

CARLISLE CITY COUNCIL

Report to:- **Carlisle City Council**

Date of Meeting:- 14h July 2009

Agenda Item No:-

Public

Title:- **OVERVIEW AND SCRUTINY PROCEDURES FOR DEALING WITH COUNCILLOR CALLS FOR ACTION AND ARRANGEMENTS FOR SCRUTINY OF THE CRIME AND DISORDER REDUCTION PARTNERSHIP**

Report of:- **Scrutiny Manager**

Report reference:- **OS11/09**

Summary:-

The report presents the procedures which will be used to deal with Councillor Calls for Action made by Carlisle City Council Members – this issue has been considered by all three O&S Committees.

In addition, the report provides details of the necessary changes to the scrutiny of the Crime and Disorder Reduction Partnership to reflect sections 19 and 20 of the Police and Justice Act 2006 – this matter has been discussed by Community Overview and Scrutiny Committee.

Recommendation:-

- (1) Note the arrangements and guidance which are now in place to deal with Councillor Calls for Action.
- (2) In line with the recommendations from the three O&S Committees, ask the Director of Legal and Democratic Services to make the necessary changes to the constitution to reflect the introduction of the Councillor Call for Action provisions and the implementation of sections 19 and 20 of the Police and Justice Act including changes necessary to enable the Community Overview and Scrutiny Panel to assume responsibility for the new crime and disorder functions as the authority's designated crime and disorder committee.

Contact Officer: Dave Taylor 7245

Ext:

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None

COMMUNITY OVERVIEW AND SCRUTINY PANEL

Panel Report

Public

Date of Meeting: 9th July 2009

Title: O&S Procedures for Dealing with Councillor Calls for Action and arrangements for scrutiny of the Crime and Disorder Reduction Partnership

Report of: Scrutiny Manager

Report reference: OS 08/09

Summary:

This report provides an overview of the O&S Procedures for dealing with Councillor Calls for Action. It also considers the future arrangements for scrutiny of the Crime and Disorder Reduction Partnership and suggests a workshop to develop these.

Recommendations:

The Committee is asked to

- note the arrangements and guidance that are in place to assist a Councillor in submitting a Councillor Call for Action (CCfA);
- note the process for the Scrutiny Team and the O&S Committees to deal with any CCfAs that are received;
- note the possible changes to scrutiny of the CDRP that arise from sections 19 and 20 of the Police and Justice Act 2006
- ask Council to ask the Director of Legal and Democratic Services to make the necessary changes to the constitution to reflect the introduction of the Councillor Call for Action provisions and the implementation of sections 19 and 20 of the Police and Justice Act 2006
- consider whether to issue an invitation to the Chair and Members of the Eden Housing and Communities Scrutiny Panel to hold a joint workshop with CDRP representatives and representatives of the Police Authority to discuss the Home Office guidance and consider future arrangements for scrutiny of the CDRP

Contact Officer: Dave Taylor

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1. Councillor Call for Action

The Councillor Call for Action (CCfA) is a development from the Local Government and Public Involvement in Health Act 2007. This provides elected members with a mechanism to formally request a relevant scrutiny committee to consider an issue in their ward for further investigation, if all other actions fail. The CCfA provisions were introduced on 1 April 2009 and may have a significant impact on the work of the scrutiny committees. The comments on the changes from the Director of Legal and Democratic Services can be found in Appendix 1.

The legislation extends the rights of Members to refer a local government matter not just to the Committees of their own Authority, but in the case of two-tier areas such as Cumbria, to the Committees of the relevant District/Borough or County scrutiny committee, irrespective of whether they are a Member of that authority.

The Cumbria County Joint Scrutiny Overview Group has developed joint guidance to help Members decide whether they have a valid CCfA, and details of how to lodge a CCfA at any of the seven Local Authorities in Cumbria. This common approach will minimise confusion for Members and provide a joined-up support mechanism for them. This guidance is attached to this report as Appendix 2 and is also available on the scrutiny pages of the City Council website:

http://www.carlisle.gov.uk/council_and_democracy/council_departments/scrutiny.aspx

The form for submitting a Councillor Call for Action can be found at Appendix 3 and Appendix 4 contains another guidance document – Guidance for the Scrutiny Committees when considering if a Councillor Call for Action is valid.

2. Process for Consideration of a Councillor Call for Action by a Scrutiny Committee

This is the main reason for bringing a report to all the Scrutiny Committees. The following text outlines the process that will be adopted at Carlisle City Council to deal with any Councillor Calls for Action that are received:

2.1 Before the Scrutiny Committee meeting

Once a Councillor Call for Action (CCfA) is received by the scrutiny office, the scrutiny team will send an acknowledgement to the Councillor to confirm receipt of the CCfA within 5 working days.

The scrutiny team will have an informal discussion with the Scrutiny Chairs to agree which Scrutiny Committee the CCfA should be considered by. The Chair of the relevant Scrutiny Committee will agree:

- The Committee meeting date that the CCfA will be considered
- An indicative time on the agenda that the CCfA will be considered
- The documents/reports that will be provided for the meeting (this includes the CCfA form that the Councillor has submitted).
- The Portfolio Holder, senior officers and or representatives from partner organisations who should be invited to attend the meeting to provide information or respond to questions.

The scrutiny team will co-ordinate the information and persons required for the meeting but will not undertake research on the CCfA issue.

Where the CCfA appears to raise issues for another local authority, the scrutiny team will liaise with officers from that authority to determine the most appropriate course of action.

The scrutiny team will notify the Councillor who has raised the CCfA of the Committee meeting that the CCfA will be considered at and the process that will be undertaken.

2.2 At the Scrutiny Committee meeting

The Chair will provide a short introduction to the item and an overview of the process for considering the CCfA. The Committee should be clear that they are determining the validity of the CCfA and should resolve at end of the discussion if they will take further action on the issue.

The Councillor who has raised the CCfA will be invited to speak for a maximum of 5 minutes to briefly outline the reasons behind the CCfA and the outcomes sought.

The Chair will open the discussion and invite other Committee Members to ask questions to help clarify the issues and outcomes sought and the appropriate

outcome. This can include questions to the relevant Portfolio Holder, senior officers and/or representatives from partner organisations.

The Committee will agree if the issue is a valid CCfA and if they wish to take any further action. The Committee may resolve to make recommendations on the issue to relevant bodies, or decide to undertake further scrutiny of the issue and set up a task group to explore it in detail. If a task group is set up, it should report back to the parent Committee with any recommendations it wishes to make on the matter and refer these to the relevant bodies. The parent committee may wish to set a date by which the task group should report back. If the Committee do not feel the issue is a valid CCfA, or they do not wish to take action they must explain the reasoning for this.

2.3 After the Scrutiny Committee meeting

If the Councillor who raised the CCfA is unable to attend the meeting, the minutes of the meeting will be provided by the scrutiny team to inform the Councillor of the outcome of the Committee's discussion.

3. Scrutiny of the Crime and Disorder Reduction Partnership (CDRP)

In May 2009, the Home Office issued guidance on the implementation of Sections 19 and 20 of the Police and Justice Act 2006. These sections of the Act deal with scrutiny of Crime and Disorder Reduction Partnerships. The guidance can be found in full at: <http://www.cfps.org.uk/what-we-do/publications/cfps-general/?id=104>.

The next section of this report picks out some of the main issues from the guidance for Members information.

Crime and Disorder Scrutiny Committee. The legislation introduces the requirement for a Crime and Disorder Scrutiny Committee – Community O&S Committee will be designated as Carlisle City Council's Crime and Disorder Scrutiny Committee. This committee has a lengthy record of scrutinising CDRP matters and so, in the broadest sense, Carlisle City Council already fulfils the requirements of the legislation;

Role of the Scrutiny Committee. Within the guidance, the emphasis is that the scrutiny should be of the partnership as a whole. Further, the guidance stresses that the committee should be a 'critical friend' of the community safety partnership, "providing it with a constructive challenge at a strategic level rather than adversarial

fault-finding at an operational level.” At a basic level the role of the Committee is to do the following:

- Consider the Councillor Calls for Action that arise through the council’s existing CCfA process;
- To consider actions taken by the responsible authorities on the CDRP;
- Make reports or recommendations to the local authority with regard to those functions. In practice, the nature of the committee and its work should mean that recommendations will be directly for responsible partners as well.

Community Engagement and ‘Confidence’. There is also an emphasis on the role that the Committee can play in representing the community and playing a role in community engagement, particularly as this relates to the issue of ‘confidence’ – this is measured by the public’s response to the statement “The police and local council are dealing with the anti-social behaviour and crime issues that matter in this area.”

Co-option. Throughout the document, there are references to the potential of co-option. For example, it would be possible to co-opt community representatives onto the Committee when considering CDRP matters. Or Members may prefer to co-opt community representatives when they are setting up a Task and Finish Group to do CDRP-based work. As well as community representatives, the guidance encourages the co-option of a Police Authority representative – although it is acknowledged that it may be more appropriate to simply have a standing invitation to a representative of the Police Authority to attend the meetings (as an ‘expert adviser’) at which CDRP matters will be scrutinised .

Joint Working. There is a strong emphasis on joint working throughout the guidance. Clearly, as the CDRP is a joint one for Carlisle and Eden, Members should consider the extent to which joint working with Eden scrutiny Members would be appropriate. Section 21 of the Police and Justice Act allows the Secretary of State to make an order requiring councils to appoint a joint committee to carry out crime and disorder scrutiny functions. The guidance states that

“This will be used **where CDRP mergers have taken place**, so that responsible authorities and co-operating bodies are not required to answer to two or more separate crime and disorder committees.”

The Carlisle and Eden CDRPs have not been formally merged but this guidance would seem to imply that there is an expectation that Carlisle and Eden set up a joint committee to carry out crime and disorder scrutiny – and that if they do not, in time,

the Secretary of State may act to force Carlisle and Eden to set up such a joint Committee.

Somewhat confusingly, the guidance goes on to state that:

“While a joint approach to crime and disorder scrutiny is beneficial, it should not be undertaken instead of scrutiny by individual local authorities at a district or county level, but should be used to complement that form of scrutiny.”

Given the overall thrust of the guidance, there is a clear need for a discussion by Members of Carlisle and Eden scrutiny committees to consider the extent and role of any joint scrutiny arrangements for CDRP. Louise Wilkinson, the CDRP Business Manager has also been consulted and believes that a joint workshop would be the best way forward.

Protocol. The guidance suggests that it would be helpful for the CDRP partners and the scrutiny Members at the local authority (or authorities) to “consider developing a short, flexible and meaningful protocol which lays down the mutual expectations of scrutiny members and partners of the community safety scrutiny process.”

Frequency of scrutiny meetings – this is left to local discretion, subject to the minimum requirement of once a year. The guidance makes clear the expectation on the CDRP of responding to requests from scrutiny committees for information or attendance at meetings. Similarly, there is a requirement for the CDRP partners to respond to recommendations from the scrutiny committee. To balance this, it is expected that the scrutiny committee will be reasonable in the demands it makes.

Conclusions

Although implementing the guidance will not necessarily make much difference to the scrutiny arrangements of the Carlisle and Eden CDRP, it is suggested that it provides an opportunity to review the scrutiny arrangements of the CDRP. Given the emphasis on joint working in the guidance and the pressure to set up a joint CDRP committee with Eden, it may be most appropriate to have a joint workshop alongside scrutiny Members from Eden with CDRP officers and representatives from the Police Authority. This workshop could consider the guidance and attempt to start mapping out the future approach to CDRP scrutiny.

Recommendations

The Committee is asked to

- note the arrangements and guidance that are in place to assist a Councillor in submitting a Councillor Call for Action (CCfA);
- note the process for the Scrutiny Team and the O&S Committees to deal with any CCfAs that are received;
- ask Council to ask the Director of Legal and Democratic Services to make the necessary changes to the constitution to reflect the introduction of the Councillor Call for Action provisions and the implementation of sections 19 and 20 of the Police and Justice Act 2006
- consider whether to issue an invitation to the Chair and Members of the Eden Housing and Communities Scrutiny Panel to hold a joint workshop with CDRP representatives and representatives of the Police Authority to discuss the Home Office guidance and consider future arrangements for scrutiny of the CDRP

Appendix 1: Legal Comments from the Director of Legal and Democratic Services

1. Background to the legislative changes in the scrutiny process

1.1 Legislation has recently been brought into force which introduces new responsibilities for overview and scrutiny committees and extends their role in enabling the public to bring into the public arena issues of local concern. The legislation also builds on and strengthens the representative role of the Ward Councillor by making them the channel through which the public can raise such local issues with the Council through the scrutiny process.

1.2 The two pieces of legislation concerned are changes implemented by the Local Government and Public Involvement in Health Act 2007, which introduces the Councillors "Call for Action", and the Police and Justice Act 2006 (as amended) which introduces the need for local authorities to have a designated crime and disorder committee to deal with what are defined as local crime and disorder matters. Each is explained briefly below and should be seen as complementary given the close similarities between both processes.

2. Councillor "Call for Action"

2.1 Current legislative arrangements, as reflected in the City Council's Constitution, allow any Member of an overview and scrutiny committee to request that an item which is relevant to the functions of the committee to be placed on the agenda of that Committee for consideration. The amendments now enacted in Section 21(A) of the Local Government and Public Involvement in Health Act 2007 require that authorities have to go further and include provision in their overview and scrutiny arrangements enabling those of its members who are not members of the authority's overview and scrutiny committees to refer to those committees what the legislation calls any "local government matter" for consideration by the relevant committee.

2.2 A "local government matter" is defined in section 21A(10) of the 2007 Act as a matter which relates to the discharge of any function of the authority, affects all or part of the area for which the member is elected or any person who lives or works in that area, and is not an "excluded matter". Those matters which are specifically excluded from the "Call for Action" process are :

- Any local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (see paragraph 3 below);
- any matter relating to a licensing decision or a planning decision;
- a matter relating to an individual or entity where there is already a statutory right to a review or appeal or

- a matter which is vexatious, discriminatory or not reasonable to be included on the agenda or discussed at the overview and scrutiny committee meeting.

There is also a specific proviso which stipulates that any matter which consists of an allegation of systematic failure by an authority to discharge a function for which the authority is responsible may be referred to an overview and scrutiny committee, notwithstanding that the allegation specifies matters which would otherwise be excluded.

2.3 In considering whether to use their powers to exercise their “Call for Action” rights and request that a local government matter is placed on a committee agenda, Councillors must have regard to any guidance issued by the Secretary of State.

2.4 When an overview and scrutiny committee receives a “Call for Action”, it has essentially the same powers open to it as with any other matter coming before the committee to review or scrutinise any decisions at issue or to make reports or recommendations to the Executive or the Council. In considering whether or not to exercise its powers, the committee may have regard to both whether the Councillor making the “Call for Action” has first exercised any powers he/she may have to resolve the matter, and also to any representations made by the Councillor themselves as to why the committee should take action on the reference.

2.5 It will be necessary to make some relatively minor changes to the overview and scrutiny procedure rules set out in the Council’s Constitution to make sure that the requirements set out in the legislation are fully incorporated and the recommendations seek Council approval for the Director of Legal and Democratic Services to make such amendments.

3. Crime and Disorder Committees

3.1 Section 19 of the Police and Justice Act 2006 (as amended) imposes a duty on local authorities to set up a “crime and disorder committee”. This committee must be an overview and scrutiny committee for authorities, like Carlisle, which currently operate executive arrangements. Authorities must also ensure that their crime and disorder committees have power to make reports or recommendations to the authority in respect of what is termed “a local crime and disorder matter” and that any member of the authority who is not also a member of the crime and disorder committee has power to refer any local crime and disorder matter to the committee for consideration by ensuring that it is placed on the agenda and discussed at the committee. This is similar to the “Councillors Call for Action” process mentioned in paragraph 2 above in respect of a “local government matter”. The guidance issued by the Secretary of State envisages that the crime and disorder committee will concentrate its efforts on scrutinising the performance of the CDRP, rather than the individual partners in that body. The scrutiny focus is intended to be on policy in the expectation that this will give the partners the reassurance that the crime and disorder scrutiny committee is there to ensure that the community safety partnership is accountable and its performance is improved, rather than just “having a go” at the partners. The role of the committee is intended to be that of a “critical friend” of the

community safety partnership, providing it with constructive challenge at a strategic level rather than adversarial fault-finding at an operational level.

3.2 A “local crime and disorder matter” to which the provisions relate is defined in the 2006 Act. It means a matter concerning :

- Crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour affecting the local environment), or
- The misuse of drugs, alcohol and other substances

and which affects all or part of the electoral area for which the member is elected or any person who lives or works in that area.

3.3 Where a member refers a local crime and disorder matter to the committee, the committee has power to deal with it by way of reviewing or scrutinising decisions taken by what are termed “responsible authorities” and by making recommendations or reports to the Council or the Executive as the case may be. “Responsible authorities” are those bodies responsible for crime and disorder strategies as defined in the Crime and Disorder Act 1998 and include the County, the District, the Chief Police Officer, the Police Authority, Fire and Rescue Authority and the Primary Care Trust.

3.4 If the crime and disorder committee decides to make any report or recommendations on the matter then, in addition to its own authority, it must also send copies to the Councillor who referred it to the committee and to such of the “responsible authorities” and other “co-operating bodies persons and bodies” as defined in the Crime and Disorder Act 1998 as it considers appropriate. The legislation then provides that those authorities and bodies to which the crime and disorder committee has forwarded its recommendations and report must consider them and respond to the committee indicating what (if any) action they propose to take within 28 days or as soon as reasonably possible. They also have an ongoing responsibility to have regard to the report and recommendations in exercising their own functions.

3.5 Supplemental regulations (the Crime and Disorder (Overview and Scrutiny) Regulations 2009) have been produced to regulate how the crime and disorder committee processes are intended to work and further guidance from the Secretary of State has been produced. The regulations provide for the crime and disorder committee to meet no less than once every twelve months (and more frequently if it wishes) to review or scrutinise decisions made or action taken by other defined responsible authorities in connection with the discharge of their crime and disorder functions. There are also provisions in the regulations requiring the defined responsible authorities and co-operating persons to provide information to the crime and disorder committee when requested to do so, subject to certain safeguards in respect of personal information or information which could prejudice legal proceedings or current or future operations by the responsible authorities. The crime and disorder committee also has power to require the attendance of officers or

employees of the responsible authorities and co-operating bodies in order to answer questions.

3.6 Consistent with recently produced guidance from the Secretary of State, it is proposed that the Council's Community Overview and Scrutiny Committee assumes, as part of its expanded terms of reference, responsibility for the powers and functions of a crime and disorder committee, rather than set up a separate committee solely for this purpose. This is also consistent with the Community Overview and Scrutiny Committee's current powers, which include responsibility for the crime and disorder strategy and for reducing crime and the fear of crime. In order to be able to do this, the recommendations seek approval from the Council for the Director of Legal and Democratic Services to make whatever changes might be necessary to the Council's Constitution to enable the Community Overview and Scrutiny Committee to assume responsibility for the new crime and disorder functions.

John Egan
Director of Legal and Democratic Services

May 2009

Appendix 2: Guidance for Cumbrian Councillors on Councillor Call for Action

Cumbria Joint Scrutiny and Overview Group

Councillor Call for Action Guidance for Councillors in Cumbria



Introduction

With the implementation of new legislation, a Councillor may now formally request a relevant scrutiny committee to consider an issue – formally known as a 'Local Government matter' – in their ward for further investigation through a 'Councillor Call for Action'.

Many authorities already have in place mechanisms for Members to raise an issue with scrutiny within their own authority.

However, the legislation now extends the rights of Members to refer a local government matter not just to the Committees of their own Authority, but in the case of two-tier areas such as Cumbria, to the Committees of the relevant District/Borough or County scrutiny committee, irrespective of whether they are a Member of that authority.

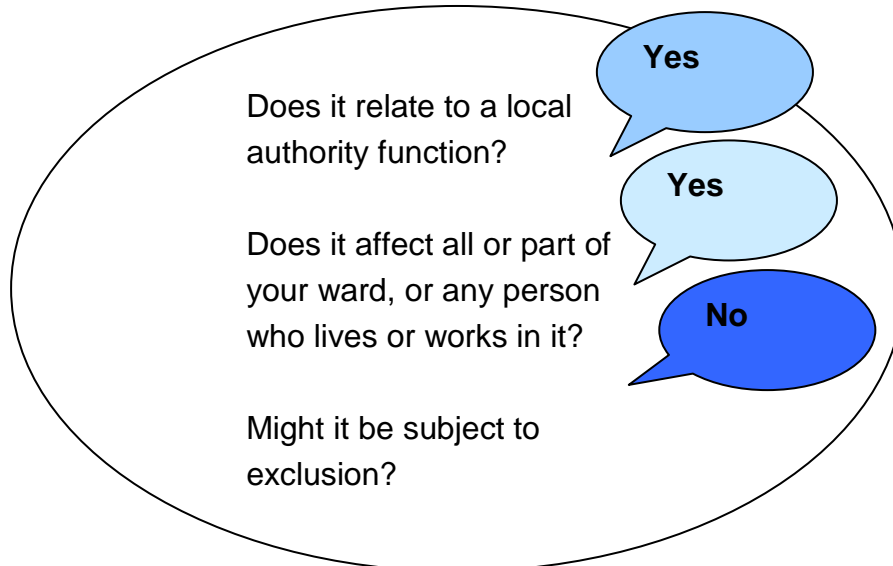
This guidance is to help Councillors decide whether they have a valid Call for Action, and provides details of how to lodge a Call for Action at any of the seven Local Authorities in Cumbria.

By monitoring the Calls for Action, our joint scrutiny committee hopes to identify common issues which it would aim to take forward as part of its scrutiny of the Local Area Agreement.

We hope by adopting a common approach to the Councillor Call for Action that we will minimise confusion for Councillors and provide a joined-up support mechanism for them, demonstrating the value of joint working.

What is a valid Councillor Call for Action?

In very simple terms, you must be able to answer yes, yes and no to the following questions to determine whether it is a 'local government matter' and a valid Councillor Call for action:



The powers that a local authority has for the 'well-being' of its area might mean in effect that there are quite broad interpretations of a local authority function as is demonstrated by the examples given later in this guidance.

There are exclusions in statutory guidance for the Councillor Call for Action. The exclusions include:

- Vexatious or persistent requests
- Requests which could be dealt with by formal complaints or appeals' processes (unless systematic failure can be demonstrated), such as Planning or Licensing decisions.

The definition commonly used for determining a vexatious request is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.

Before submitting a Councillor Call for Action, it would be expected that you will have tried to resolve the issue using existing channels open to you, such as discussions with staff and other Members; formal letters and motions at Council. The intention behind the legislation is that the Councillor Call for Action should be used as a last resort, where all other avenues have failed.

The attached form takes you through the steps you should ask yourself before making a request for a Councillor Call for Action, and you may find it helpful to discuss with the appropriate scrutiny officer the course of action you propose. Their details are also attached to this guidance.

The following examples may be helpful:

Example 1:

Councillor Green is a Member of a District Council. At her ward surgeries, and when out and about, she receives regular comments about fly tipping in the area. A number of individual complaints have been put to the authority, but there has been no discernable improvement. Councillor Green wonders whether she can refer this matter to the relevant overview and scrutiny committee, so asks herself the following questions:

- | | |
|-------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Does it relate to the discharge of any function of the Local Authority?. | Yes. Dealing with fly tipping is a local government function, and in Cumbria, is the responsibility of District/Borough Councils. |
| 2. Does it affect all or part of her ward, or anyone living or working in it? | Yes |
| 3. Have other avenues failed to resolve the issue? | Yes. There have been several complaints which have failed to resolve the issue, which could be considered as a systematic failure to resolve the issue. |

Example 2:

Councillor Brown is a Member of a County Council. He has been approached by a group of residents regarding the poor response of the local water company in responding to burst mains pipes, causing flooding in a local street. This issue has also received wide coverage in the local press. Councillor Brown is considering a Councillor Call for Action as a means to getting a promise of action from the water company. He asks himself the three qualifying questions.

- | | |
|-------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Does it relate to the discharge of any function of the Local Authority? | The provision and management of utility services such as water is not a function of local authorities. So initially the answer is no. However, there are other areas of local government responsibility which might be affected, for example the power to promote or improve the economic, social and environmental well-being of their area, introduced by the Local Government Act 2000. So a scrutiny committee may judge that this is a valid Call for Action, although they will not have any power to 'require' co-operation from the water company. |
| 2. does it affect all or part of his ward, or anyone living or working in it? | Yes |
| 3. Have other | Possibly. It may require further research to establish |

avenues failed to resolve the issue?

what residents have done so far to resolve the issue, and whether there are a number of areas suffering from similar levels of perceived poor service.

How do I submit my Call for Action?

Appended to this guidance, and on each of the seven local authorities' websites, you will find a form through which you can raise a call for action.

This should be submitted to scrutiny at the relevant authority and will be acknowledged within five working days. You can find all the contact details appended to this guidance.

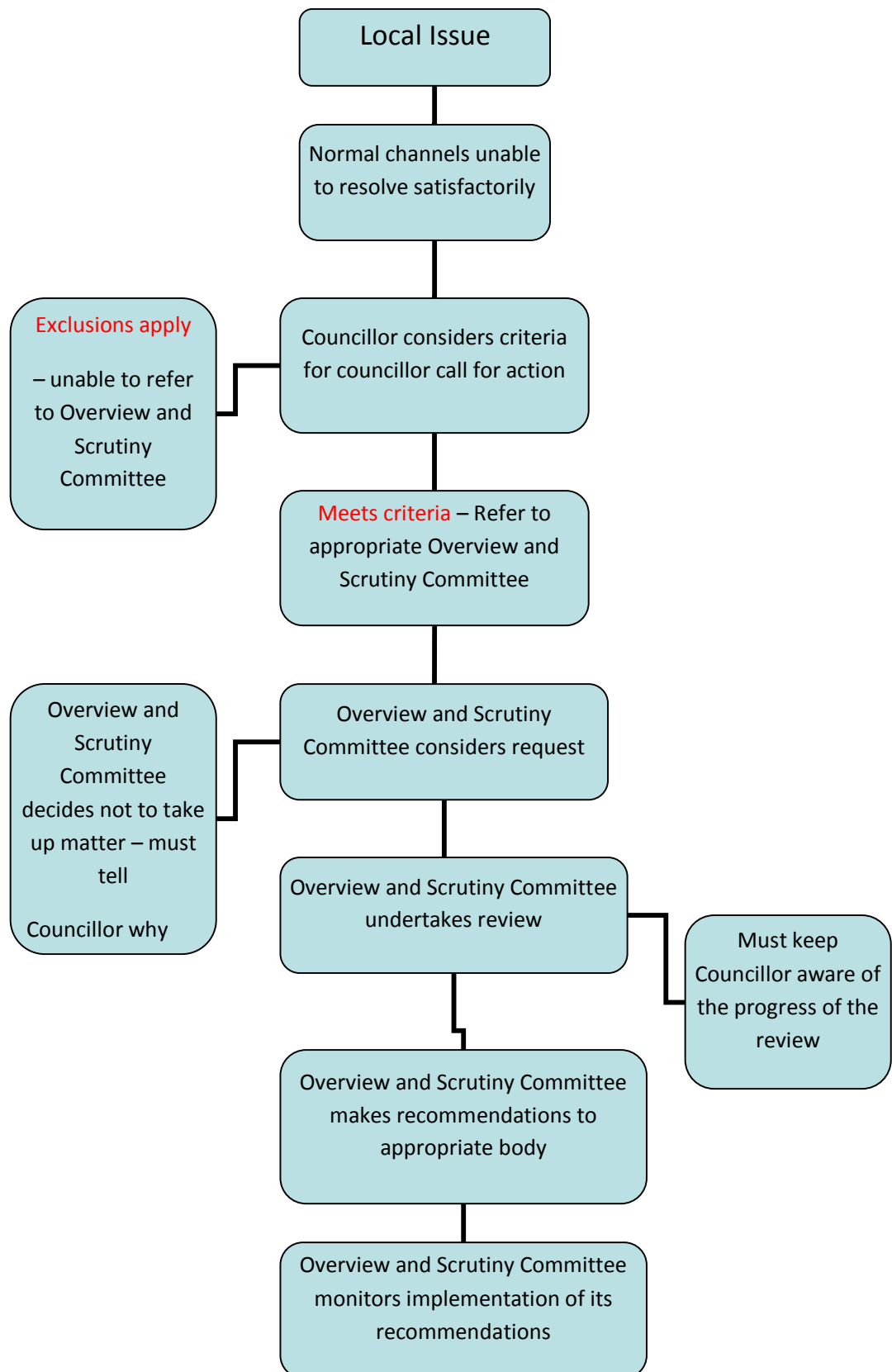
If it is agreed that it is a valid local government matter, you will then be informed of the date and time of the scrutiny committee which will consider your Call for Action, and whether the Committee wishes to hear any further representations.

What will happen to my Councillor Call for Action?

Overview and Scrutiny at the relevant authority will consider your Call for Action as it does any new item suggested for its work plan, and against the guidance. In deciding whether to review or scrutinise decisions or actions, it will consider whether the issue affects a large number of people or a significant number of people within a smaller specialist interest group. It will consider what you have already done to resolve the matter and what representations you make as to why your Councillor Call for Action should be taken up.

If Overview and Scrutiny decides not to take the 'matter' further, it must explain the reasons, and if it does take the matter up, it must make sure that you have a copy of any reports or recommendations that it makes.

There will be slight variations at each authority in the way in which the Councillor Call for Action is considered, but the following chart gives a broad overview of the process:



Appendix 3: Councillor Call for Action Request Form

This form should be used by any Councillor in Cumbria who would like a Scrutiny Committee to consider a Call for Action in their ward. Details of where the form should be submitted are to be found in the accompanying guidance and at the end of this form.

Your Contact details:

Name:

Address:

Telephone:

E-mail:

The Authority and Ward you represent:

Title of your Call for Action:

Date of Submission:

Have you approached any other Scrutiny Committee on the same issue in the past six months?: Yes ☐ No ☐

Would you like your response by e-mail ☐ letter ☐

(for advice tick this box and a member of staff will contact you) ☐

Received

by.....on.....

Please give a brief synopsis of your Call for Action:

What evidence do you have in support of your Call for Action:

Which areas or community groups are affected by your Call for Action?:

How have you already tried to resolve the issue?

Is the Call for Action currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints' process?

Are there any deadlines associated with the Call for Action of which the Scrutiny Committee needs to be aware?

What outcomes would you hope for in making this Councillor Call for Action?

Please send your completed form to:

scrutiny@carlisle.gov.uk

Scrutiny Unit
Civic Centre
Carlisle
CA3 8QG

scrutiny@cumbriacc.gov.uk

Member Services & Scrutiny
Cumbria County Council
The Courts
Carlisle
CA3 8NA

Appendix 4: Guidance for the Scrutiny Committees when considering if a Councillor Call for Action is valid

This guidance provides an overview of Councillor Call for Actions (CCfAs) to assist Scrutiny Committees in determining if a CCfA is valid. It gives the general principles of CCfA rather than a definitive answer as to whether a CCfA is valid. Consideration of CCfAs is a member led process and Scrutiny Committees will lead this process through discussions at their Committee meetings.

General principles

The purpose of CCfA is to help resolve local issues of concern and can be used by councillors where they feel they have exhausted all their powers as a ward member to resolve an issue. The councillor can call on the resources of overview and scrutiny to achieve the required outcomes for their local community. As part of making a CCfA, councillors are required to show how they have previously tried to resolve the issue.

Councillors initiating CCfAs need to be clear at the outset about what they hope to get out of the CCfA process. The Committee discussion should focus on those expected outcomes and councillors initiating CCfAs should expect to be challenged on those outcomes if the overview and scrutiny committee feel they are unreasonable.

CCfA issues will feed into the broader overview and scrutiny work programmes. The purpose of CCfA is to give councillors more of a voice, and as scrutiny is member-led, CCfA sits alongside existing methods of placing items of overview and scrutiny work programmes.

The fact that some scrutiny work relating to the CCfA issues may already be in place should not automatically exclude a CCfA from being considered by a scrutiny committee. CCfAs can help make the work programmes more relevant and responsive to community concerns and issues and give them a higher profile.

Overview and scrutiny may respond to CCfAs as one-off items on committee agendas, or may decide that more work is required, in the form of a more in-depth piece of task group scrutiny.

In addition all CCfAs logged will be considered by the overview and scrutiny committees when considering issues for potential inclusion in their work programmes.

Is the CCfA valid?

The CCfA must satisfy the following criteria to be considered valid and a 'local government matter':

- It relates to a local authority function
- It affects all or part of the councillor's ward, or any person who lives or works in it
- It is not subject to statutory exclusions (see below)

The powers that a local authority has for the 'well-being' of its area might mean in effect that there are quite broad interpretations of a local authority function.

Statutory exclusions

Regulations state that issues should be excluded from CCfA when they could be dealt with by formal complaints or appeals' processes (unless systematic failure can be demonstrated). These include:

- any planning matter;
- any licensing matter; and
- all other areas where a person has a route to resolve the problem through the established complaints process (for example council tax and non-domestic rates).

It is also not appropriate for some complaints made by individual residents about a service the Council provides to be brought to the attention of the Council through the CCfA process where procedures already exist for resolving such issues. For example if bins have been missed on a waste collection round, residents should call the Contact Centre who will arrange for the bin to be emptied.

However overview and scrutiny should act where it is felt that a series of complaints demonstrates a 'systematic failure' in a particular service area. So for example a large number of individual complaints about waste collection – even if speedily resolved to the satisfaction of the person making the complaint – may lead to

scrutiny acting to establish why so many complaints are being made in the first place.

Vexatious and discriminatory requests

In addition regulations state that:

‘Any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee is to be excluded.’

The Freedom of Information Act provides a definition of ‘vexatious’:

‘Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause’.

A request which some may consider vexatious for political reasons may be entirely reasonable. The fact that there may be political motivation behind a CCfA does not make it invalid.

It is important to keep in mind when considering whether a request is vexatious that it is the subject matter that is the deciding factor, and not the personality of the councillor or the way the request is made. CCfAs need to be looked at on their merits and not on the basis of who is raising them, or whether there may be an ulterior motive.

In addition a series of requests that may be considered vexatious could have some validity. Repeated requests may indicate a systematic failure or problem that has not been adequately resolved.

Section 45 of the Equality Act 2006 defines ‘discrimination’ in relation to religion and belief as:

‘A person (A) discriminates against another person (B)... if on grounds of the religion or belief of B or of any other person except A (whether or not it is also A’s religion or belief), A treats B less favourably than he treats or would treat others (in cases where there is no material difference in the relevant circumstances).’

This definition can also accommodate other forms of discrimination, such as discrimination for reasons of sex or race. Local authorities are required to comply with the Equality Act and other anti-discriminatory legislation, including the Race Relations Act, the Disability Discrimination Act and the statutory equalities duties that arise from them.

Further guidance

- Best Practice guidance on CCfA is available from the Centre for Public Scrutiny <http://www.cfps.org.uk/what-we-do/publications/cfps-general/?id=92>