

By: Alex King, Deputy Leader  
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To: Policy Overview Co-ordinating Committee – 16 October 2009

Subject: Councillor Call for Action

Classification: Unrestricted

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Summary: This report gives the context for the Councillor Call for Action and also includes a draft protocol for its operation.

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### **What is the Councillor Call for Action (CCfA)?**

1. (1) The 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. It inserts a new section 21A into the Local Government Act 2000. The CCfA provides Members with the opportunity to ask for a discussion at an Overview or Scrutiny Committee meeting on issues where local problems have arisen and where other methods of resolution have been exhausted without success.

(2) The successful operation of CCfA will rely on several broad principles being recognised and supported in local authorities. These principles are:

- transparency in decision-making, and the involvement of overview and scrutiny in the decision-making process
- a willingness to identify mistakes and shortcomings, and a recognition of the need to resolve problems through discussion
- an understanding (among both officers and Members) of the role that overview and scrutiny can play to help a council improve its services
- an understanding and a wish to bolster and support the role that local Members play as leaders of their communities

(3) CCfA goes beyond the existing power scrutiny Members have to raise issues. This new power gives all Members the ability to call for debate and discussion at an overview or scrutiny committee on a topic of neighbourhood concern. Previously, under s.21 of the Local Government Act 2000, only members of an overview or scrutiny committee had the right to ensure that any matter which was relevant to the functions of the committee was included on the agenda and discussed.

(4) Under the 2007 Act, overview and scrutiny committees have the power to request information from certain partner organisations and to invite representatives from partner organisations to attend where relevant. CCfA is therefore an opportunity to bring about solutions to local problems using the influence that scrutiny can provide in bringing together a range of partners and produce innovative thinking around an issue.

(5) If a CCfA is accepted, discussion would take place at the committee meeting on how best to achieve the outcomes that the Member championing the CCfA is seeking. The committee would, in appropriate cases, explore potential solutions and make recommendations that certain actions be taken. The focus of the CCfA should be on the outcome and resolution of the issue raised.

## Limitations

2. (1) CCfA is designed to sit alongside existing mechanisms already at Members' disposal to resolve local issues. The power to refer a matter will be available only where the matter is of direct concern to the area which the Member represents, and only where the Member can demonstrate that s/he has exhausted all other potential avenues for resolution but without success. CCfA is not guaranteed to solve a given problem. CCfA can provide a method for raising such problems in committee and, through discussion, trying to overcome them. A referral (provided it is not an excluded matter – see paragraph 3 below) will ensure that the matter is included on the agenda of the relevant Overview or Scrutiny Committee. It is then up to the members of the committee to decide whether or not to take the matter further. A referral made to the committee is seen as being the end of the CCfA process and not the first step.

## Issues excluded from referral as a CCfA

3. The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:

- any matter relating to a planning decision
- any matter relating to a licensing decision
- any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment
- 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 or scrutiny committee or at a meeting of a sub-committee of that committee

## Protocol

4. A detailed protocol has been drafted to guide Members who may be considering referring an issue for CCfA (attached as an **Appendix**). The Committee is requested to comment on the draft protocol and endorse it for submission to the Selection and Member Services Committee, prior to it being referred to the County Council for inclusion in the Constitution.

**5. Recommendation:** That, subject to the comments made by the Committee, the draft protocol for the CCfA be endorsed and that the Head of Democratic Services and Local Leadership be given delegated authority, in consultation with the Deputy Leader and the Chairman of the Selection and Members Services Committee, to agree the protocol and any consequential amendments to the Constitution, for submission to the County Council on 10 December 2010 approval.

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Background Information: *Nil*

**Kent County Council**

**Councillor Call for Action: Protocol**

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**1. Key Points**

- CCfA applies to all councils in England and Wales;
- The power to initiate a CCfA rests with the local Member;
- It will be up to individual Members to determine which issues to take forward as CCfAs;
- If a Member decides not to refer a matter, no further action is taken under a CCfA;
- The committee does not have to take up a Member's request but has to explain its reasons why;
- There will be no right of appeal for the member of the public via the council's committees;
- The CCfA may cover any matter relating to any function of the authority affecting the Member's electoral division or constituents;
- Any Member may request that the committee consider the inclusion of a CCfA in its work programme, under the terms of this CCfA Protocol. The operation of CCfA should be used only in exceptional circumstances where all other possible avenues for resolution of the issue have been followed by the referring Member, and yet a problem still exists.

## **2. Introduction**

The “Councillor Call for Action” was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007 and came into force on 1 April 2009.

The CCfA enables any Member of the Council to refer to the relevant Policy Overview Committee or Cabinet Scrutiny Committee any local government matter which affects their electoral area.

The power to refer a matter is available only where the matter is of direct concern to the area which the Member represents. A Member can refer a matter even if no constituent has asked them to consider it, and there is no requirement for Members in multi-member divisions to agree – any of them can refer a matter.

## **3. Issues excluded from referral as a CCfA**

The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:

- any matter relating to a planning decision;
- any matter relating to a licensing decision;
- any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
- any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting or the Overview or Scrutiny Committee or at a meeting of a sub-Committee of that Committee.

In addition to the above exclusions, if the matter relates to a crime and disorder issue it should first be referred to the district council.

## **4. Steps to be taken prior to making a CCfA**

Prior to referring a matter as a CCfA, Members should have tried to resolve the issue using all mechanisms and resources available to them. A flowchart has been designed at **Appendix A** to assist Members in deciding whether an issue is ready for referral to an Overview or Scrutiny Committee as a CCfA.

## **5. How to make a CCfA**

If the issue has not been resolved despite alternative mechanisms being explored, a Member can refer it to the relevant Overview or Scrutiny Committee as a CCfA. To do this the Member should complete and submit a CCfA request form (**Appendix B**). The Overview, Scrutiny and Localism Manager will check this to ensure that the issue is not an excluded matter (see paragraph 2 on excluded matters) and will then inform the Chairman of the relevant Committee that the item will be included on their next available agenda. The Member will be informed whether or not their request has been successful. It will then be up to the committee Members to decide whether or not to take the matter further.

In deciding whether or not to take the request further the committee should consider:

- What actions have been taken by the Member in relation to resolving the issue;

- Any representations made by the Member as to why the committee should take the matter up;
- Whether committee Members are satisfied that all reasonable attempts have been made by the elected Member to resolve the issue;
- Whether a similar issue has been considered recently and, if so, whether the circumstances have changed;
- Whether this is an issue which is currently being looked at by another form of scrutiny, e.g. a district Committee;
- Whether the matter referred has the potential to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring Member's area;

If the Committee decides not to accept the CCfA referral, it must inform the Member and provide reasons.

## **6. Options available to the Committee if it accepts the CCfA referral**

If the committee accepts the CCfA referral, it should then decide how to take the matter forward. The following should be considered by the committee:

- Potential solutions to the issue and how these could be achieved;
- Whether an Informal Member Group should be set up to undertake a more in depth review;
- Further evidence to be requested and relevant witnesses and representatives from partner organisations to invite to the committee meeting;
- Who will decide that the issue is resolved;

## **7. Potential outcomes from the committee meeting hearing the CCfA**

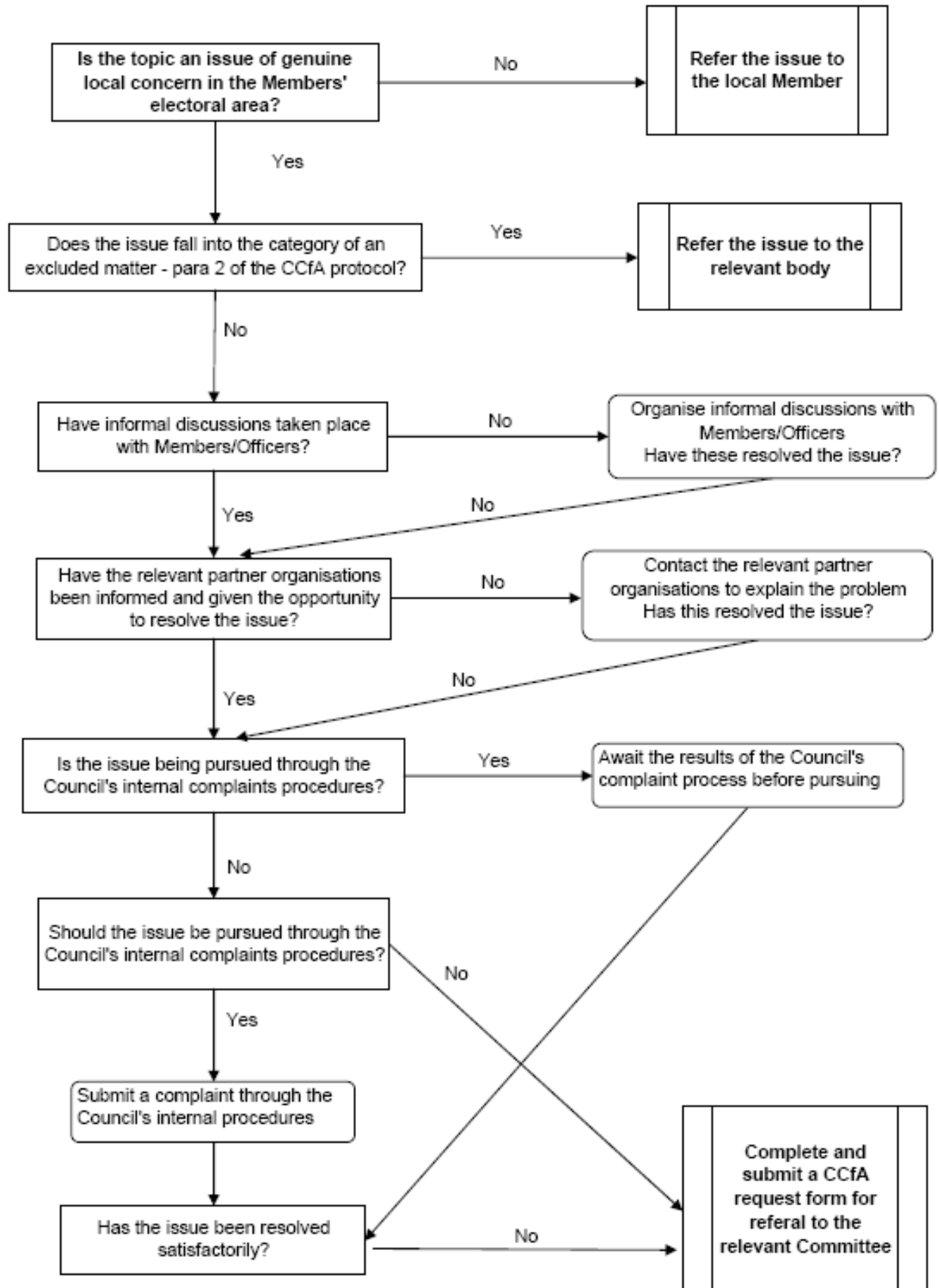
Following the committee meeting there are a number of potential outcomes:

- The committee could determine not to make a report, with the elected Member notified in writing;
- The committee could determine that it is a complex issue requiring further investigation and commission a Scrutiny review of the issue via the 'Policy Overview Co-Ordinating Committee';
- The committee could write a report and make recommendations on the CCfA to the Cabinet, full Council, or relevant committee.

Once the committee has completed its work on the CCfA request, the Member who made the request will receive a copy of any report or recommendations made.

# CCfA

## Appendix A



## Call for Action Request Form

This form should be used by any Member of Kent County Council who would like the relevant overview or scrutiny committee to consider a Councillor Call for Action in their area.

Your contact details:
Name (print):
Signature:
Date:

The title of your Councillor Call for Action:
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Have you exhausted the steps set out in Annex A to the CCfA protocol?  Yes <input type="checkbox"/> No <input type="checkbox"/>
Have you approached the relevant Scrutiny Committee on the same issue in the past six months?  Yes <input type="checkbox"/> No <input type="checkbox"/>

Please outline your main areas of concern:
What evidence do you have in support of your CCfA:
Which areas or groups are affected by the CCfA?
How have you tried to resolve the issue?

Is the CCfA currently the subject of legal action by any party (to your knowledge) or is it being examined by a formal complaints procedure?

Are there any deadlines associated with the CCfA of which the scrutiny committee needs to be aware?

**Please complete and return this form to:**

Overview, Scrutiny and Localism Manager  
Sessions House  
County Hall  
Maidstone  
ME14 1XQ

Or by email to [scrutiny@kent.gov.uk](mailto:scrutiny@kent.gov.uk)