

## **4.5 PART 4.5 — OVERVIEW AND SCRUTINY PROCEDURE RULES**

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### **4.5 – 1 WHAT WILL BE THE NUMBER AND ARRANGEMENTS FOR OVERVIEW AND SCRUTINY COMMITTEES?**

**4.5 – 1.1** The Council will have one overview and scrutiny committee (presently known as the Improvement and Scrutiny Committee – ‘the Committee’) consisting of such number of Members as the Council considers appropriate from time to time but with no **fewer** than three Members of the Council.

**4.5 – 1.2** An overview and scrutiny committee may appoint Sub-Committees or Task and Finish Panels. Sub-Committees or Task and Finish Panels may be appointed for a fixed period, on the expiry of which they shall cease to exist.

**4.5 – 1.3** The terms of reference of the an overview and scrutiny committee are set out in [Article 6](#)

**4.5 – 1.4** No Sub-Committee may exercise any functions other than those given to it by that Committee.

## **4.5 – 2 WHO MAY SIT ON OVERVIEW AND SCRUTINY COMMITTEES?**

All Councillors except Members of the Cabinet may sit on an overview and scrutiny committee or its Sub-committees or Task and Finish Panels.

No Member may be involved in scrutinising a decision in which he/she has been directly involved.

## **4.5 – 3 CO-OPTEEES**

An overview and scrutiny committee or a Sub-Committee shall be entitled to recommend to Council the appointment of a number of people who are not members of the Authority as non-voting co-optees.

## **4.5 – 4 MEETINGS OF THE SCRUTINY COMMITTEE**

An overview and scrutiny committee shall meet in accordance with a timetable of meetings approved by the Council or the Committee itself.

Extraordinary meetings may be called from time to time as and when appropriate.

A meeting may be called by the Chairman of the relevant overview and scrutiny committee by requisition by one third of the Members of the Committee (rounded up) or by the Monitoring Officer if he/she considers it necessary or appropriate.

## **4.5 – 5 QUORUM**

The quorum for an overview and scrutiny committee shall be as set out for committees in the [Council Procedure Rules](#) in Part 4 of this Constitution.

## **4.5 – 6 APPOINTMENT OF CHAIRMAN**

The Chairman of the relevant overview and scrutiny committee/sub-committee will be drawn from among the Councillors sitting on the Committee/Sub-Committee, and subject to this requirement the Committee/Sub-Committee may appoint such a person as it considers appropriate as Chairman.

## **4.5 – 7 WORK PROGRAMME**

The Committee will be responsible for setting its own work programme and in doing so it may take into account the wishes of Members of the Committee.

The work programme shall include matters on which there are requests from the Council or Cabinet for advice.

#### **4.5 – 8 AGENDA ITEMS**

**4.5 – 8.1** Any Member of an overview and scrutiny committee or Sub-Committee shall be entitled to give notice to the Monitoring Officer that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request the Monitoring Officer will ensure that it is included on the next available agenda.

**4.5 – 8.2** Any Member of the Council who is not a Member of the relevant overview and scrutiny committee may give written notice to the Monitoring Officer that they wish an item to be included on the agenda of the Committee. If he/she receives such a notification, then he/she will include the item on the first available agenda of the Improvement and Scrutiny Committee for consideration by the Committee provided that the item is not an excluded matter or one which the Council has decided ought to be excluded as being unreasonable to refer to the Committee (see Appendix 1 to these Rules).

**4.5 – 8.3** The Committee shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, requests from the Cabinet to review particular areas of Authority activity. Where they do so, the Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Committee at their next available meeting and, in any event, no later than two months from receipt of the Committee's statutory notice requiring consideration and/or response.

#### **4.5 – 9 POLICY REVIEW AND DEVELOPMENT**

(a) The role overview and scrutiny committee(s) in relation to the development of the Council's budget and policy framework is set out in detail in the [Budget and Policy Framework Procedure Rules](#).

(b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Committee may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

(c) The Committee may hold enquiries and investigate the available options for future

direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

#### **4.5 – 10 REPORTS FROM THE IMPROVEMENT AND SCRUTINY COMMITTEE**

- (a) Once it has formed recommendations on proposals for development, the Committee will prepare a formal report and submit it to the Cabinet and/or Council for consideration.
- (b) If the Committee cannot agree on one single final report to the Council then a minority report may also be prepared and submitted for consideration.
- (c) The Council and/or Cabinet shall consider the report of the Committee as soon as possible along with any Minority Report.
- (d) The Chairman of the Committee and the Monitoring Officer shall preferably be informed in writing immediately it is decided to prepare a Minority Report. As an alternative to written notification, oral notification may be given at the meeting of the Committee when the matter is determined which will then be recorded in the Minutes. The written or oral notification shall include the name of the Lead Member responsible for preparing the report and liaising with the Chairman of the Committee and Monitoring Officer.
- (e) Minority Reports must relate to the item of business or 'call-in' under consideration and must not be about issues that fall outside the remit of the Committee.
- (f) Minority Reports shall follow such format as may be agreed from time to time by the Committee.
- (g) Majority and Minority Reports shall be considered simultaneously at the Cabinet or Full Council. The preparation and consideration of the Minority Report shall not affect the efficient conduct of the Council's business, particularly if an item of business is time restricted under the 'call-in procedure' or a delay could prejudice the Council financially or in some other way. If further time is required to research a subject and produce a Minority Report, this must be requested at the meeting of the Committee with the Lead Member demonstrating that the Cabinet Portfolio Holder has been consulted on the

reasons why additional time is required. Where a request for additional time is considered and denied, the reason(s) for any denial shall be given and set out in the minutes.

- (h) Minority Reports shall take account of the principles of decision making set out in [Article 13](#) of the Constitution and other statutory/procedural requirements. The Monitoring Officer, upon request, shall provide reasonable assistance to the Lead Member in drafting the report for approval by the Lead Member prior to its circulation to Members of the Council. This assistance shall include (a) making provision in the report for any constitutional implications arising from any recommendations and (b) providing advice to ensure that the report covers relevant issues and excludes irrelevant issues, pulling the report together for presentation to the Cabinet or Full Council but will not include undertaking research or other similar time consuming activities.
- (i) Minority Reports must include the name of the Lead Member and other Members supporting the Minority Report.
- (j) For the avoidance of doubt, where a quorate Committee notes or supports the Cabinet's or decision making body's original decision, then the decision shall be implemented without delay and the original decision shall stand, regardless of the fact that a Minority Report is prepared.

#### **4.5 – 11 RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

- (a) In addition to their rights as Councillors, Members of an overview and scrutiny committee have the additional right to documents, and to notice of meetings as set out in the [Access to Information Procedure Rules](#) in Part 4 of this Constitution.
- (b) Nothing in this Rule prevents more detailed liaison between the Cabinet and the Committee as appropriate depending on the particular matter under consideration.

#### **4.5 – 12 MEMBERS AND OFFICERS GIVING ACCOUNT**

- (a) The Improvement and Scrutiny Committee may scrutinise and review decisions made or actions taken in or proposed to be taken in connection with the discharge of any Council or Cabinet functions (i.e. executive functions). As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Cabinet, any Member of the Council exercising any function of a local councillor under section

236 of the Local Government and Public Involvement in Health Act 2007 and/or Committees or Chief Officers to attend before it to explain in relation to matters within their remit:

- (i) Any particular decision or series of decisions and/or
  - (ii) The extent to which the actions taken implement Council policy and it is the duty of those persons to attend if so required
- (b) Where any Member or Officer is required to attend the Committee under this provision, the Chairman of that Committee will inform the Monitoring Officer.

The Monitoring Officer shall inform the Member or Officer in writing giving at least three working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee.

Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Committee shall, in consultation with the Member or Officer, arrange an alternative date for attendance.

#### **4.5 – 13 ATTENDANCE BY OTHERS**

An overview and scrutiny committee may invite people other than those people referred to in Rule 4.5 – 12 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and those from the private sector and the voluntary and community sectors and may invite such people to attend.

#### **4.5 – 14 CALL-IN OF CABINET DECISIONS**

- 4.5 – 14.1** Call-in should only be used in exceptional circumstances and a decision maker can only be asked to reconsider a decision once. These are where Members of Committee have evidence which suggest that the Cabinet did not take the decision in accordance with the principles set out in [Article 13](#) (Decision Making).

Call in applies to reviewing or scrutinising any decisions made in connection with the discharge of any functions which are the responsibility of the Cabinet.

Any Member of the Council may call in a Cabinet decision of their own volition or in response to a request from residents and others, as set out in the Council's Local Guide to Scrutiny.

The procedure for dealing with call-ins from residents and others shall be as set out in the Local Guide to Scrutiny:

- (a) When an executive decision is made, the decision shall be published, including by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. All Members will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of two working days after the publication of the decision, unless the Committee objects to it and calls it in.
- (c) During that period, the Monitoring Officer shall call-in a decision for scrutiny by the Committee if so requested by the Chairman or any Member of the Committee or any Member of the Council, and shall then notify the decision-taker of the call-in. A meeting of the Committee shall be called on such date as he/she may determine, where possible after consultation with the Chairman of the Committee, and in any case within five days of the decision to call-in or such other period as the Chairman reasonably decides.
- (d) If, having considered the decision, the Committee is still concerned about it, then it may refer it back to the Cabinet or decision taking person for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council.

If it is referred to the Cabinet or decision taker, they shall then reconsider their decision, amending the decision or not, before adopting a final decision.

If the Committee notes or supports the Cabinet's original decision, then the decision can be implemented without delay and the Cabinet's decision stands.

- (e) If the matter is referred to Full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no right to intervene in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet, a meeting will be convened to reconsider the Council's request.

**4.5 – 14.2** The rules relating to the call-in of Cabinet decisions set out in 4.5 – 14.1 shall apply to decisions made by individual members or officers exercising executive functions referred to in 4.2 – 28.1 and 4.2 – 28.2 respectively (with references to Cabinet being construed as referring to the individual member or officer as appropriate and with any other consequential changes).

#### **4.5 – 15 CALL-IN AND URGENCY**

- (a) The Call in procedure set out above shall not apply so as to delay implementation of an executive decision where the decision being taken by the Leader of the Cabinet, Cabinet, Cabinet Member or an Officer is urgent.

A decision will be urgent if any delay likely to be caused by the Call in process would seriously prejudice the Council's or the public's interests.

The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to Call in.

The Chairman of the overview and scrutiny committee or where there is no such Chairman or where he/she is unable to act, the Mayor (or if there is no Mayor, the Deputy Mayor) must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.

Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- (b) The operation of the provisions relating to Call in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.



#### **4.5 – 16 SCRUTINY REVIEWS**

Local residents, voluntary groups and/or businesses in the Borough may request the an overview and scrutiny committee to review a subject or matter of concern in the Borough. The procedure for dealing with such scrutiny reviews shall be as set out in the Local Guide to Scrutiny, which may be amended from time to time by the relevant Committee.

#### **4.5 – 17 THE PARTY WHIP**

Whipping is incompatible with scrutiny and is not permitted and there shall be no pre-meetings to brief members of a single political group.

‘The party whip’ means ‘any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote in any particular manner’.

#### **4.5 – 18 COUNCILLOR CALL FOR ACTION**

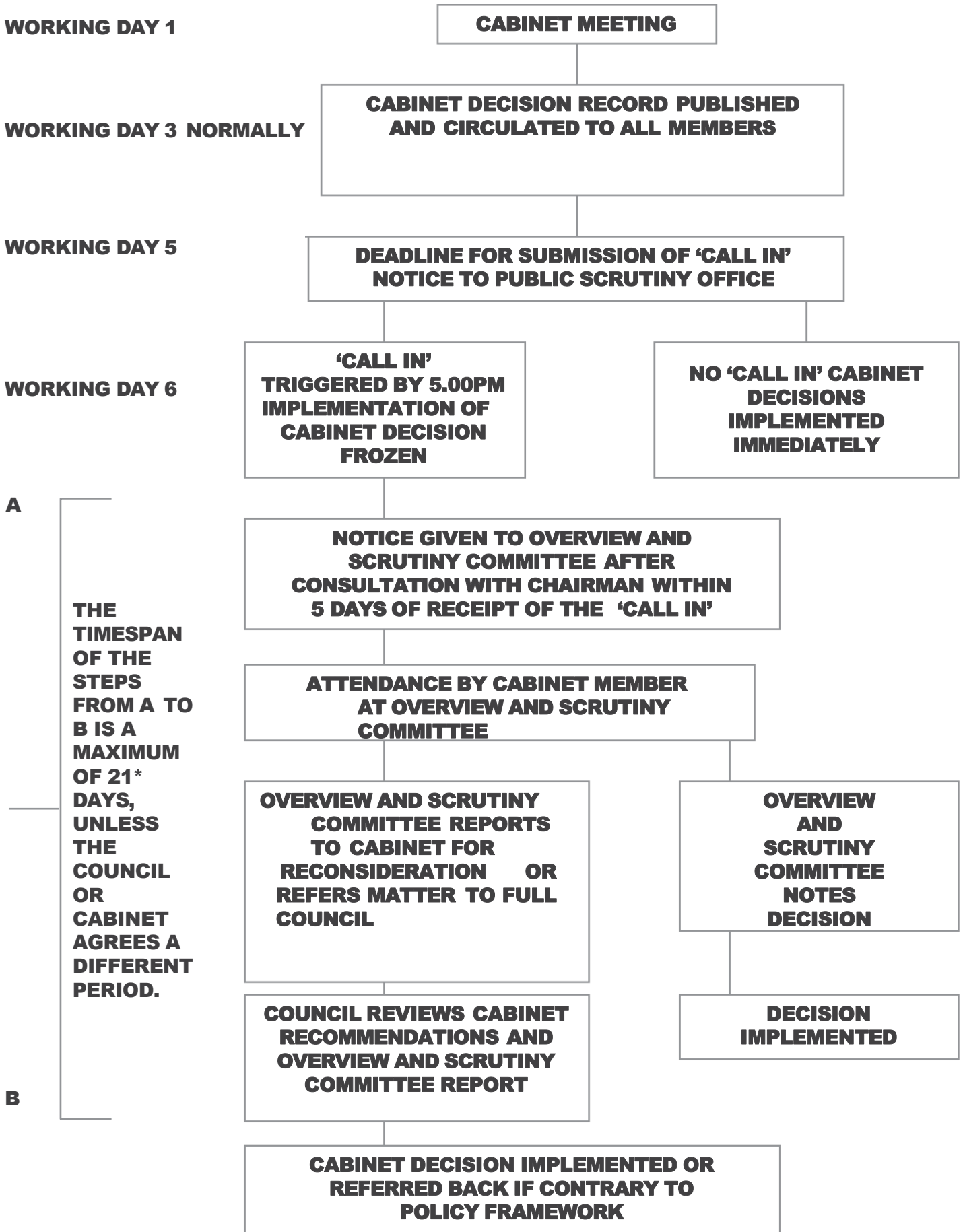
Any member of the public can approach a Member of the Council to ask that an issue is referred to a meeting of an overview and scrutiny committee. This is referred to as a Councillor Call for Action. The procedure for dealing with this is set out in the [protocol](#) at Appendix 1 to these rules.

#### **4.5 – 19 PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

- (a) Overview and Scrutiny Committees shall consider the following business:
  - (i) Minutes of the last meeting
  - (ii) Declarations of interest
  - (iii) Consideration of any matter referred to the Committee for a decision in relation to Call in of a decision
  - (iv) Consideration of any matter referred to the Committee for a scrutiny review
  - (v) Responses of the Cabinet/Council to reports of the Committee
  - (vi) The business otherwise set out on the agenda for the meeting
  
- (b) Where the Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:

- (i) That the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak.
  - (ii) That those assisting the Committee by giving evidence be treated with respect and courtesy
  - (iii) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis
- (c) Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public except where information is withheld from publication in the wider public interest due to it being confidential or exempt information.

# FLOWCHART OF MEMBER 'CALL IN' OF CABINET DECISIONS



\*Subject to the maximum statutory limit of two months for a response (see Appendix 1 below).

## **TERMS COMMONLY USED AT MEETINGS**

Below is a list of commonly used terms that you may hear during the meeting.

- 1            MAYOR/CHAIRMAN**  
The person elected to preside and control discussion at meetings.
- 2            DEPUTY MAYOR/VICE CHAIRMAN**  
The person elected to deputise in the absence of the Chairman.
- 3            MEMBER**  
Any person accepted as belonging to a Committee/Board or Cabinet.
- 4            CLERK**  
This Officer advises the Mayor/Chairman of the meeting on any procedural and legal issues.
- 5            SECRETARY**  
The Officer who is responsible for preparing agendas, preparing for and recording meetings, and following up action on behalf of the Board.
- 6            ITEM**  
A specific piece of business. Most used in the expression 'items on the agenda'.
- 7            MOTION**  
A proposal formally put forward or 'moved'. If carried, it becomes a resolution. Motions do not need to be seconded but by tradition they usually are.
- 8            SECOND**  
To support formally the proposer of a motion or amendment.
- 9            OPPOSE**  
Being against a motion. The person speaking against a motion is called an opposer.
- 10          VOTE**  
The method of indicating support or opposition, whether by voice, by show of hands, or by written ballot, on a motion, election to office or any course of action.
- 11          CASTING VOTE**  
The Mayor/Chairman has a second or casting vote where an equal number of votes is cast for and against a motion. The Mayor/Chairman may then, and only then, cast a second vote to decide the issue (or vote for the first time in the case of an initial abstention).
- 12          PASS**  
To carry or adopt a proposal or motion, discussed by the Board.
- 13          RESOLUTION**  
A resolution is a motion which has been carried.

**14 AMENDMENTS TO MOTIONS**

An amendment is a formal proposal to vary the terms of a motion before the latter is adopted by the meeting. The motion in its original form, before the amendment, is known as the original motion. The original motion altered by the amendment is known as the main motion or substantive motion.

**15 SUBSTANTIVE MOTION**

If any amendment is carried, the original motion incorporating the amendment becomes the substantive motion to which any other amendments shall then refer.

**16 ORDER**

Used:

- (a) In connection with the 'order' or sequence of business.
- (b) When the Chairman intervenes in a discussion and calls the meeting to order.

**17 POINT OF ORDER**

A purely procedural or technical point (to be decided as such by the Mayor/Chairman) which may be raised at any time by any Member and which takes precedence over all other business.

**18 MINUTES**

The formal written record of a meeting.

# COUNCILLOR CALL FOR ACTION PROTOCOL

## Introduction

The “Councillor Call for Action” (CCfA) was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007 (the Act), and came into force on 1 April 2009. The statutory requirement to implement CCfA by 1 April 2009 applies to all councils in England (with the exception of parish councils) regardless of their Executive arrangements.

Any Member of the Council may refer to an overview and scrutiny committee any local government matter or any crime and disorder matter which affects their ward.

The power to refer a matter is available only where the matter is of direct concern to the ward which the councillor represents. A councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for councillors in multi-member wards to agree –any of them can refer a matter.

## Limitations

It is important to recognise that CCfA is not guaranteed to solve a given issue. CCfA provides a method for discussing such issues and, through discussion, trying to overcome them.

## Issues excluded from referral as a CCfA

The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012 excludes the following matters from referral as a CCfA:

- (a) any matter relating to a planning decision;
- (b) any matter relating to a licensing decision;
- (c) any matter relating to a person in respect of which that person has a right of recourse to a review or right of appeal conferred by or under any enactment; unless the allegation is that a function for which the Authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis.
- (d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of an overview and scrutiny committee or any of its sub-committees.

The Council has determined that the following matters be excluded from CCfA:

CCfA should not seek to ask the Council to determine:-

- Personal or commercial issues
- Specific or individual employee relations
- Disciplinary or grievance matters
- Matters which are subject to formal or statutory appeal processes or are sub-judice
- Individual appeal cases, for example, Planning, Licensing applications or appeals
- Decisions of the Standards Committee or Regulatory Committees

CCfA should not contain:

- Offensive, intemperate, inflammatory, sarcastic or provocative language or language to which those reading could reasonably take offence
- False or defamatory statements
- Information which is protected by a court order
- Commercially sensitive or confidential material
- The names of individuals, or information whereby they may be easily identified, in relation to criminal accusations

CCfA should be submitted in good faith and be decent, honest and respectful.

CCfA will be rejected if defamatory, frivolous or offensive.

During politically sensitive periods, such as before an election, politically controversial material will be restricted.

CCfA which do not follow these guidelines will be considered inadmissible, in which case petitioners will be informed in writing of the reasons why.

CCfA which are the same or substantially similar and which are lodged by or on behalf of the same person or organisation will be considered inadmissible unless more than a year has passed since the original CCfA was considered by the relevant overview and scrutiny committee. Advice on admissibility can be obtained from the Public Scrutiny Office whose contact details are provided on the web site. In cases of dispute, the overview and scrutiny committee shall decide whether a petition is admissible.

A referral, provided it is not an excluded matter (see above) will ensure that the matter is included on

the agenda of the relevant overview and scrutiny committee. It is then up to the Committee to decide whether or not to take the matter further.

A referral made to the relevant overview and scrutiny committee is seen as being at the end of the CCfA process (**the last resort**) and not the first step.

### **Steps to be taken, prior to making a Councillor Call for Action referral**

Prior to a Councillor referring a matter as a CCfA to the relevant overview and scrutiny committee, a Councillor **must** have tried to resolve the issue/problem themselves using all mechanisms and resources available to them at ward level. Councillors should:

- If a local crime and disorder matter, raise the issue through the Community Safety Partnership to find a way to resolve the issue.
- Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve it, for example through formal letters written on behalf of constituents, discussion at public meetings, petitions or communication with local MPs.
- Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with officers and/or members.
- Ensure that this is not an issue that is currently being or should be pursued via the Council's complaints procedure

### **How to make a Councillor Call for Action referral**

If the issue/problem is still not resolved, a Member can refer it to the relevant overview and scrutiny committee as a "Councillor Call for Action". To do this the Councillor should:

- Complete a CCfA Request Form by hand or electronically, outlining what the issue is and what steps have been taken towards a resolution. The request for a CCfA should include:
- The name of the Councillor and ward they represent.
- Title of the CCfA
- Why they think the issue should be looked at by the relevant overview and scrutiny committee
- A brief synopsis of what the main areas of concern are
- What evidence do you have in support of your CCfA?
- Which areas or community groups are affected by the CCfA?
- What prior action has been undertaken to try and resolve the issue prior to requesting a CCfA?



- Is the CCfA 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 CCfA of which the relevant overview and scrutiny committee needs to be aware?
- The Public Scrutiny Office will receive the referral form either by post or electronically, log it to track its progress and assess the issue to ensure that it is not a matter excluded from referral to scrutiny.
- The Public Scrutiny Office will inform the Chairman and Vice-Chairman of the Committee that the item will be included on the next Committee agenda.
- The Councillor submitting the CCfA will be invited to attend the meeting of the relevant overview and scrutiny committee to speak in connection with the issue.

A successful referral will ensure that the CCfA will be placed on the next agenda of the relevant overview and scrutiny committee. The Committee will then decide whether or not to take the matter further.

### **Decision of the relevant Overview and Scrutiny Committee whether to take the matter further**

In deciding whether or not to take the matter further, the relevant overview and scrutiny committee will consider:

- Anything that the Councillor has done in relation to this matter; and
- Representations made by the Councillor as to why the Committee should take the matter up.

(Councillors have the option of either presenting their CCfA form without supporting papers or by preparing a report setting out their views. Any reports prepared by councillors would be circulated along with the agenda and other reports for the meeting). *This information will need to take account of the disclosures of exempt information as prescribed in Part 1 of Schedule 12A of the Local Government Act 1972.*

The criteria the Committee will use to decide whether or not to take the matter further include:

- Is the Committee satisfied that all reasonable attempts have been made to resolve the issue by the ward councillor? And do the responses received by the referring Councillor demonstrate that the matter is not being progressed?
- Has the Committee considered a similar issue recently – if yes, had the circumstances or evidence changed?
- Is there a similar or related issue which is the subject of a review on the current work

programme?

- It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account.
- Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the Councillor received?
- Is this a case that is being or should be pursued via the Council's corporate complaints procedure?
- Is it relating to a "quasi-judicial" matter or decision such as planning or licensing?
- Is the issue part of an individual's own personal agenda (an issue of genuine local concern should have an impact on the local community).
- Does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring member's ward?

In considering the CCfA, the Committee may invite the Head of Paid Service, Executive Director(s), Assistant Directors or external organisations to discuss the issue with the Committee and answer any questions, if the Committee considers this relevant.

If the Improvement and Scrutiny Committee decides not to accept the CCfA referral it must inform the Councillor and provide reasons.

If the Committee decides to accept the CCfA referral, it will decide how it intends to take the matter forward and include the CCfA in its work programme. This could include:

#### **Before holding a formal hearing:**

- Asking the service area(s)/partner organisation(s) to respond to the CCfA.
- Establishing a Task and Finish Group to undertake a more in depth review.

#### **Potential outcomes**

Following a formal hearing, there are a number of potential outcomes from the Committee meeting:

- The Committee could determine not to make a report (perhaps because it is not considered the right time to consider a particular issue), with the ward Councillor notified in writing;
- The Committee could determine that it is a complex issue that requires further

investigation and commission a scrutiny review of the issue;

- The Committee could write a report and make recommendations on the CCfA to the Cabinet, Full Council or partner organisation.

Once the Committee has completed its work on the CCfA referral, the member who made the CCfA referral will receive a copy of any report or recommendations made. The reply will also be printed on the Council's website (unless there are reasons why the committee treats the matter as a confidential item or an exempted item and as a result the report is not made public).

## **Timescales**

Once the CCfA has been assessed as not being a matter which is excluded from referring to scrutiny, the item will be included on the next available Committee agenda.

If the Committee agrees to take the matter forward, the matter will usually be placed as an item on the next available agenda. In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened.

Should a CCfA hearing result in a report or recommendations to the Cabinet or Full Council being made, a response to the recommendations, setting out any action it intends to take, if any, will be given within two months days of the report or recommendations being notified to the Cabinet or Full Council.

Should a CCfA hearing result in a report or recommendations to a partner organisation, such organisations will also be requested to make a response to the report or recommendations, although it must be recognised they are under no legal obligation to do so.

## **Explanatory Notes**

### **1 Definition of a local government matter and a local crime and disorder matter:**

Local Government matter: For the purpose of the Act a local government matter, in relation to a member of a local Authority is one which:

- Relates to the discharge of any function of the Authority;
- 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 (ie it must be specific to a particular locality); and
- Is not an excluded matter.

Local crime and disorder matter: A local crime and disorder matter, in relation to a member of a local Authority, has been defined to mean a matter concerning:

- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- (b) the misuse of drugs, alcohol and other substances that affects the electoral area represented by the member, or the people who live or work in that area.

## **2 Definitions of “vexatious” “persistent” “discriminatory” and “not reasonable”**

Statutory regulations deal with matters that can be excluded from CCfA, stating that “any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee is to be excluded”.

### **Vexatious/Persistent**

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.

Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid –it may relate to a systematic problem that has not been effectively resolved. Similarly, a request which some members may regard as vexatious, for political reasons, may actually be entirely reasonable.

CCfAs need to be looked at on their merits, rather than on the basis of who is bringing them, or whether somebody thinks there is an ulterior motive for them being brought.

Where a request for a CCfA is clearly vexatious, detailed reasons for coming to this decision will be given to the Councillor concerned. There could, however, be instances where changes to the scope of the CCfA, or its focus, could make it more acceptable while still meeting the Councillor’s requirements.

### **Discriminatory**

A modern interpretation of the word “discrimination” is provided at Section 13 of the Equality

Act 2010, in relation to protected characteristics, as follows:

*A person (A) discriminates against another (B) if because of a protected characteristic, A treats B less favourably than A treats or would treat others.. Protected characteristics are defined in section 4 of that Act as: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.*

### **Not reasonable**

It is suggested that, in the interests of transparency, authorities do not interpret “not reasonable” as being the same as the legal word “unreasonable”. It is best to consider it as a qualifier to the word “vexatious”, as a vexatious request is likely not to be reasonable and a request that is not reasonable is likely to be vexatious.

### **3 Structure of the CCfA hearing:**

A CCfA hearing will be based on the Committee’s current structure for dealing with call-in hearings.