. (Specified partners include: the Police Authority, Primary Care Trust, NHS Health Trust, Learning and Skills Council, Jobcentre Plus, Health and Safety Executive, Regional Development Agency).

5. Further information on these proposals is included in the two annexes to this report:
  - Annex 1: LGIU briefing PB 1237/06L: White Paper 2006: Implications for political and electoral arrangements
  - Annex 2: IDeA Knowledge: White paper update (<http://www.idea-knowledge.gov.uk/idk/core/page.do?pageId=5550379>)

## **Consultation**

6. No consultation has taken place with regard to this issue.

## **Options and analysis**

7. Because this report is for information only, it does not offer options or analysis.

## **Corporate Priorities**

8. The proposals in this report and the White Paper more generally will relate to delivery of the council's Organisational Effectiveness Programme (OEP), particularly three of the four OEP corporate priorities:
  - Improve leadership at all levels to provide clear, consistent direction to the organisation
  - Improve the way the council and its partners work together to deliver better services for the people who live in York
  - Improve our focus on the needs of customers and residents in designing and providing services

## **Implications**

9. There are no Financial, Human Resources, Equalities, Legal, Crime and Disorder, Information technology or Property implications associated with this report.

## **Risk Management**

10. There are no risks associated with this report as it is for information only.

## **Recommendation**

11. Scrutiny Management Committee is asked to consider proposals in the government's White Paper for the extension of the scrutiny function as highlighted in this report.

## Contact Details

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### Chief Officer Responsible for the report:

David Atkinson  
Chief Executive

Report  
Approved

Date *Insert Date*

*Chief Officer's name*  
*Title*

Report  
Approved

Date *Insert Date*

**Specialist Implications Officer(s):** None

**Wards Affected:** *All*

**All**

**For further information please contact the author of the report**

## Annexes

- Annex 1: LGIU briefing PB 1237/06L: White Paper 2006: Implications for political and electoral arrangements
- Annex 2: IDeA Knowledge: White paper update (<http://www.idea-knowledge.gov.uk/idk/core/page.do?pageId=5550379>)

Annex 1: LGIU briefing PB 1237/06L: White Paper 2006: Implications for political and electoral arrangements

## **“White Paper 2006: Implications for Political and Electoral Arrangements (LGIU)**

7/11/2006

Author: Jo Dungey

Reference No: PB 1237/06L

This covers: England

### **Overview**

The briefing summarises the implications of the recent White Paper, *Strong and prosperous communities*, for political structures and powers, and electoral arrangements. These include:

- a forthcoming requirement to move to one of three executive structures (elected mayor, leader with four year term and cabinet, directly elected executive) where all the executive powers are vested in the leader or mayor
- new scrutiny powers related to a ward-level Community Call for Action, and for the scrutiny of services external to the council
- encouragement of moves to single member wards and all-out elections, but no requirement.

These changes will require legislation.

The briefing comments on these proposals, in particular the requirement to change leadership arrangements. It questions the DCLG use of commissioned research evidence to support the model of 'strong leadership' for which they intend to legislate.

### **Briefing in full**

#### *Context*

The Local Government Act 2000 required the introduction of new constitutions in all councils in England and Wales. The proposals in the new White Paper, *Strong and prosperous communities*, are for England only and the Welsh Assembly Government will decide whether they should apply in Wales.

These constitutions provide a split between executive and scrutiny roles, although some district councils with populations below 85,000 retain a modified committee system (known as the 'fourth option'). Most councils introduced leader and cabinet constitutions, with the local choice as to whether the cabinet was elected by the council or chosen by the leader. Twelve councils in England have introduced directly elected mayors, one of which (Stoke on Trent) has the mayor and council manager option, and the others the mayor and cabinet option. The 2000 Act requires that there be a 'yes' vote in a referendum before mayoral arrangements are introduced. Two-thirds of the referendums held under the Act have resulted in 'no' votes.

#### *Executive arrangements*

The new White Paper says that councils will be required to change their executive arrangements, apart from the districts with 'fourth option' committee systems. There will be three options:

- directly elected mayor and cabinet, mayor to have four year term (as at present)
- directly elected executive (slate of leader and cabinet) with four year term
- leader elected by council for four year term, with cabinet chosen by leader.

All the executive powers of the council will be vested in the mayor or leader, who will appoint the cabinet, allocate any portfolios, and decide any delegation of executive powers to the cabinet, either to the cabinet as a whole or to its individual members. The White Paper's chapter on planning proposes that councils will have the option of having major planning applications determined by the executive, presumably by the mayor/leader, or delegated by him/her (see related briefing on planning).

There will be legislation to bring about these changes. The requirement to have a 'yes' vote in a referendum before introducing an elected mayor will be removed, but there will still be powers for the public to call a referendum by petition. Once an authority has adopted a mayoral or directly elected executive, the presumption will be that it will not change back to the leader/cabinet option. Current law is that there can be a referendum on this after a minimum of five years.

The White Paper claims that this will provide stronger and more visible leadership for councils.

### *Scrutiny powers*

The White Paper proposes extending scrutiny powers in two areas, introducing:

- Community Calls for Action
- extended scrutiny powers over services external to the council.

Both of these are paralleled by extended scrutiny powers in the Police and Justice Bill, which will very soon receive Royal Assent. This introduces the Community Call for Action over crime and disorder matters, and scrutiny powers over Crime and Disorder Reduction Partnerships.

The Community Call for Action (CCfA) will enable members of the public to raise local and neighbourhood matters with their ward councillor. The councillor will play a gate keeping role in deciding how to resolve the matter, but where informal approaches do not work, there will be the option of reference to an overview and scrutiny committee. The committee will be able to investigate and make recommendations. The CCfA will cover 'those issues that local authorities are responsible for either alone or in partnership with others'. This will need to be defined more precisely in legislation, but will extend the powers of scrutiny committees to hold to account service providers, including some outside the council. Given that this will require legislation, it is likely that the CCfA will be introduced from Spring 2008, both for crime and disorder issues, and for the areas proposed by the new White Paper.

The White Paper also proposes a new duty on non-council services to co-operate in the development of Local Area Agreements. This will contribute to the work of Local Strategic Partnerships and the implementation of Sustainable Community Strategies. The agencies covered by this new duty will also be required to respond to local government scrutiny, taking part in meetings or providing information, and having regard to scrutiny recommendations.

The agencies to be covered by this duty are: Councils, Chief Officer of Police, Police Authorities, Local Probation Boards, Youth Offending Teams, Primary Care Trusts, NHS Foundation Trusts, NHS Health Trusts, the Learning and Skills Council in England, Jobcentre Plus, Health and Safety Executive, Fire and Rescue Authorities, Metropolitan Passenger Transport Authorities, the Highways Agency, the

Environment Agency, Natural England, Regional Development Agencies, National Park Authorities, the Broads Authority, Joint Waste Disposal Authorities.

The response to scrutiny will cover their work 'insofar as their actions relate to functions or service delivery connected with the authority' (i.e. the council).

These proposals will require legislation.

The paper also promotes the use of area or neighbourhood based scrutiny, and this is a model with which councils may wish to experiment.

### *Electoral arrangements*

The White Paper proposes changes in the law to enable all councils to move to all-out local elections, where they choose to do so. There will also be scope to introduce single member wards. This will particularly affect metropolitan councils which currently elect by thirds; unitaries and districts have some scope to vary their arrangements, and counties elect all-out now.

All-out elections are intended to facilitate the four year term for leaders, and encourage longer term strategic thinking. There is some evidence they also increase electoral turnout.

### *Recruitment of councillors*

The White Paper proposes an independent review of the incentives and barriers to serving on councils. It would like to see the range of councillors being more representative of communities in terms of age, gender and ethnic background, and acknowledges there may be current barriers to combining public service as a councillor with the need to work.

The government will promote clear roles for councillors and continue to support capacity building.

### *Research on new constitutions*

To coincide with the publication of the White Paper, the Department of Communities and Local Government has also published various papers from the evaluation of the modernisation of local government. There are links to these above, and they cover the evaluation of new constitutions, and a summary of the evaluation of Best Value.

### *Comment*

The requirement to change executive arrangements for councils will be contentious. The evidence from the government's commissioned research is that councils have implemented the new constitutions effectively. *New council constitutions: A summary of the ELG research findings* says: 'Executive arrangements have bedded down well, providing both more visible and more effective leadership and quicker decision-making, which is associated with better service delivery.' One of the main problems identified is with the role of councillors who are not members of the executive. Concentrating leadership powers on one individual and reducing the role of the elected council as a whole seems likely to add to this problem.

The White Paper claims 'Our research shows that leadership is the single most significant driver of change and improvement in local authorities.' and cites the *Long term evaluation of the Best Value Regime: Final Report Executive Summary* to support this. However, when we examine this research report it states: 'Leadership by officers and elected members was described as a key driver of improvement in 23 of our case study reviews, and statistical analysis suggested that there was a

positive association between leadership by managers and some aspects of performance.

Local government leadership is inevitably complex, split between the democratic and managerial role. The White Paper defines 'strong' leadership as the concentration of executive power on one person, failing to review the evidence that effective leadership can be exercised through a variety of styles: by a group, team, or democratic assembly, as well as by an individual. To focus all executive power on one individual may undermine many of the other aims of the White Paper such as reflecting diversity, attracting a wide range of councillors, community engagement, and so on. We need a wider debate about the characteristics of effective leadership in local government. Excellent performance has been achieved by councils with a range of constitutional options.

Despite the White Paper's ambition to concentrate executive power on one person, there is a growing tendency for government departments and legislation to ascribe particular roles to cabinet members. For example, councils are required to designate a lead member for children's services. A lead member for adult social services is likely to be required soon. Developments around the Police and Justice Bill require a lead member for crime and disorder issues. The proposals for a new statutory health partnership (paragraph 5.23 of the White Paper) are likely to define a portfolio holder's role.

It does not appear clearly thought out how these various roles and legal responsibilities are to be combined with the executive powers being vested in one individual. Some joined up thinking on this from government would be welcome.

The extension of scrutiny powers is positive, and the evidence from health scrutiny is that external scrutiny can be a tool to build better partnership working. Councils will have a period of preparation for these roles, which will require legislation, to identify how best the council scrutiny role can benefit communities and improve services.

Some councillors have been unhappy with the proposals for the Community Call for Action, feeling that they ignore what good councillors do already, and that scrutiny may be swamped with small issues raised by vocal individuals. However, there is likely to be scope to make judgements about which issues to take forward, and the definition of a legal framework is likely to encourage councils to support the ward councillor's role in local problem-solving more effectively.

There is scope to use these new powers of scrutiny to build the council's community leadership role, both at a ward and neighbourhood level, and council wide."

Annex 2: IDeA Knowledge: White paper update  
(<http://www.idea-knowledge.gov.uk/idk/core/page.do?pageId=5550379>)

## “White paper update

### What the white paper says

As expected, the white paper builds on the proposals made in the Police and Justice Bill (now the Police and Justice Act 2006) for a community call for action mechanism, which applies more generally to local government. The concept and procedure is largely the same:

- **Community Call for Action (CCfA):** Local residents have concerns about persistent or serious problems in their area or want to influence policies
- **First level of response:** Councillor takes up communities concerns
- **Second level of response:** Councillor asks Council Executive to take action
- **Third level of response:** Councillor asks Overview and Scrutiny to investigate
- **Fourth level of response:** Overview and Scrutiny committee considers, rejects or makes recommendations – which may be accepted or rejected by the council executive/local partners

However, there are some key differences to the Home Office proposals in the white paper:

- The white paper places more of an emphasis on the role of the councillor, rather than on the rights of the public in triggering the mechanism. It states that “councillors will, from their correspondence and knowledge of their area and its people, identify issues which are of significant concern to the communities they represent”. Additionally, councillors will be expected to ensure that those who are more vulnerable and least likely to speak out have their views and needs represented.
- The white paper goes further than the Police and Justice Act in giving powers for councillors to resolve problems themselves. It proposes that local authorities consider what powers and budgets could be devolved directly to councillors in order to help them deal with minor problems.
- While councillors will be expected to play a similar role in ‘filtering out’ frivolous or vexatious complaints, the White paper goes further in proposing the introduction of legislative safeguards to ensure that councils and scrutiny committees do not waste too much time on these types of complaints. They do not go into much detail at this stage however.
- The Home Office proposals do not give much scope for local flexibility procedurally. The White paper however allows for scrutiny committees to ‘set their own rules in light of local circumstances’, which could include for example limiting the number of CCfAs brought before the Scrutiny Committee.
- Unlike the Home Office proposals, there do not appear to be any limitations as to whether County councillors can initiate a CCfA or not (the Home Office proposals relate only to district councillors in two-tier areas). This is likely to make the mechanism more accessible to members of the public.



Generally speaking the proposals are a positive step forward in empowering both communities and councillors.

However, one disadvantage is that with two central government departments developing two slightly different mechanisms for the CCfA, there is some scope for confusion.

The white paper states that 'Other than for crime and disorder matters, the CCfA will work as follows', therefore creating an exception for community safety issues. There is no real clear logic in having this separation, and it is likely to create confusion amongst both members of the public and councillors. There are likely to be instances for example where a problem raised does not fit clearly into one category or the other. Together with the LGA, we will be working with the Home Office and DCLG to ensure that there is more clarity over these types of issues."