

Babergh District Council

Councillor Call for Action Protocol

1. Introduction

- 1.1 The “Councillor Call for Action” (CCfA) was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007, and came into force on 1 April 2009.
- 1.2 The 2007 Act enables any member of the Council to refer to the Overview and Scrutiny Committee any local government matter which affects their Ward and is relevant to the functions of the Committee.
- 1.3 In addition, Section 119 of the Police and Justice Act 2006 came into force on 30 April 2009 and enables any member of the Council to refer to the crime and disorder committee any local crime and disorder matter which affects their Ward. The Overview and Scrutiny (Community Services) Committee will discharge the function of the crime and disorder committee.
- 1.4 The power to refer a matter is available only where the matter is of direct concern to the ward or division which the councillor represents. The matter may affect all or part of the ward member’s area or any person who lives or works in that area. A councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for councillors in multi-member wards to agree – any of them can refer a matter.

2. Limitations

- 2.1 It is important to recognise that CCfA is not guaranteed to solve a given problem. CCfA can provide a method for discussing such problems and, through discussion, trying to overcome them.

3. Issues excluded from referral as a CCfA

- 3.1 The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:
 - 3.1.1 Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example:

Council Tax/Housing Benefit appeals
Issues currently under dispute in a court of law.
 - 3.1.2 Any matter relating to a planning or listed building application or enforcement decision.
 - 3.1.3 Any matter relating to a licensing application, review or enforcement decision.

- 3.1.4 Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee or any of its sub-committees.
- 3.2 A matter will not be excluded under 3.1.1 to 3.1.3 where the allegation consists of the function not being discharged at all or that the function has failed or is failing on a systematic basis.
- 3.3 A referral, provided it is covered by the legislation and is not an excluded matter (see above), will ensure that the matter is included on the agenda of the Overview and Scrutiny Committee. It is then up to the members of the Committee to decide whether or not to take the matter further.
- 3.4 A referral made to the Overview and Scrutiny Committee is seen as being the end of the CCfA process (the last resort) and not the first step.

4. Steps to be taken prior to making a Councillor Call for Action referral

- 4.1 Prior to a councillor referring a matter as a CCfA to the Overview and Scrutiny Committee, a councillor **must** have tried to resolve the issue/problem themselves using all mechanisms and resources available to them at ward level. Councillors should:
- If a local crime and disorder matter, raise the issue through the Community Safety Partnership to find a way to resolve the issue.
 - Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve it, for example through formal letter written on behalf of constituents, discussion at public meetings, petitions, communication with local MPs and councillors in other authorities etc.
 - Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with officers and/or members, questions at committees, motions on the agenda at full Council etc.
 - Ensure that this is not an issue that is currently being or should be pursued via the Council's complaints procedure.
 - Ascertain whether or not any other form of local scrutiny is investigating the issue, eg Suffolk County Council.

5. How to make a Councillor Call for Action referral

- 5.1 If the issue/problem is still not resolved the councillor can refer it to the Overview and Scrutiny Committee as a "Councillor Call for Action". To do this the councillor should complete and submit to the Director of Corporate Services a CCfA Request Form outlining what the issue is and what steps have been taken towards a resolution. The request form, a specimen is attached as Appendix 1, is available on the Council's website, or from the Director of Corporate Services. The request form for a CCfA includes:
- The name of the councillor and ward they represent
 - Title of the CCfA and date of submission
 - Why you think the issue should be looked at by the Overview and Scrutiny Committee
 - A brief synopsis of what the main areas of concern are
 - What evidence you have in support of your CCfA
 - Which areas or community groups are affected by the CCfA

- What you have done to try and resolve the issue prior to requesting a CCfA
 - Whether the CCfA is currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints process
 - Whether there are any deadlines associated with the CCfA of which the Overview and Scrutiny Committee needs to be aware.
- 5.2 The Director of Corporate Services will receive the referral form, log it to track its progress, and, after consultation with the Solicitor to the Council, assess the issue to ensure that it is covered by the legislation referred to above and is not a matter excluded from referral to the Overview and Scrutiny Committee. A decision that a matter is excluded pursuant to paragraph 3.1.4 above will only be taken by the Director of Corporate Services in consultation with the Chairman of the relevant Overview and Scrutiny Committee.
- 5.3 The Director of Corporate Services will inform the Chairman of the relevant Overview and Scrutiny Committee that the item will be included on the next Committee agenda. The Councillor will be informed whether or not their referral has been successful.
- 5.4 A successful referral will ensure that the CCfA will be placed on the next agenda of the Overview and Scrutiny Committee. It is then up to the members of the Committee to decide whether or not to take the matter further.

6. Decision of the Committee whether to take the matter further

- 6.1 In deciding whether or not to take the matter further the relevant Overview and Scrutiny Committee will consider:
- Anything that the councillor has done in relation to this matter; and
 - Representations made by the councillor as to why the Committee should take the matter up. (Councillors have the option of either presenting their CCfA form without supporting papers, or of preparing a report setting out their views).
- 6.2 The criteria the Committee will use to decide whether or not to take the matter further include:
- Is the Committee satisfied that all reasonable attempts have been made to resolve the issue by the ward councillor? And do the responses received by the referring councillor demonstrate that the matter is not being progressed?
 - Has the Committee considered a similar issue recently – if yes have the circumstances or evidence changed?
 - Is there a similar or related issue which is the subject of a review on the current work plan? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account.
 - Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the councillor received?

- Is this a case that is being or should be pursued via the Council's complaints procedure?
 - Is it relating to a “quasi-judicial” matter or decision such as planning or licensing?
 - Is the issue part of an individual's own personal agenda (an issue of genuine local concern should have an impact on the local community).
 - Is this an issue currently being looked at by another form of local scrutiny, e.g. Suffolk County Council?
 - And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring member's ward?
- 6.3 In considering the CCfA, the Overview and Scrutiny Committee may invite the Chief Executive, Deputy Chief Executive or relevant Director, Head of Service or external organisation to discuss the issue with the Committee and answer any questions.
- 6.4 If the Committee decides not to accept the CCfA referral it must inform the Councillor and provide reasons.
- 6.5 If the Committee decides to accept the CCfA referral, it must decide how it intends to take the matter forward and include the CCfA in its work plan. This could include:

Before holding a formal hearing:

- Asking the service area(s)/partner organisation(s) to respond to the CCfA
- Setting up a research group to undertake a more in-depth review.

At formal hearings

- Asking for further evidence and/or witnesses to be brought to a future meeting then making recommendations to the Cabinet/partner organisation.

7. Potential outcomes

- 7.1 Following a formal hearing, there are a number of potential outcomes from the Committee meeting:
- The Committee could determine not to make a report or recommendations (perhaps because it is not considered the right time to consider a particular issue), with the ward Councillor notified in writing;
 - The Committee could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;
 - The Committee could write a report and make recommendations on the CCfA to the Strategy Committee and/or relevant partners.
 - The Committee could make a report or recommendations to Full Council where the CCfA is a local crime and disorder matter.

- 7.2 Once the Committee has completed its work on the CCfA referral the member who made the CCfA referral will receive a copy of any report or recommendations made. The report will also be made available on the Council's website, unless the matter was an exempt item, in which case the report cannot be made public.

8. Timescales

- 8.1 Once the CCfA has been assessed as not being a matter which is excluded from referral to Overview and Scrutiny Committee, the item will be included on the next Committee agenda.
- 8.2 If the Committee agrees to take the matter forward, the hearing will usually be held as an item on the next available agenda. In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened.
- 8.3 Should a CCfA hearing result in recommendations to Strategy Committee or Full Council being made, an item will be placed on the agenda for the next Strategy Committee or Council, respectively.
- 8.4 Should a CCfA hearing result in recommendations to partner organisations, such organisations will also be requested to make a response to the recommendations, although they are under no legal obligation to do so.