

By: Mr P M Hill – Cabinet Member for Community Services
Mr P Sass – Head of Democratic Services and Local Leadership

To: Communities Policy Overview and Scrutiny Committee
11 November 2009

Subject: **CRIME AND DISORDER COMMITTEE**

Classification: Unrestricted

Summary: This report updates Members on the process of establishing a protocol for the operation of the County Council's crime and disorder committee functions.

Introduction

1. (1) Members will be aware that at the meeting of the County Council on 30 April 2009, the Communities Policy Overview Committee (POC) was designated as this Council's committee to discharge the functions of scrutiny of crime and disorder strategies in accordance with Section 19 of the Police and Justice Act 2006.

(2) Consequently, the POC has the power to:

- Review and scrutinise decisions made, or other action taken, in connection with the discharge by the authorities responsible for crime and disorder strategies of their crime and disorder functions and make recommendations.
- Consider a Councillor Call for Action relating to crime and disorder matters (the process for this is set out in the draft Councillor Call for Action protocol – copy attached as **Appendix 2** - which is due to be submitted to County Council on 10 December 2009 for approval).

(3) The responsible authorities for the purposes of these functions are:

- The Police Authority
- The Police Force
- The Fire and Rescue Authority
- Primary Care Trusts
- Local Authorities (District and County)

The Probation Service is currently a 'co-operating body', but is likely to be designated a responsible authority from April 2010.

2. (1) In order that there can be clarity for Members, partners and officers about the way that the POC will perform these functions, a draft protocol was produced which formed the basis of discussions held with all responsible authorities, as well as the Kent Probation Service. The draft protocol was amended to take account of the comments made by those authorities. There was general agreement by the authorities that the draft protocol set out a straightforward and pragmatic way of operating this committee's crime and disorder functions, which would ensure that it was effective and made efficient use of resources.

(2) Once the POC has commented and endorsed the protocol it will be submitted to County Council on 10 December 2009 (via Selection and Member Services Committee) for approval.

Draft protocol for the operation of this function

3. (1) The draft protocol (attached as **Appendix 1**) is based on the requirements of the Crime and Disorder (Overview and Scrutiny) Regulations 2009 and the Home Office Guidance for the Scrutiny of Crime and Disorder matters.

(2) The following provisions in the Regulations are reflected in the protocol:

(a) *Meetings*

(i) The Committee is required to meet at least once every twelve months. It is suggested that there be two programmed meetings a year. The responsible authorities are in agreement with this proposal.

Setting the agenda

(ii) A suggested way of developing the agenda for the Crime and Disorder Committee is that the County Strategy Group, on which all of the responsible authorities are represented and which in effect is the County's Crime and Disorder Reduction Partnership, should have an item on its agenda asking partners to suggest crime and disorder issues that they would like the POC to consider. The Chairman of the County Strategy Group would be invited to the cross party agenda meeting to put forward this suggestion; it would be for the Chairman, Vice Chairman and the Liberal Democratic Spokesman to agree the agenda for the meeting. Further discussion need to be carried out to take this forward and if agreed it will form part of the protocol that is submitted to County Council for approval.

(b) *Co-option*

(i) The Regulations allow for representatives of responsible authorities to be co-opted onto the POC. There is an expectation in the Guidance that the Police Authority *will* be represented on the committee, as an acknowledgment of their scrutiny role.

(ii) It is intended that the Council will ensure that the membership of the POC will include at least one County Councillor who is a member of the Police Authority. Currently, Mr Wickham and Mr Chittenden are both Members of the Police Authority and the POC. There are also County Council representatives of the Fire and Rescue Authority on the POC (currently Mr Chell, Mr Craske, Mr Hirst and Mr Wells). Responsible authorities are happy with this arrangement. The importance of ensuring that there is clarity around their joint role is acknowledged.

(iii) The POC will also reserve the right to co-opt a representative from a responsible authority when a specific matter is discussed.

(c) *Requirement to attend meetings*

(i) There is a requirement for representatives of a responsible authority to attend a meeting of the POC, if requested to do so, in order to answer questions.

(ii) Responsible authorities are in agreement that at least 28 days would constitute reasonable notice for attendance, whilst acknowledging that this may need to be a shorter period in exceptional circumstances (this ties in with the 28

days specified in the Regulations for responding to recommendation (e)(i) below).

(d) *Requesting Information*

(i) The POC may make a written request for written information, which must be provided by the responsible authority subject to the information being depersonalised and not prejudicial to legal proceedings or operational matters.

(ii) Again responsible authorities are in agreement that at least 28 days would constitute reasonable notice for requesting written information, whilst acknowledging that this may need to be a shorter period in exceptional circumstances (this ties in with the 28 days specified in the Regulations for responding to recommendations (e)(i) below).

(e) *Reports and recommendations*

(i) When the POC makes recommendation or produces a report to a responsible authority, that authority is required to respond in writing to the POC within 28 days. If there are reasons why this is not possible then the responsible authority should inform the POC within the 28 day period and seek an extension of time.

(ii) It was suggested to the responsible authorities that an informal meeting should be held with the relevant responsible authorities prior to the recommendations/report being agreed by the POC and submitted to the responsible authorities for response. This is similar to the practice KCC uses for finalising Select Committee reports, where the Directorate, Cabinet Members and partners are given the opportunity to comment on the draft report prior to it being finalised by the Select Committee. This allows an opportunity to deal with any factual errors and amendments to be made at this stage before the recommendations are published. It would also make a time scale of a response within 28 days more practical for responsible authorities.

(iii) This suggestion was put to the responsible authorities who all agreed that it was a constructive way to work.

Recommendations

4. That, subject to any comments made by the Committee, the protocol be endorsed and submitted to County Council, via Selection and Members Services Committee, for approval.

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Background Information: *Nil*

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Protocol for the operation of the Kent Council Council's (KCC's) Crime and Disorder committee functions

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1. Introduction

- (1) Section 19 of the Police and Justice Act 2006 (which came into force on 30 April 2009) requires all local authorities to identify a Crime and Disorder Committee.
- (2) At the meeting of the County Council on 30 April 2009 KCC identified the Communities POC as its Crime and Disorder Committee.

2. Scope of the Committee

- (1) The Crime and Disorder Committee has the power to:
 - Review and scrutinise decisions made, or other action taken, in connection with the discharge by the authorities responsible for crime and disorder strategies of their crime and disorder functions and make recommendations.
 - Consider a Councillor Call for Action relating to crime and disorder matters (the process for this is set out in the draft Councillor Call for Action protocol – *copy attached for information – due to be approved at County Council on 10 December 2009*).
- (2) The role of the Committee is as a “critical friend” of the community safety partnership, providing it with constructive challenge at a strategic level. Its role is not fault finding at an operational level.
- (3) The Committee's remit is to review and scrutinise the decisions and actions of the partnership as a whole and not individual organisations within it.

Note: the authorities responsible for Crime and Disorder strategies are: Kent Police Authority, Kent Police, Kent & Medway Fire and Rescue Authority, Primary Care Trusts and District/County Councils (plus Kent Probation Service from April 2010)

3. Frequency of meetings/agenda setting

(1) Meetings of the Communities POC (meeting as the Crime and Disorder Committee) will be programmed to be held at least twice a year.

(2) This will be updated following further discussions (see paragraph 3(2)(a)(ii) of the main report).

4. Co-option of additional Members

(1) The Kent Police Authority and Kent & Medway Fire and Rescue Authority shall be represented on the Committee by members of the Committee who are also members of the Kent Police Authority/Kent & Medway Fire and Rescue Authority.

(2) The Committee has the right to co-opt representatives from responsible authorities onto the Committee when a specific matter is being considered.

5. Requirement to attend meetings

(1) The Committee may require an officer of a responsible authority or of a co-operating body to attend before it in order to answer questions.

(2) A minimum of 28 days notice will be given of the requirement to attend, except in the case of urgent items when the notice period may be shorter.

6. Requirement to provide information to the Committee

(1) Information requested by the Committee from responsible authorities which is relevant to the exercise of the Committee's functions must be provided

(2) The Committee will give at least 28 days notice of information that it requires, except in the case of urgent items when the notice period may be shorter but this will be the exception.

7. Meeting protocol

(1) Committee members should not request detailed information from representatives of a community safety partner or another local authority at meetings of the Committee, unless they have given prior notice through the Democratic Services Officer. If, in the course of a question-and-answer session at a Committee meeting, it becomes apparent that further information would be useful, the representative being questioned may be required to submit it in writing to members of the Committee.

(2) In the course of questioning at meetings, representatives of a community safety partner or another local authority may decline to give information or respond to questions on the ground that it is more appropriate that the question be directed to a more senior officer or Member.

(3) Representatives of a community safety partner or another local authority may decline to give information on the grounds that the answer might disclose information which may not be disclosed under the Local Government (Access to Information Act) 1985 or the Data Protection Act 1998 (in this event, the Committee may resolve to exclude the media and public in order that the question may be answered in private session).

(4) During the course of the meeting, the Committee, and its members, may not criticise or adversely comment by name any individual officer of another local authority or of an community safety partner organisation.

8. Responses to Crime and Disorder Committee reports

(1) If the Committee intends to make a recommendation or a report to a responsible authority it will do so in draft form and give the relevant responsible authority the opportunity to comment on the factual accuracy of it before it makes a formal recommendation or produces a report.

(2) Once a formal recommendation or report is made to a responsible authority, the authority is required to respond in writing to the Committee within 28 days. If there are extenuating circumstances which make this timescale unreasonable, the Committee should be made aware of them in writing as soon as possible and before the end of the 28 day period.

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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;
- If the committee does not take up a Member's request it 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 considers 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 and Scrutiny 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 for its refusal.

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

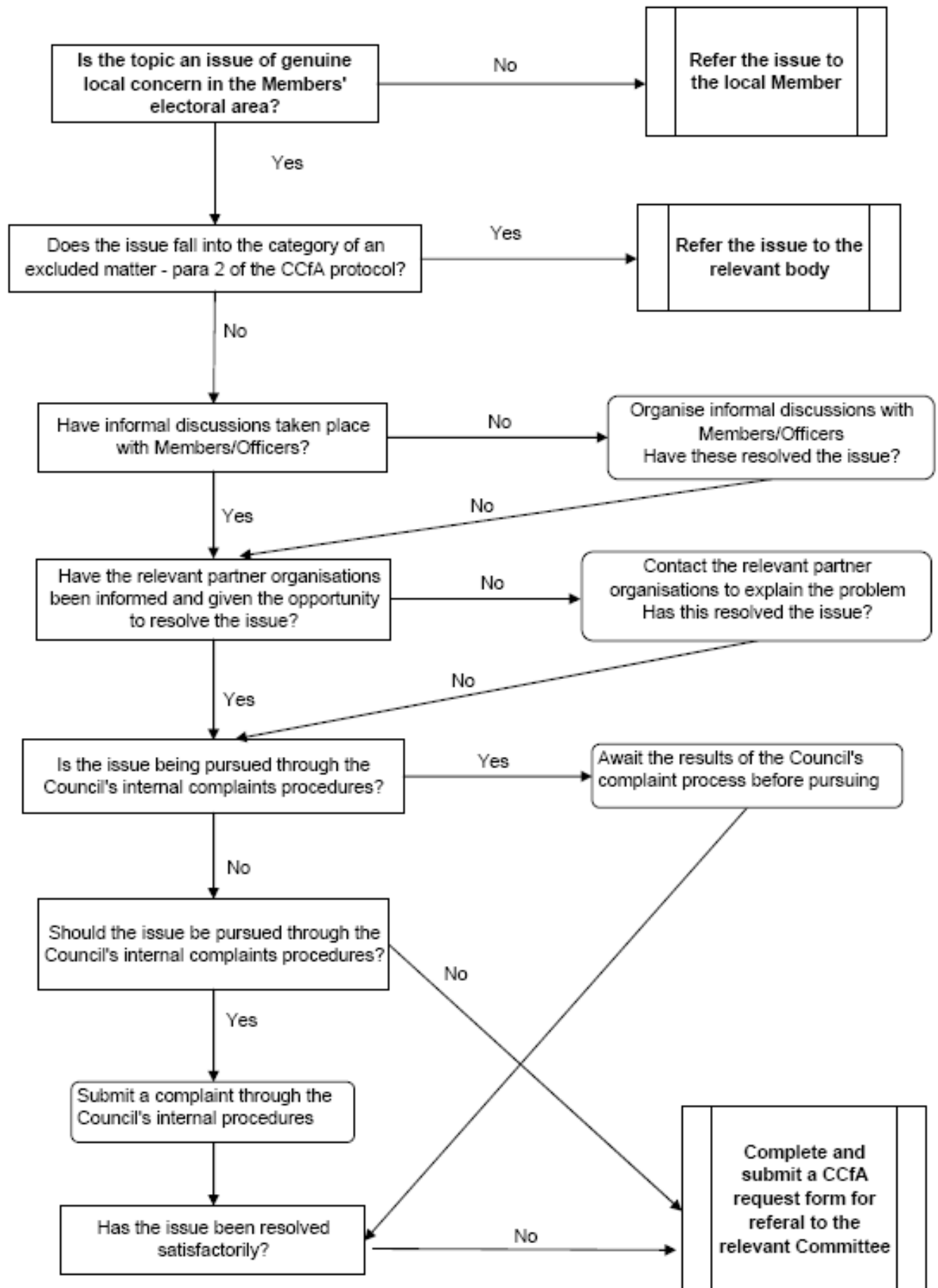
Following the committee meeting there are a number of potential outcomes:

- 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 Scrutiny Board.
- 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:

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