

Agenda Item No: 5
Report To: Selection and Constitutional Review Committee
Date: 24 September 2009
Report Title: O&S Committee – Councillor Call for Action
Report Author: Senior Scrutiny Officer



Summary:	The O&S Terms of Reference were amended by Council on 14 May 2009 to include responsibility for considering Councillor Calls for Action and the Committee was designated the Committee responsible for Crime and Disorder issues. This report sets out the recommended Protocol and Guidance for Members when dealing with a CCfA.
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Key Decision: NO

Affected Wards: All

Recommendations: **The Selection and Constitutional Review Committee is asked to make the following recommendation to Council:-**

1. That the recommended Protocol and Guidance for the O&S Committee when dealing with a Councillor Call for Action and the Procedure Rules for the O&S Committee when acting as the Crime & Disorder Committee be adopted and the Council's Constitution be amended accordingly.

Policy Overview: N/A

Financial Implications: None

Risk Assessment NO

Equalities Impact Assessment N/A

Other Material Implications: N/A

Exemption Clauses: N/A

Background Papers: As on attached report.

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Report Title: O&S Committee – Councillor Call for Action

Purpose of the Report

1. This report advises the Selection and Constitutional Reform Committee of the decision of the Overview and Scrutiny Committee on the Councillor Call for Action report that was considered at its meeting on 15 September 2009.

Issue to be Decided

2. The Selection and Constitutional Reform Committee is asked to agree the adoption of the recommended Protocol and Guidance for the O&S Committee when dealing with a Councillor Call for Action and the Procedure Rules for the O&S Committee when acting as the Crime & Disorder Committee and the consequent changes to the Constitution.

Background

3. The Overview and Scrutiny Committee discussed the attached report and agreed all the recommendations. It was also agreed that it would be prudent for the Local Strategic Partnership (LSP) and Crime & Disorder Reduction Partnership (CDRP) members to be advised of the recommended Protocol and Guidance for the O&S Committee when dealing with a Councillor Call for Action and the Procedure Rules for the O&S Committee when acting as the Crime & Disorder Committee so that they were fully aware of these.

Conclusion

4. The Selection and Constitutional Review Committee is asked to make the following recommendation to Council:-
 - That the recommended Protocol and Guidance for the O&S Committee when dealing with a Councillor Call for Action and the Procedure Rules for the O&S Committee when acting as the Crime & Disorder Committee be adopted and the Council's Constitution be amended accordingly.

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Agenda Item No: 5

Report To: Overview and Scrutiny Committee

Date: 15th September 2009

Report Title: Councillor Call for Action (CCfA)

Report Author: Senior Scrutiny Officer



Summary:	Councillor Call for Action (CCfA) for both Local Government matters and Crime & Disorder matters came into force in April 2009. CCfA legislation gives all councillors a new right to raise matters of local concern with their council's Overview and Scrutiny Committee where all other methods of resolution have been exhausted . The Overview and Scrutiny Committee can then decide whether or not to use their powers to investigate the issue. This report sets out a recommended protocol and guidance for handling CCfA.
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Key Decision: NO

Affected Wards: All

Recommendations: **That the Overview and Scrutiny Committee:**

- **Note the report**
- **Agree the protocol and guidance for dealing with a CCfA.**
- **Agree the Procedure Rules for the Overview & Scrutiny Committee when acting as the Crime & Disorder O&S Committee**
- **Note that a report will go to the Selection and Constitutional Review Committee to seek approval for the necessary constitutional changes.**

Policy Overview: The new powers for Overview and Scrutiny are consistent with the Council's corporate priorities.

Financial Implications: None

Risk Assessment NO

Equalities Impact Assessment N/A

Background Papers: Councillor Call for Action – best practice guidance: CfPS/I&DeA 2009
Guidance on Councillor Call for Action (s119) under the Local Government and Public Involvement in Health Act 2007: CfPS 2009
Guidance for the Scrutiny of Crime & Disorder Matters – England: Home Office 2009

CCfA papers from other councils including: Croydon, Gateshead, Harrow, Kirklees, Maidstone and Tunbridge Wells.

Contacts:

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Report Title: Councillor Call for Action (CCfA)

Purpose of the Report

1. The CCfA legislation came into effect on 1st April 2009. CCfA is about helping councillors to resolve issues and problems in relation to Local Government and Crime & Disorder matters on behalf of residents. It will provide Members with an opportunity to ask for discussions at O&S on issues where local problems have arisen and **where all other methods of resolution have been exhausted**. CCfA is not designed to provide an immediate solution, but a chance to bring an issue to a wider, high-profile, public audience to be discussed in an independent, neutral forum.
2. CCfA may also help organisations e.g. Council Members and Officers, Police and NHS, to work together to resolve the issue.

Issue to be Decided

3. The Committee are asked to:
 - Note the report
 - Agree the protocol and guidance for dealing with CCfA.
 - Agree the Procedure Rules for the Overview & Scrutiny Committee when acting as the Crime & Disorder O&S Committee
 - Note that a report will go to the Selection and Constitutional Review Committee to seek approval for the necessary constitutional changes.

Background

4. Councillor Call for Action seeks to strengthen the role of the Ward Councillor encouraging them to resolve local problems on behalf of residents. The Act allows Ward Councillors to place CCfAs onto scrutiny agendas for resolution and action. The legislation introduced under the Local Government and Public Involvement in Health Act 2007 extends the power of overview and scrutiny in two ways:
 1. so that any Member of the Council can refer a local government matter to the O&S Committee; and
 2. that matters which can be referred include matters which the Council and its partners are delivering through the Local Area Agreement and “local crime and disorder” matters.
5. At Ashford Borough Council members of the O&S Committee already have the right to raise issues for the O&S agenda; and any Member may request the Leader to put an item on the Executive Agenda. To this extent the “new” power merely re-affirms existing practice at Ashford.

6. The consequential changes to the Terms of Reference of the Overview and Scrutiny Committee and to the Council's Constitution have been reported to and agreed at the Selection and Constitutional Review Committee. Minute No. 546/05/2009 refers. At that same meeting it was agreed that the suggested protocol for handling CCfAs would be reported to this Committee and the Selection and Constitutional Review Committee.

Councillor Call for Action

7. The Improvement and Development Agency (IDeA) have issued some best practice guidance on the CCfA and a copy of the guidance document is available at www.idea.gov.uk .
8. The Home Office has recently issued guidance for the Scrutiny of Crime & Disorder Matters (England) and this is available at the Centre for Public Scrutiny www.cfps.org.uk . The newly issued Regulations and Home Office guidance now confirms that "The regulations leave the frequency of meetings to local discretion, subject to the minimum requirement of once a year".
9. In essence the guidance emphasises that the successful operation of CCfA will rely on the recognition and support of 4 principles:-
 - Transparency in decision-making, and the involvement of scrutiny in the decision-making process at some level
 - A willingness to identify mistakes and shortcomings, and a recognition of the need to resolve problems through discussion
 - An understanding (among Senior Officers and Executive Members in particular) of the role that scrutiny can play to help a council improve its services
 - An understanding, and a wish to bolster and support, the role that ward councillors play as champions and leaders of their communities.
10. Matters that are excluded from CCfA include:-
 - Any matter that is vexatious or discriminatory
 - Individual complaints and matters that are/have been through the council's complaints procedure
 - Any matter that is the subject of an Ombudsman complaint
 - Matters that have recently been examined by O&S
 - Any matter that relates to regulatory decisions, e.g. planning or licensing, that have their own statutory appeals process, or for council tax and non-domestic rates
 - Any matter that a Ward Councillor has not been given the opportunity to deal with or which a Ward Councillor has not investigated thoroughly, exhausting all possible means to remedy the concern.

CCFA Process

11. In accordance with national best practice guidance, O&S should be the last stop for a CCfA. The Ward Member/s will be expected to have done everything within their power to remedy the concern before referring the

matter to O&S. When a matter is referred to O&S it will be up to the O&S Chairman and Proper Officer to decide if the matter should be taken forward by Scrutiny. This process will filter requests to ensure that the matter is appropriate for a CCfA i.e. to determine that the matter is a local government matter and is not excluded under paragraph 10 above.

Local Government Matter – under section 21A, a CCfA needs to relate to a “local government matter”. This could be interpreted narrowly, to mean only those issues under the direct control of the authority. However to give full effect to CCfA the interpretation of “local government matter” needs to be broader. This includes issues relating to the council’s partners, in line with the area focus of Comprehensive Area Assessment (CAA), and the fact that an authority’s duties increasingly impact on other organisations, and involve partners within and outside the Local Strategic Partnership (LSP).

12. If the CCfA relates to a Crime & Disorder matter then this must also be referred to the O&S Committee as the meeting responsible for Crime & Disorder Issues.

Referral to Scrutiny

13. The O&S Chairman and the Proper Officer (the Head of Legal and Democratic Services) will determine whether or not the CCfA request should be accepted and forwarded to scrutiny.
14. If the O&S Chairman and Proper Officer decide that the CCfA should not be formally considered at the O&S committee, the Ward Member will normally be notified of the decision and reasons, in writing, within 5 working days of that decision. For Crime & Disorder CCfAs responsible partners must also be notified (Crime & Disorder Reduction Partnership Members).
15. If the CCfA is accepted, then the relevant Portfolio Holders, Officers and partners will be notified by the Chairman.

CCfA – Ward Member and Overview & Scrutiny Committee Protocol

16. Ward Member:- CCfA Protocol
 - Local concern/issue/request for action identified by Ward Member.
 - If issue is within a two Member ward, co-ordinate with other Ward Member to agree course of action.
 - Try to resolve the problem by raising the issue informally or formally with Officers from the relevant Council service, County or Parish councillors, Local partners (police, PCT etc) or the relevant Portfolio Holder.
 - If the problem persists and remains unresolved and you, as Ward Member, feel that you have done everything within your power to resolve the problem with the aid of other agencies/partnerships, then the CCfA request Form (Available from the Proper Officer) should be completed and forwarded to the Proper Officer (Head of Legal and Democratic Services) for action. Members will also be provided with the Check Lists and Case Studies to help them complete the form.

- Overview and Scrutiny Committee either:
 1. Rejects the CCfA and notifies the Ward Member who then notifies the parties who raised the issue.
 2. Accepts the CCfA and arranges to consider it. Once the response has been decided the Ward Member and partners, as appropriate, will be informed.

17. Overview & Scrutiny Committee – CCfA Protocol

Once the CCfA has been accepted by the Chairman and Proper Officer, it will be put on the agenda of the next available O&S meeting unless it is deemed necessary to have a special meeting.

At the first meeting, the Ward Member would be invited to attend the meeting and, at the Chairman's discretion, make a short representation to the Committee for them to decide if they wanted to take it further. The duration of such a presentation would be up to the Chairman but should normally be limited to about 5 minutes.

If accepted, then at a subsequent meeting it will be necessary to decide about:- Witnesses, Notifying and inviting Partners, Evidence required, Key questions, Timescales and the Aims & Objectives for the meeting.

Having considered the CCfA matter, the Committee will have to decide either:

- To take no action
- To make recommendations and to refer the matter to the Executive/Council/Partner Organisations
- To carry out a full scrutiny investigation

Any report and/or recommendations arising from the consideration of the CCfA matter will be made available and sent to all agencies involved with the CCfA within 5 working days of the meeting. For Crime & Disorder matters reports & recommendations will be sent to the responsible authorities as listed in the Police & Justice Act 2006.

Crime and Disorder Committee Procedure Notes

19. Procedure Rules for the Overview & Scrutiny Committee when acting as the Crime & Disorder O&S Committee

19.1 Co-option of Additional Members

Crime & Disorder Committees can co-opt additional non-voting members to serve on the committee in accordance with the Regulations.

19.2 Frequency of meetings

The O&S Committee shall meet to carry out its functions as the Crime & Disorder committee not less than once in every 12 month period.

19.3 Responding to requests

Community Safety partners are required to provide information requested of them by the Crime & Disorder Committee and to provide that information within a reasonable time.

19.4 Attending Committee meetings

Representatives of Community Safety partners may be required to attend Crime & Disorder Committee meetings to give evidence or answer questions.

19.5 Reports & Recommendations

If the Committee draft a report or recommendations which have an impact on Community Safety Issues:-

- Copies of the report/recommendations should be sent to such responsible authorities/co-operating bodies as are affected by the report/recommendations.
- The relevant body shall submit a response within 28 days from the date the report is submitted (or as soon as possible thereafter).
- Following receipt of the response, the Committee will need to agree with the relevant partner/s how progress in implementing the recommendations will be monitored.

Conclusion

20. The Committee are asked to:

- Note this report
- Agree the protocol and guidance for dealing with a CCfA
- Agree the Procedure Rules for the Overview & Scrutiny Committee when acting as the Crime & Disorder O&S Committee
- Note that a report will go to the Selection and Constitutional Review Committee to seek approval for the necessary constitutional changes.

Portfolio Holder's Views

21. Requested.

Contact: Julia Vink

Email: julia.vink@ashford.gov.uk

Councillor Call for Action (CCfA)

Request to the Chairman of Overview and Scrutiny

From: Councillor.....

Ward:

Contact details: Telephone
Mobile
Email

Subject	
Details Please describe, as fully as possible, what the issue is and what has prompted you to raise the topic.	

<p>Action taken to date</p> <p>Please explain what steps have already been taken to try and resolve this issue.</p>	
<p>Any other relevant information.</p> <p>Please provide any other information that the committee may find helpful.</p> <p>If you are enclosing any documents in support of the issue e.g. giving details of its impact, steps taken, responses received etc.; please list the documents here.</p>	

When completing this form please refer to the attached 'Check Lists' and 'Case Studies'.

Please return the completed form to Julia Vink, Senior Scrutiny Officer or Keith Fearon, Member Services and Scrutiny Manager

Check Lists

Using best practice and experience from the first councils to operate a CCfA, the following check lists have been devised in order to help Ward Members, O&S Chairman and the Proper Officer decide if an issue is appropriate for a CCfA.

Initial Issues

1. Is the concern an individual complaint?

CCfA is not appropriate for individual complaints, these should be directed to the Council's formal complaints procedure.

2. Is the concern related to individual regulatory decisions (e.g. planning, licensing) or to council tax and non domestic rates?

CCfA is not appropriate for dealing with these concerns as they are subject to their own statutory appeals process.

3. Are the concerns to do with the quality of public services provision at local level?

CCfA is not restricted to concerns relating to council services, it can also be used in relation to other public services and service areas e.g. concerns about community safety, anti-social behaviour, issues relating to local schools or health services.

Local Community Concerns

1. Is the focus of concern on a neighbourhood or locality issue?

CCfA focuses on neighbourhood or locality issues – where Ward Councillors can help resolve issues of concern in their wards. If the concern is more general e.g. about policy across Ashford Borough, then this can be suggested as a topic to the Overview and Scrutiny Committee in the usual way.

2. Is the issue a genuine local concern?

You must be sure that the concern is not just an individual's "hobby horse". The views of other members of the community will help to make this clear.

Championing a Request

1. **Would an apology, explanation or assurance about a problem be sufficient?**

Some community concerns can be satisfied by an apology, explanation or an assurance that the problem will not be repeated and do not require service change or scrutiny review.

2. **Resolving an Issue**

Once you have agreed to champion a CCfA there are a number of ways in which you may try to resolve the problem including:

- Discussing the issue informally or formally with Officers from the relevant Council service/local partners such as Police, PCT, KCC, Parish Councillors.
- Discussing the issue with the relevant Portfolio Holder.

Referring to Scrutiny Checklist

If the issue is persistent and unresolved by Ward Councillor(s) i.e. you feel that:

- You have done everything within your power to remedy a community concern.
- You have tried to resolve the problem(s) with the aid of other agencies/partnerships but have been unsuccessful in finding an adequate solution.

Then, as a last resort, you are able to refer the matter to Scrutiny using the CCfA request form (Appendix 1).

Case Studies

There are examples of different scenarios in the IDeA best practice guidance document www.idea.gov.uk and the following have been adapted from some examples from Kirklees Council and Tunbridge Wells Borough Council.

Use of Case studies helps to show how the CCfA process may work in practice and may help you decide whether or not an issue is potentially a CCfA.

Case 1: Mr B writes to you. He is writing on behalf of himself and other local residents who want problems at the recreation ground to be sorted out. Local residents have made numerous petitions and complaints, have raised the matter with local councillors and the area committee but the problem remains.

The shelter at the recreation ground is being used by teenagers for drinking, sex and drugs. Mr B has had mud and eggs, and recently, bricks thrown at his window, causing damage and making him anxious about his safety. The behaviour seems to happen after youths have spent the night at the shelter drinking and doing drugs.

The police know of the problem but do not patrol the area because they “do not have the manpower”.

Mr B is a widower and pensioner, lives on his own and is finding this too much to cope with. He would like to know what can be done especially as the children will break up from school soon and he fears the situation will only get worse.

Using the Check Lists:-

Initial Issues

1. Is the concern an individual issue?

Scrutiny is not appropriate for individual complaints but Mr B's concerns are clearly the views of the community and local residents.

2. Do the concerns relate to regulatory decisions (e.g. planning, licensing) or to council/non domestic rates?

Mr B's concerns are not to do with any of these, if they were then Scrutiny would not be appropriate.

3. Are the concerns to do with the quality of public service provision at local level?

These concerns include problems with the use of the recreation ground, anti-social behaviour and the lack of police presence in the community.

As Ward Councillor you have to decide if the concern raised is a genuine community concern – once you have decided it is you can either reject the request and direct the complainant to more appropriate mechanisms for dealing with the problem, or agree to champion the request and try to resolve the issue.

By using the Genuine Concern checklist it can be assessed whether Mr B's concerns merit further assistance for a CCfA.

Genuine Local Community Concern

1. Is the focus of the concern a neighbourhood or locality issue?

From the information provided it is clear that this is a neighbourhood/locality issue.

2. Is the issue a genuine local concern?

The issues appear to be of genuine local concern – underage drinking, drug taking, anti-social behaviour and lack of police presence. However, the views of other community members will help clarify if this is correct or if it is an individual's "hobby horse".

Agreeing to champion a request.

Ward Councillors have to decide whether or not to champion a request. If the request is championed then you will take on the issue for your constituents and will try to resolve it using various means, including:- liaising with council services, the Executive, other agencies/partners.

Championing a Request

1. An apology, explanation or assurance about a particular problem is not enough to satisfy community concern.

In this case neither apology nor explanation nor assurance would be sufficient.

2. Resolving an issue.

There are several issues here so a variety of agencies/council services/other external organisations may need to be contacted to find ways of resolving the concerns, such as:- Police, Neighbourhood Wardens, Environmental Services, Cultural and Project Services, local parish councillors, Kent Youth

Service, Portfolio Holder for Cultural Services, Portfolio Holder for Environmental Services.

If, after contacting and liaising with all these people, the issue remains unresolved then you will be able to refer the potential CCfA to Scrutiny.

Case 2: One of your constituents, Mr D, contacts you to complain that their neighbour is noisy and acting in an anti-social fashion.

This would appear to be an individual complaint which could be resolved by directing Mr D to contact Environmental Services about the noise and the Police (Community Safety Unit) about the anti-social behaviour.

Case 3: One of your constituents complains that their street is not cleaned regularly and there is a growing litter problem.

Refer this constituent to the Council's complaints system.

DS: JV - CCFA - APPENDIX 3/TB