

**To: Scrutiny Committee**

**Date: 5<sup>th</sup>. November 2013**

**Report of: Law and Governance**

**Title of Report: Operation of “Councillor Calls for Action”**

### **Summary and Recommendations**

**Purpose of report:** To agree the process within which “councillor calls for action” will be handled by the Scrutiny Committee.

**Key decision: No**

**Scrutiny Lead Member: Councillor Mills**

#### **Recommendation(s):**

1. To amend the referral form to direct councillors to provide more specific information and officers to clarify any current debates, reviews or projects related to the issue.
2. To leave the factual judgement around a CCfA falling within an excluded category with the Monitoring Officer but to place any further validation with the Chair and Vice Chair of the Scrutiny Committee.
3. To require the instigating councillor to attend the scrutiny meeting that discusses the CCfA.
4. To add to the list of considerations for the scrutiny committee when considering a valid CCfA:
  - What priority the CCfA investigation should have within the current agreed work programme.

To make it clear that this list is not exhaustive.

5. To require the Chair and Vice Chair to take advice from officers when CCfA raise issues outside of the direct control of this Council.
6. To include the guarantees included in the report in the protocol.

## Introduction

1. The Council meeting on the 30<sup>th</sup>. September 2013 agreed a protocol for “Councillor Calls for Action” (CCfA) this is attached at Appendix 1. The agreement was subject to any changes the Scrutiny Committee wished to make. The Chair and Vice-Chair of the Scrutiny Committee have considered how the process might operate effectively within the scrutiny function. This report processes a number of changes and additions.
2. For ease of discussion the changes and additions are divided between 3 steps. These are:
  - Raising an issue – the information a councillor should provide at the first point of contact.
  - Taking the issue forward – who decides a request is valid and how that decision is made.
  - Guarantees for councillors – reasonable timescales and onward referral.

## Raising an issue

3. The protocol makes clear the intention of the legislation which is that these powers should be used as a “last resort”. It is expected that before submitting a CCfA councillors will have tried to resolve the issue using the existing channels open to them. Only after exhausting these will a request be valid. The initial submission by the councillor needs to direct them to provide as much information as possible to allow a judgement to be made efficiently at the first point of contact. The Referral Form should be changed to allow this to happen and include a table directing councillors to provide specific information as below (boxes are not representative of size):

Questions	Response
Give details of the issue you wish to raise. Please include all relevant information and attach any documents in connection with the issue.	
What outcome/solution are you or your community looking for?	
When did you first raise this issue in this or a partner organisation?	
Give brief details of the attempts	

made to resolve the issue.	
What response or guidance has been received by you relating to this issue?	

4. In addition a second table should be included for completion by Democratic Services Officers (boxes are not representative of size):

Questions	Response
Is the issue currently under consideration within the Scrutiny Programme? If yes please give brief details.	
Is the issue under consideration anywhere else in the organisation or partner organisation? If yes please give brief details.	

### Taking the issue forward

5. The current protocol leaves the Monitoring Officer to decide if a CCfA is valid and can be taken forward. The overarching principle of all scrutiny is that it is member led. This protocol accesses and sits within the scrutiny function and so should work within that principle. It is proposed to leave the factual judgement around a CCfA falling within an excluded category with the Monitoring Officer but to place any further validation with the Chair and Vice Chair of the Scrutiny Committee.
6. Councillors raising a CCfA must be prepared to attend the Scrutiny Committee in the first instance to outline the issue and argue for a particular resolution. The current protocol says that councillors will be invited to attend. It is proposed that this is strengthened and paragraph 8 changed to read "The referring councillor will be invited and must attend the scrutiny meeting....."
7. A list of issues is included in the protocol that the Scrutiny Committee should consider when deciding if a valid CCfA is taken forward. It is proposed that the following is included to recognise that the scrutiny function has limited resources and is will already have a commitment to pursue a number of issues within a programme of work:
  - What priority the CCfA investigation should have within the current agreed work programme.

8. The protocol makes clear that a councillor can refer any local government matter in their ward which is of significant community concern to an overview and scrutiny committee. It may be that the issue of concern is not one within the direct control of the Council or even the responsibility of another Council. It is proposed that issues of this nature are dealt with on a case by case basis with a requirement that during the validation process the Chair and Vice Chair take advice from officers on the most appropriate course of action.

## Guarantees

9. The current protocol gives 3 guarantees to councillors:
- Placing a valid CCfA on the next Scrutiny Committee agenda.
  - An explanation why an issue is not valid or is valid but has not be taken forward.
  - A copy of the report and agreed recommendations at the end of any review.
10. Councillors can reasonably expect to have their issues dealt with in an efficient and effective way so it is proposed that guarantees in the protocol are revised with some additions.

Guarantee	Timescale	Reason
All CCfA request will be acknowledge within 24 hours and validated within 5 working days.	5 working days from receipt of a fully completed CCfA form.	To give councillors a timely and informed first response.
All CCfA will be given a 20 minutes debate slot on an agenda and will be placed on the closer of the next 2 agendas that can accommodate this.	Considered at one of the next 2 meetings post validation.	The reality is that scrutiny agendas are planned months in advance and so the next Scrutiny Committee agenda is likely to be full. This adjustment guarantees time for debate.
If a valid CCfA is not pursued by the Scrutiny Committee the councillor will be told why either at the meeting or within 10 working days of the meeting.	Decision to take not to take forward communicated either on the day or within 10 working days of the Scrutiny Committee meeting.	Timely informed response.
If a valid CCfA is taken forward the date that		Clarity of outcome timescale.

recommendations will go to decision makers or an estimate of when the issue will be pursued.		
If a valid CCfA is taken forward the instigating councillor will comment on outcomes and have these comments included in the report to decision makers.		Right of reply.

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**List of background papers: None**

**Version number: 2**

## COUNCILLOR CALL FOR ACTION PROTOCOL

### Introduction

1. The Councillor Call for Action (CCfA) Protocol sets out how Councillors can refer any local government matter in their ward which is of significant community concern to an overview and scrutiny committee. Referral to the Council's Scrutiny Committee is a measure of last resort once other approaches have been exhausted.
2. A local government matter is defined in legislation as one which:
  - (a) Relates to the discharge of any function of the authority;
  - (b) Affects all or part of the electoral area for which the referring member is elected or any person who lives or works in the area; and
  - (c) Is not an excluded matter. Excluded matters are matters relating to:
    - (i) the formulation or implementation of the Council's crime and disorder strategy;
    - (ii) a planning decision;
    - (iii) a licensing decision; or
    - (iv) an individual or entity where that individual or entity has a statutory right to a review or appeal other than to the ombudsman; or which are
    - (v) vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Scrutiny Committee;

unless the matter consists of an allegation that a function of the Council has not been discharged at all or that its discharge has failed or is failing on a systematic basis.
3. The CCfA is not an appropriate route for:
  - (a) Raising individual complaints, for which the Council's corporate complaints procedure should be followed;
  - (b) Scrutinising matters of wider council policy;
  - (c) Questioning decisions which have been taken but not yet implemented by the Executive; or

- (d) Seeking to resolve urgent matters, in view of the time which may be needed for the committee to assess the initial referral and then investigate the matter if it agrees to do so.

### **Referral Procedure**

4. Matters referred as a CCfA will be referred to the Scrutiny Committee. Prior to referring a matter as a CCfA, a councillor must have tried to resolve the matter themselves using the other mechanisms and resources available to them at ward level. Councillors must have regard to any government guidance issued and should:
  - (a) Ensure that the relevant council department and/or any partner organisation has been informed of the issue and been given enough time to resolve it;
  - (b) Ensure that this is not an issue that is currently being or should be pursued via the Council's complaints process;
  - (c) Ascertain whether or not the matter is being investigated through any other local scrutiny mechanism.
5. If the matter is still not resolved the councillor can refer it to the Scrutiny Committee as a 'Councillor Call for Action'. To avoid delays in the referral process, all referrals should be made on the CCfA request form. This will ensure that the necessary information to enable the applicability of the Protocol to be confirmed and to enable the matter to be put before Scrutiny will be provided at the outset.
6. The referral form should be sent to [democraticservices@oxford.gov.uk](mailto:democraticservices@oxford.gov.uk) . The Monitoring Officer shall be responsible for determining whether a matter is required to be referred to the Scrutiny Committee under this protocol.
7. Referrals approved by the Monitoring Officer will then be included on the next available agenda of the Scrutiny Committee. It will be up to the Committee to decide whether or not to take the matter further.

### **Considering the CCfA**

8. The referring councillor and other councillors representing the same ward will be invited to attend a Scrutiny Committee meeting at which the CCfA is discussed, in order to make representations and answer questions. The relevant Executive member and senior officer will also be invited if appropriate.
9. In deciding whether or not to take the matter further the committee will consider:
  - (a) Actions already taken by the councillor in relation to the matter; and

- (b) Representations made by the member as to why the committee should take the matter up.
- 10. The criteria the committee will use to decide whether or not to take the matter further include:
  - (a) Is the committee satisfied that reasonable attempts at a resolution have been made by the ward councillor?
  - (b) Has the committee considered a similar issue recently and, if so, have the circumstances or evidence changed?
  - (c) Has the relevant service or partner agency been informed and been given enough time to resolve the issue and, if so, what response the councillor has received?
  - (d) Is the matter currently being looked at by another form of local scrutiny?
- 11. If the committee decides not to take further action in respect of the referral it must inform the councillor and explain why.
- 12. If the committee decides to accept the referral it must decide how it intends to take the matter further. It may:
  - (a) Make an immediate report or recommendations to:
    - (i) the Executive or other relevant council body;
    - (ii) the relevant senior officer; or
    - (iii) to any relevant partner organisation or other local organisation;
  - (b) Request further information or evidence from the ward councillor;
  - (c) Ask officers to look into the matter and report back;
  - (d) Invite other local stakeholders to give evidence to a future meeting;  
or
- 13. If the matter is referred under 12 (a) (i) or (ii), the relevant body or person shall report back to the Scrutiny Committee indicating any action that has been, or is intended to be, taken in respect of the recommendation, normally within 2 months.
- 14. Once the committee has completed its work on the referral the member who made the referral will receive a copy of any report or recommendations made in relation to it.
- 15. In the case of a crime and disorder matter:



- (a) A copy of any report or recommendations under 12(a)(i) or (ii) above shall also be provided to the chief officer of police, the fire authorities, the probation board and the primary care trust (“the Council’s crime and disorder partners”).
  
- (e) If a report or recommendation is made to one of the Council’s crime and disorder partners under 12(a)(iii), that partner will be notified that they are required to:
  - (i) consider the report or recommendations and to respond to the committee indicating what action, if any, it propose to take, normally within one month; and
  - (ii) have regard to the report or recommendations in exercising their functions.

## **Councillor Call for Action Referral form**

**If you wish the Scrutiny Committee to consider a Call for Action in your ward you should complete this form and submit it to Democratic Services at [democraticservices@oxford.gov.uk](mailto:democraticservices@oxford.gov.uk).**

Before submitting this form you must:

- (a) Ensure that the relevant council department and/or any partner organisation has been notified of the issue and been given enough time to resolve it (and give details of the date and outcome of such notification).
- (b) Ensure that this is not an issue that is currently being or should be pursued via the council's complaints process.
- (f) Ascertain whether or not the matter is being investigated through any other local scrutiny mechanism.

### **Your Contact details:**

Name:

Address:

Telephone:

E-mail:

The Ward you represent:

Title of your Call for Action:

Date of Submission:

Would you like the opportunity to speak to the Committee?

Yes/No

Please give a brief summary of your Call for Action

