

EXPLANATORY MEMORANDUM TO
THE CRIME AND DISORDER (OVERVIEW AND SCRUTINY)
REGULATIONS 2009

2009 No. 942

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations supplement the provisions made in section 19 of the Police and Justice Act 2006 (“the 2006 Act”) regarding the operation of local authority crime and disorder overview and scrutiny committees in England and Wales. In particular, the Regulations make provision regarding the co-opting of additional members to that committee, the frequency of meetings, the provision of information to the committee, the attendance of officers and employees of responsible authorities and co-operating persons or bodies before the committee and the required response of responsible authorities and co-operating persons or bodies to recommendations made by the committee.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 These Regulations are made under section 20(3) and (4) of the 2006 Act. They complement the provisions in sections 19 to 20 of the 2006 Act which make provision for local authorities to establish committees to scrutinise the functioning of responsible authorities.

Responsible authorities are defined in section 5 of the Crime and Disorder Act 1998 and comprise:

- the council for an area;
- every chief officer of police and every police authority whose respective police areas are within that area;
- every fire and rescue authority within that area;
- in England, every Primary Care Trust, and in Wales, every Local Health Board in that area.

The responsible authorities have formed Crime and Disorder Crime and Disorder Reduction Partnerships (in England) and Community Safety Partnerships (in Wales).

Section 19 requires every local authority to have a crime and disorder committee with the power to review and scrutinise, and make reports and recommendations regarding the functioning of responsible authorities. Section 20 gives the power to make guidance and regulations concerning the exercise of the committee’s functions. In

addition, Schedule 8 to the 2006 Act contains additional provisions on the exercise of the committee's functions.

Sections 19, 20 and Schedule 8 (and amendments to sections 19 and 20 made by the Local Government and Public Involvement in Health Act 2007) are to be commenced in England on 30 April 2009. They are to be commenced in Wales on 1 October which is the date on which these Regulations will come into force there.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales. The provisions will come into force on 30 April in England and 1 October 2009 in Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 Sections 5 to 7 of the Crime and Disorder Act 1998 set out the statutory framework for responsible authorities to work with other local agencies and organisations to develop and implement strategies to tackle crime, disorder, misuse of drugs, anti-social behaviour and other behaviour adversely affecting the environment in their area. These statutory partnerships are known as Crime and Disorder Crime and Disorder Reduction Partnerships (CDRPs) in England and Community Safety Partnerships (CSPs) in Wales.

7.2 These partnerships are organised on local government boundaries and are sited at unitary authority level in single tier authorities and at district level in two-tier authorities in England.

7.3 The policy on Crime and Disorder Overview and Scrutiny Committees and Councillor Call for Action (a mechanism whereby councillors will have the ability to call for debate and discussion at committee a crime and disorder issue which has caused concern in the local community) was developed following extensive stakeholder consultation during a review of the partnership provisions in the Crime and Disorder Act 1998. The Government is committed to increasing opportunities for communities to have a voice and a role in community safety, an essential prerequisite for holding to account those who are responsible for tackling crime and disorder in a local area. The review concluded there was no mechanism for 'holding to account' CDRPs/CSPs for the joint delivery of their statutory duties and recommended that the powers of local authority Overview and Scrutiny Committees encompass the work of CDRPs/CSPs. This is the effect of sections 19 and 20 of the 2006 Act. These Regulations supplement the provisions in section 19 as to the exercise of a committee's functions.

7.4 The Department for Communities and Local Government will be introducing similar provisions from 1 April 2009 in regard to local authority matters with certain exclusions including any matters relating to decisions about planning and licensing. The Government signalled its intention to introduce the arrangements for Councillor Call for Action and Crime and Disorder Scrutiny Committees by April 2009 in the summary responses to the Policing Green Paper 'From the Neighbourhood to the National: Policing our Communities Together' published in November 2008.

Consolidation

7.5 Not applicable.

8. Consultation outcome

8.1 Informal consultation on the proposals for the Regulations began in December 2008. We consulted with the Centre for Public Scrutiny, Local Government Association (LGA) and Association of Police Authorities (APA). The Local Government Information Unit (LGIU) in conjunction with the Home Office held an event for local authorities in March 2009 to promote understanding of the new requirements. Government Offices for the Regions also informally consulted with local authorities and CDRPs/CSPs. Discussions have also been underway with the Welsh Assembly Government.

8.2 A formal consultation period ran between 11 March – 25 March and a draft copy of the Regulations was sent to local authorities' Chief Executives, chairs of CDRPs/CSPs, the Association of Chief Police Officers (ACPO), the APA and the LGA. Individual responses were received from CDRPs/CSPs (10), local authorities (27), police authorities (4), police forces (2). These responses broadly welcomed the proposals but many considered the drafting of the Regulations to be over-prescriptive. We took into account these comments and made some changes which allow for greater local flexibility.

8.3 Representative bodies/organisations such as ACPO, APA and LGA welcomed the proposals. Concerns were expressed from ACPO about stressing the importance of ensuring that it is the CDRP/CSP that will be held accountable not the individual organisations as this would conflict with in particular the operational independence of Chief Officers of police forces. The lines of accountability will be clarified in guidance and reference will be made in this document to the appropriate parts of the legislation.

9. Guidance

9.1 Guidance produced jointly by the Home Office, Centre for Public Scrutiny and the Local Government Information Unit will help local authorities support the implementation of the provisions in sections 19-21 of the Police and Justice Act 2006. The guidance will be published in April 2009. To ensure there is a wider understanding of the provisions and the duties that this will entail, the guidance will also be targeted at CDRPs/CSPs and representative organisations such as the APA and ACPO.

10. Impact

10.1 A full Regulatory Impact Assessment was conducted on the partnerships provisions of the Crime and Disorder Act 1998 prior to the introduction of the Police and Justice Bill in 2006. The Assessment noted that developing more formal accountability for CDRPs/CSPs will have a staff time resource implication, though as 60% of top tier local authorities were already engaged in scrutinising community safety, the costs are already being met to a large degree.

10.2 Further analysis undertaken in December 2008 revealed that 53% of 105 local authorities (including top tier, district and unitary councils) already had overview and scrutiny committees which consider crime and disorder. The vast majority of committees considered crime and disorder alongside a range of issues and very few had a committee dedicated to crime and disorder.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Home Office will work alongside CLG and Government Offices for the Regions (who have a key role in supporting CDRPs/CSPs to meet their objectives) to review the impact of the provisions a year after commencement and at subsequent intervals to ensure that they are having the desired effect.

13. Contact

13.1 Varsha Ratna at the Home Office (Tel: 020 7035 6174 or email: varsha.ratna@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.