



Haringey Council

Overview and Scrutiny Committee

15 March 2010

Report Title: **COUNCILLOR CALL for ACTION (CCfA)**

Report authorised by:

Cllr Gideon Bull, Chair of the Overview and Scrutiny Committee

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Wards(s) affected: **ALL**

Report for: **Non Key**

1. Purpose of the report

- 1.1 This report provides background information on the origins of the Councillor Call for Action (CCfA) power and also considers the proposed CcfA protocol for Haringey as well as any specific implications for Haringey.
- 1.2 The Councillor Call for Action power was enacted on 1st April 2009. Therefore Councillors are already able to use this power to refer a matter to the Overview and Scrutiny Committee. The purpose of this report is to consider the Councillor Call for Action process in Haringey.

2. Introduction by Cabinet Member (if necessary) N/A

3. State link(s) with Council Plan Priorities and actions and /or other Strategies: N/A

4. Recommendations

- 4.1 That the Overview and Scrutiny Committee note the report and amends/agrees the proposed Haringey CCfA protocol at Appendix A.
- 4.2 That subject to approval of the Constitution Review Working Group, reference to CCfA be added to the Overview and Scrutiny Committee Terms of Reference and a reference to the CCfA protocol be added to the Overview and Scrutiny Procedure Rules in the Council's Constitution, as appropriate.

5. Reason for recommendation(s)

5.1 The Government has legislated that CCfA is established as a formal means whereby local councillors can refer local government issues of significant community concern to Overview and Scrutiny Committee for consideration.

6. Other options considered N/A

7. Summary

7.1 The Councillor Call for Action (CCfA) Protocol is designed as a formal means whereby Councillors can refer to the Overview & Scrutiny Committee any local government matter in their ward which is of significant community concern. Referral to the Overview and Scrutiny Committee is a measure of **last resort** once other approaches have been exhausted.

8. Chief Financial Officer Comments

8.1 The CFO has been consulted on the preparation of this report and confirms that there are no direct financial implications as a result of the recommendations in this report.

9. Head of Legal Services Comments

9.1 The Council is under a statutory legal duty to make provision for the Councillor Call for Action procedure to be available for use by any Councillor not serving on the Cabinet. There is some local discretion about the details of the procedure but the main features are statutory.

10. Equalities & Community Cohesion Comments

10.1 None directly.

11. Consultation

11.1 A briefing on the draft protocol and proposed changes to the Councils Constitution has been given to all parties represented on the Council. There have been no requests for changes to the draft protocol or the proposed Constitutional changes. There being no substantive changes to report, it is not proposed to re-brief the Haringey Strategic Partnership Board or CEMB, both of which have already noted the original proposals. It is proposed to send the protocol to the CRWG and to them report to Full Council.

12. Use of appendices /Tables and photographs N/A

13. Local Government (Access to Information) Act 1985

The background papers relating to this report are:

- a) Section 119 of the Local Government and Public Involvement in Health Act 2007.
- b) Section 6 of the Crime and Disorder Police and Justice Act 2006.
- c) CCfA Joint best practice guidance, issued by the Centre for Public Scrutiny and the Improvement and Development Agency.

Copies are available on request, from Natalie Cole, Local Democracy and Member Services (non Cabinet Committees), on telephone 020 8489 2919.

REPORT

14.1 Background

The Government believes that the work of resolving community concerns is an important element of a local Councillor's role. It believes that Councillors can frequently resolve issues informally or using powers delegated to them but that the ability to give an issue wider consideration by referring it to an overview committee (a "Councillor Call for Action") is a useful additional tool. Such committees are well placed to obtain all the information that may be required to identify any shortcomings and to make recommendations.

The intention of the Government is to ensure that Overview and Scrutiny Committees are required to consider "Councillor Calls for Action" where they can add value rather than merely duplicating existing mechanisms for consideration of issues.

14.2 Legislation

Under Section 119 of the Local Government and Public Involvement in Health Act 2007 any Member can refer to the Overview and Scrutiny Committee any local government matter which is relevant to the function of that committee. A "local government matter" is defined as one which:

- Relates to the discharge of any functions of the authority
- Affects all or part of the electoral area for which the Member is elected or any person who lives or works in the area
- Is a local crime and disorder matter which falls within Section 19 of the Police and Justice Act 2006.
- Has not been excluded by an Order made by the Secretary of State.

This process is known as the Councillor Call for Action and came into force on force on 1st April 2009. A proposed Haringey CCfA Protocol is attached for consideration at Appendix A.

14.3 Councillor Call for Action

It is important to recognise that a CCfA is not guaranteed to solve a given problem. It is recognition that the issue is significant enough for time, attention and resources to be spent in trying to resolve it.

The following criteria distinguish a CCfA:

- The focus of the CCfA must be on neighbourhood or locality issues and specifically the quality of public service provision at a local level.
- The CCfA must represent a genuine local community concern (based on local Councillors judgements).
- The problem must be persistent and one the local councillor has been unable to resolve through local action and discussions with the Cabinet Member (s) or relevant services and agencies.
- A CCfA can be any matter that relates to the work of the local authority or a well-being issue.

A CCfA must:

- ✓ Be on a single issue of social economic and or environmental importance to people living, working or studying within the borough.
- ✓ Have an impact on the whole of the borough, parts of the borough and/or cross borough.
- ✓ Have been discussed with the council before (see Process).

The Secretary of State has made an Order excluding the following from the Councillor call for Action;

- ✓ Any matter relating to a planning or licensing decision
- ✓ Any matter relating to an individual or entity in respect there is already a statutory right of appeal other than the right to complain to the Local Government Ombudsman
- ✓ Any matter which is vexatious, discriminatory or not reasonable for inclusion in the agenda for, or for discussion at, a meeting of an Overview and Scrutiny Committee.

However any of the above matters can be considered if it consists of an allegation that a local authority function “has not been discharged at all or that its discharge had failed or is failing on a systematic basis”. For example, a number of complaints on an issue in a given area can indicate a locality issue and therefore be appropriate for a CCfA.

14.4 Championing a CCfA

It is a matter of judgement which issues a ward Councillor agrees to champion. Being a CCfA champion Councillor will mean taking the issue up on behalf of those concerned and trying to resolve the problem by liaising with council services, the Cabinet and/or outside agencies.

The purpose of CCfA is to provide resolution where other techniques might not be able to. Therefore, the first step is to ascertain whether all other means have been tried.

The Councillor bringing the CCfA must be clear from the outset as to what they expect to get out of the process and must give detail as to what they feel would be a satisfactory conclusion to the process.

14.5 Financial Implications

It is not envisaged that there will be any financial implications associated with the Councillor Call for Action process in Haringey.

Any Councillor Call for Action requests will be considered by the Overview and Scrutiny Committee at their next available meeting and any requests that are subsequently referred to an Overview and Scrutiny time limited review panel will be considered within existing resources.

14.6 Legal Implications

The protocol proposed to regulate the procedure for Councillor Call for Action (Appendix A) should be the subject of a reference in the Council's Constitution at Part 4 Section G (Overview & Scrutiny Procedure Rules). Members may consider that the Protocol itself should be incorporated within the Constitution but, on the other hand, it would be easier for the Overview & Scrutiny Committee to amend the Protocol in the light of experience if it were kept out of the Constitution for the time being.

Any additions to the Council's Constitution will be reported to the Constitution Review Working Group and recommended to Full Council for formal adoption.

APPENDIX A

COUNCILLOR CALL FOR ACTION PROTOCOL

Introduction

1. The Councillor Call for Action (CCfA) Protocol is designed as a formal means whereby Councillors can refer to the Overview & Scrutiny Committee any local government matter in their ward which is of significant community concern. Referral to the Overview and Scrutiny Committee is a measure of last resort once other approaches have been exhausted.
2. A local government matter is defined in legislation¹ 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 (as defined in Regulations²) relating to:
 - (i) the formulation or implementation of the council's crime and disorder strategy³;
 - (ii) a planning decision;
 - (ii) a licensing decision;
 - (iii) 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:
 - (iv) 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 a Scrutiny Panel Sub-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:

¹ Section 119 of the Local Government and Public Involvement in Health Act 2007.

² Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008

³ A crime or disorder matter within the meaning of section 6 of the Crime and Disorder Act 1998

- (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.
- (e) Raising matters where other means of resolution have not been tried.

Referral Procedure

4. In Haringey matters referred as a CCfA will be referred to the Overview and 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 Cabinet Member, 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 mechanism such as members enquiry, area assembly etc.
5. If the matter is still not resolved the Councillor can refer it to the Overview and Scrutiny Committee as a 'Councillor Call for Action'. To avoid delays in the referral process, all referrals will be made on the CCfA request form in Appendix 1. 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 Overview and Scrutiny Committee at the outset.
6. The referral form will be received by the Head of Member Services who will log it to track its progress and assess whether the matter is covered by this Protocol. The Monitoring Officer shall be responsible for determining whether a matter is required to be referred to the Overview and Scrutiny Committee under this protocol.
7. Referrals approved by the Monitoring Officer will then be included on the next available agenda of the relevant Overview and Scrutiny Committee. It will up to the members of the committee to decide whether or not to take the matter further.

Considering the CCfA

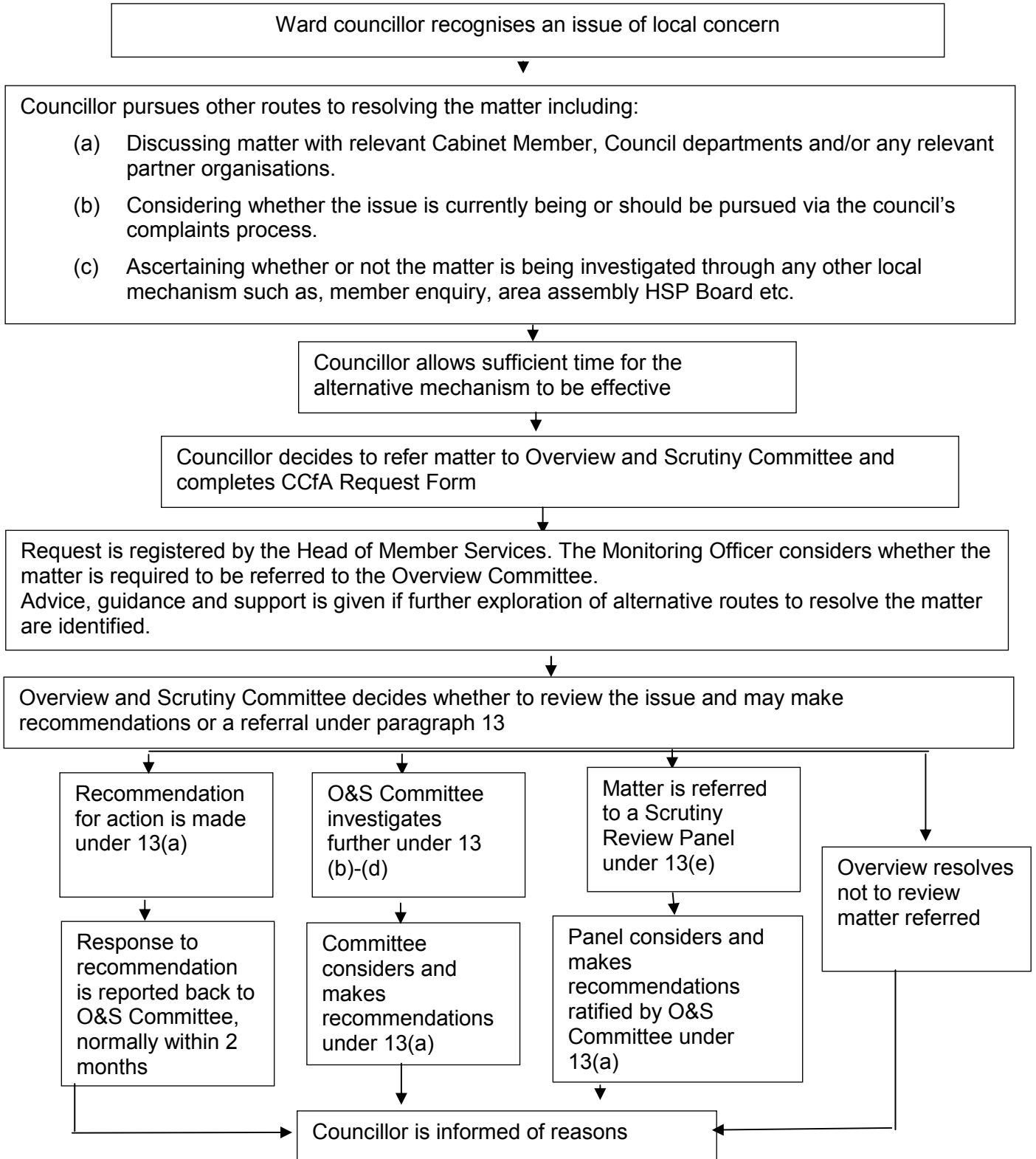
8. The referring Councillor and other Councillors representing the same ward will be invited to attend a meeting at which the CCfA is discussed, in order to make representations and answer questions. The relevant Cabinet member and senior officer and partner representative will also be invited if appropriate.
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 Councillor 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 mechanism or HSP Board?
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 immediate recommendations to:
 - (i) the Executive or other relevant council body;
 - (ii) the Corporate Director of the relevant Council department; 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
 - (e) Refer the matter to a Scrutiny Review Panel to undertake a more in depth review.

Overview and Scrutiny Committee may make recommendations as provided for in 13 (a) following consideration by them under 13 ((b) – (e)

14. If the matter is referred under 13 (a) (i) or (ii) the relevant body or person shall report back to the Overview and Scrutiny Committee, normally within 2 months, indicating any action that has been or is intended to be taken in respect of the recommendation.
15. Overview and Scrutiny Committee will request updates on the implementation of recommendations, where agreed, from the responsible agency.
16. 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.
17. The protocol will apply, with appropriate modifications to any request by a Councillor to refer any local crime and disorder matter to the committee under the CCfA procedure.

LONDON BOROUGH OF HARINGEY

FLOW CHART OF THE PROPOSED PROCEDURE FOR COUNCILLOR CALL FOR ACTION





Councillor Call for Action (CCfA) Referral Form

A CCfA should be of social economic and/or environmental importance to a particular area of Haringey. It cannot address an individual service complaint or concern a quasi judicial matter, such as a licensing or planning application.

To be completed by championing Councillor:

Cllr:	Signature:	Ward:
Date:	Contact details:	

Brief Description of issue being brought as a possible CCfA:

What would you consider to be a satisfactory conclusion to this process?

Ward/area affected:

Is the issue related to an individual matter or complaint? Yes No
If yes, please give details.

Are you aware of the any legal action or proceedings related to this issue?

Yes No

If yes, please give details.

Please specify what action has been taken so far to try and resolve the issue locally. In particular please describe what actions have been taken in respect of consulting the following, as well as any responses received:

- Officers of the Council, partners and other relevant public service providers
- Member Enquiry
- The local Area Assembly or other public meetings
- Neighbourhood Management Team
- Cabinet Member(s) and/or the Leader
- Formal letters/motions and petitions
- Communication with local Members of Parliament
- Local campaigns

For completion by Overview and Scrutiny Manager:

Referred to Head of Member Services (date):

Date of referral to Overview and Scrutiny Committee:

Referral accepted/not accepted:

Further action required:

