

# Overview and Scrutiny Procedure Rules

## 1.0 What will be the Number of and Arrangements for Overview and Scrutiny Committees?

- (a) Unless the Council decides otherwise under Article 6, the Council will always have at least one Overview and Scrutiny Committee, which will perform all Overview and Scrutiny functions on behalf of the Council.

(NB. Scrutiny arrangements effective from 1<sup>st</sup> October 2002 are detailed in the Annex to Article 6.)

- (b) Unless otherwise provided in Article 6, the terms of reference of the Overview and Scrutiny Committee will be:
- (i) the performance of all Overview and Scrutiny functions on behalf of the Council;
  - (ii) the appointment of such Sub-Committees and working parties as it considers appropriate to fulfil and assist with Overview and Scrutiny functions;
  - (iii) to receive any reports from the Leader on the Cabinet's priorities for the coming year and its performance in the previous year;
  - (iv) to approve an annual Overview and Scrutiny work programme, including the programme of any Sub-Committees it appoints so as to ensure that the Committee's and Sub-Committee's time is effectively and efficiently utilised;
  - (v) where matters fall within the remit of more than one Overview and Scrutiny Sub-Committee, to determine which of those Sub-Committees will assume responsibility for any particular issue;
  - (vi) to put in place a system to ensure that referrals from Overview and Scrutiny to the Cabinet either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;
  - (vii) in the event of reports to the Cabinet exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business, at the request of the Cabinet, to make decisions about the priority of referrals made.

(NB. Current scrutiny arrangements are detailed in the Annex to Article 6.)

- (c) Any Overview and Scrutiny Committee may discontinue any Sub-Committee and/or appoint alternative or additional Sub-Committees. The Committee may also amend the terms of reference of any Sub-Committee as appropriate.
- (d) Where any Committee seeks to discontinue or appoint Sub-Committees, it may do so provided that it has consulted with interested parties, if appropriate. The extent and nature of consultation will depend on the nature of the proposed alterations. Any change will be reported to the proper officer and then to the next meeting of the Council by the Chairman of the Overview and Scrutiny Committee, so that the Constitution may be amended accordingly.

## 2.0 Who May Sit on Overview and Scrutiny Committees?

- (a) All Councillors except members of the Cabinet and the Chairman and Vice Chairman of Council are eligible to be members of an Overview and Scrutiny Committee.
- (b) Any Overview and Scrutiny Committee or Sub-Committee or Working Party shall be entitled to appoint up to three people who are not Members of the Council as non-voting co-optees. Such persons shall not be disqualified from being a Member of the Council (but need not be qualified to be a Member of the Council).
- (c) They shall also be entitled to appoint up to three additional Members of the Council from among those members who are eligible to assist with their work where those additional members are considered to have particular skills, knowledge or experience relevant to the matter assigned to the Sub-Committee or Working Party. Such additional Members shall not be entitled to vote on matters arising.

### **3.0 Scrutiny Requirements**

- (a) No member, co-optee or additional member may be involved in scrutinising a decision in which he/she has been directly involved.
- (b) Co-optees shall be required to declare any interest, pecuniary or otherwise, as if they were a Member of the Council.
- (c) Co-optees shall comply with the Council's Rules.

### **4.0 Meetings of the Overview and Scrutiny Committee**

There shall be at least 6 ordinary meetings of each Overview and Scrutiny Committee and of each standing Sub-Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman of the relevant Overview and Scrutiny Committee, by any 5 members of the Committee or by the proper officer if he/she considers it necessary or appropriate.

### **5.0 Quorum**

The quorum for an Overview and Scrutiny Committee shall be as set out in the Council Procedure Rules in Part 4 of this Constitution.

The quorum for a Sub-Committee or Working Party shall be one-half of the membership provided that a quorum shall never be less than two.

### **6.0 Who Chairs Overview and Scrutiny Committee Meetings?**

- (a) Any Overview and Scrutiny Committee will be Chaired by a Councillor in accordance with the Council Procedure Rules.
- (b) Chairmen of Overview and Scrutiny Sub-Committees and working parties will be drawn from among the Councillors sitting on the Sub-Committee or Working Party and subject to this requirement the Sub-Committee or Working Party may appoint such a person as it considers appropriate as Chairman.

### **7.0 Work Programme**

Any Overview and Scrutiny Committee will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.

NB. In order to allow sufficient time to adequately consider the development of the budget framework, the relevant scrutiny panel should normally ensure that any necessary Budget Working Parties are established or other arrangements made by mid-September in each year.

## **8.0 Agenda Items**

- (a) Any member of an Overview and Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Democratic Services and Scrutiny Manager 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. In addition, any member of the Council shall be entitled to give notice to the Democratic Services and Scrutiny Manager that he/she wished a local government matter to be included on the agenda for the next available meeting of the Committee PROVIDED such notice complies with the requirements of any protocol from time to time adopted by the Council regulating the exercise of such right. On receipt of such a request not later than two weeks prior to the meeting in question identifying the subject matter and briefly stating the reasons why it is suggested it is an appropriate subject (or in the case of a local government matter briefly stating the steps that have already been taken to try to resolve the matter in question and why such steps have been unsuccessful) the Democratic Services and Scrutiny Manager will ensure that it is included on the next available agenda and copy the same as soon as practicable to the Chairman of the Committee for information.

## **9.0 Policy Review and Development**

- (a) The role of the relevant Overview and Scrutiny Committee 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 relevant Overview and Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) The relevant Overview and Scrutiny Committee may hold inquiries 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.

## **10.0 Reports from Overview and Scrutiny Committees**

- (a) Once it has formed recommendations on proposals the relevant Overview and Scrutiny Committee will prepare a formal report and submit it to the proper officer for consideration by the Cabinet (if the proposals are consistent

with the existing budgetary and policy framework), or to the Council as appropriate (eg, if the recommendation would require a departure from or a change to the agreed budget and policy framework).

- (b) The Council or Cabinet shall consider the report of any Overview and Scrutiny Committee within 6 weeks of it being submitted to the proper officer.

#### **11.0 Making Sure that Overview and Scrutiny Reports are Considered by the Cabinet**

- (a) Once an Overview and Scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of 6 weeks from the date the report was adopted by the Overview and Scrutiny Committee. In such cases, the report of the Overview and Scrutiny Committee shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the Overview and Scrutiny report within 6 weeks then the matter will be referred to Council for review, and the proper officer will call a Council meeting to consider the report and make a recommendation to the Cabinet.
- (b) Where an Overview and Scrutiny Committee prepares a report for consideration by the Cabinet in relation to a matter where an individual member of the Cabinet has delegated decision making power, then the Overview and Scrutiny Committee will submit a copy of their report to that individual for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the proper officer and the Leader (unless it is the Leader who has the delegated decision making power). If the member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Cabinet member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within 6 weeks of receiving it. A copy of his/her written response to it shall be sent to the proper officer and he/she may attend a future meeting to respond.
- (c) Not more than 6 reports in any three-month period may be submitted by any Overview and Scrutiny Committee to the Cabinet.
- (d) Any Overview and Scrutiny Committee will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

#### **12.0 Rights of Overview and Scrutiny Committee Members to Documents**

In addition to their rights as Councillors, members of Overview and Scrutiny Committees 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. Nothing in this paragraph prevents more detailed liaison between the Cabinet and

any Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

### **13.0 Members and Officers Giving Account**

- (a) Any Overview and Scrutiny Committee or a Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance.

and it is the duty of those persons to attend if so required.

- (b) Where any member or officer is required to attend an Overview and Scrutiny Committee or Sub-Committee under this provision, the Chairman will inform the proper officer. The proper officer shall inform the member or officer in writing giving reasonable 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 or Sub-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 Chairman of the Overview and Scrutiny or Sub-Committee shall in consultation with the member or officer arrange an alternative date for attendance.

### **14.0 Attendance by Others**

- (a) An Overview and Scrutiny Committee or Sub-Committee may invite people other than those people referred to in paragraph 13 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 shall invite such people to attend.
- (b) Working parties may invite attendance by those mentioned in 13 and 14 (a) above.

### **15.0 Call-In**

- (a) Call-in should only be used in exceptional circumstances, for example, where members of the appropriate Overview and Scrutiny Panel have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making).
- (b) When a decision is made by the Cabinet, an individual member of the Cabinet or a Committee of the Cabinet, or a key decision is made by an officer with delegated

authority from the Cabinet, or an area Committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. The Chairman of the relevant Overview and Scrutiny Panel will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

- (c) 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 5 working days after the publication of the decision, unless the relevant Overview and Scrutiny Panel objects to it and calls it in.
- (d) During that period, the proper officer shall call-in a decision for scrutiny by the Panel if so requested in writing (including e-mail) specifying the decision in question with a brief statement of reasons for the call-in by the Chairman or any five members of the Panel (who shall not all be from the same political group), and shall then notify the decision-taker in writing of the call-in.
- (e) If a decision is called-in then a meeting of the Overview and Scrutiny Panel must be called within 15 days of the decision to call in, unless the Leader of the Council (or the Deputy Leader in the Leaders absence) and the Chairman of the Overview and Scrutiny Panel have agreed that the call-in may take place at the next scheduled meeting of the Overview and Scrutiny Panel.
- (f) If, having considered the decision, the Panel is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 15 working days from the date of the meeting, amending the decision or not, before adopting a final decision.
- (g) If it has not been agreed to consider the objection at the next scheduled meeting of the Overview and Scrutiny Panel, but the Panel does not hold a valid meeting within the 15 day period (as set out in (e) above), or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the expiration of that period or the date of the Overview and Scrutiny meeting, whichever is the earlier.
- (h) If it has been agreed to consider the objection at the next scheduled meeting of the Overview and Scrutiny Panel (as set out in (e) above), but the Panel does not meet, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the scheduled Overview and Scrutiny meeting at which it was due to be considered.
- (i) 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 on the date of the Council Meeting. However, if the Council does object, it has no locus to make decisions 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 as a whole or a Committee of it, a meeting will be convened to reconsider within 15 working days of the Council meeting. Where the

decision was made by an individual, the individual will reconsider within 15 working days of the Council meeting.

- (j) If the Council does not meet within 15 working days of the day on which the matter was referred to full Council the decision will become effective on the expiry of that period.
- (k) Where a Cabinet decision has been taken by an area Committee then the right of call-in shall extend to any other area Committee which resolves to refer a decision which has been made but not implemented to a relevant Overview and Scrutiny Panel for consideration in accordance with these provisions. An area Committee may only request the proper officer to call-in the decision if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call-in shall apply as if the call-in had been exercised by members of a relevant Overview and Scrutiny Panel.

### **Call-in and urgency**

- (l) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet 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 Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (m) 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.

## **16.0 The Party Whip**

When considering any matter in respect of which a member of an Overview and Scrutiny Committee, Sub-Committee or Working Party is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the Committee, Sub-Committee or Working Party's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## **17.0 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 (including whipping declarations);
  - (iii) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
  - (iv) responses of the Cabinet to reports of the Overview and Scrutiny Committee; and

- (v) the business otherwise set out on the agenda for the meeting.
- (b) Where any Overview and Scrutiny Committee conducts investigations (eg, 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; and
  - (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 unless involving confidential or exempt information.
- (d) These rules shall apply to Sub-Committees and working parties. Their reports shall be referred to the Committee in the first instance.

## **18.0 Confidential and Exempt Information**

Until reported to any Overview and Scrutiny Committee, the work of any Sub-Committee or Working Party dealt with when the public have been excluded from the meeting shall be treated as being subject to a requirement not to disclose the same in any way to any third party, unless there is a legal requirement to disclose such information. [For the purposes of this rule a “third party” shall not include any Member or officer of the Council nor any person co-opted as a member of a Sub-Committee or Working Party.]



# Councillor Call for Action (CCFA)

## Protocol

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## **Councillor Call for Action Protocol - CCfA**

### **1.0 Introduction**

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 applies to all Councils in England (with the exception of Parish / Town Councils) regardless of their executive arrangements.

The Act enables any Member of the Council to refer to an Overview & Scrutiny Committee / Sub-Committee any local government matter or any crime and disorder matter which affects their ward.

### **1.1 Limitations**

It is important to recognise that CCfA is not guaranteed to solve a given problem. CCfA can provide a method for discussing such problems and, through discussion, trying to overcome them.

It is the responsibility of the Ward Councillor to provide evidence of the actions that have been taken so far to identify possible solutions to the issue(s).

### **1.2 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:

- Individual complaints concerning personal grievances or commercial issues;
- Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example:
  - Planning and licensing applications and appeals
  - Council Tax / Housing Benefits complaints and queries
  - Issues currently under dispute in a court of law
- 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 & Scrutiny Committee or any of its Sub-Committees.

A referral, provided it is not an excluded matter (see above); will ensure that the matter is included on the agenda of the Overview & Scrutiny Panel. It is then up to the Members of the Panel to decide whether or not to take the matter further.

A referral made to the Overview & Scrutiny Panel is seen as being at the end of the CCfA process (the last resort) and not the first step.

### **1.3 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 Overview & Scrutiny Panel, 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 the issue, for example through formal letters written on behalf of constituents, discussion at public meetings, petitions, communication with local Members of Parliament (MPs) and Councillors in other authorities etc;
- Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with officers and / or members, questions at committees etc;
- Ensure that this is not an issue that is currently being or should be pursued via the Council's Corporate Complaints Procedure ;
- Ascertain whether or not any other form of local scrutiny is investigating the issue, e.g. Kent County Council.

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

If the issue / problem is still not resolved the Councillor can refer it to the Overview & Scrutiny Panel 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 to seek a resolution. The request for a CCfA should include:
  - The name of the Councillor and Ward they represent
  - Description of the topic
  - Why the topic is being raised
  - Who it affects
  - What solutions have already been tried
  - What outcomes or solutions required
  - Evidence to support the 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 Overview & Scrutiny Panel needs to be aware?
- The Democratic Services & Scrutiny Manager 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 Overview & Scrutiny. In accordance with Rule 8 of the Overview and Scrutiny Procedure Rules, a referral form should be received by the Democratic Services & Scrutiny Manager at least two weeks before the date of a meeting of the Overview & Scrutiny Panel if it is to be included on the agenda for that meeting;
- The Democratic Services & Scrutiny Manager will inform the Chairman of the Overview & Scrutiny Panel and the item will be included on the next available Committee agenda. The Councillor will be informed whether or not their referral has been successful.

## **2.1 Decision of the Overview & Scrutiny Panel whether to take the matter further**

In deciding whether or not to take the matter further the Panel will consider:

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

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

- Is the Panel satisfied that all reasonable attempts have been made to resolve the issue by the Ward Councillor? Do the responses received by the referring Councillor demonstrate that the matter is not being progressed?
- Has the Panel considered a similar issue recently – if yes have the circumstances or evidence changed?
- Is there a similar or related issue, which is the subject of a review on the current scrutiny 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);
- Is this an issue currently being looked at by another form of local scrutiny, e.g. Kent County Council?
- And, as with all scrutiny, 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?

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

If the Panel decides to accept the CCfA referral, it must 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;
- Setting up a working party to undertake a more in-depth review

At formal hearing:

- Asking for further evidence and/or witnesses to be brought to a future meeting then making recommendations to the relevant Committee/partner organisation.

In considering the CCfA, the Overview & Scrutiny Panel may invite the relevant Cabinet Portfolio holder, Chief Executive, Director Service Manager or external organisation to discuss the issue with the Overview & Scrutiny Panel and answer any questions, if the Committee considers this relevant.

### **3.0 Potential outcomes**

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

- The Panel 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 Panel could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;

- The Panel could write a report and make recommendations on the CCfA to the Cabinet or relevant partner(s).

Once the Panel 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 Democratic Services & Scrutiny Manager will also publish the report on Modern Gov and on the Council's website <http://www.thanet.gov.uk> unless there are reasons why the Panel considers the matter is an exempt item and as a result the report cannot be made public.

### **3.1 Timescales**

Once a CCfA has been assessed as not being a matter that is excluded from referring to Overview & Scrutiny, the item will be included on the next available Committee agenda. (Remember- in accordance with Rule 8 of the Overview and Scrutiny Procedure Rules, a referral form should be received by the Democratic Services & Scrutiny Manager at least two weeks before the date of a meeting of the Overview & Scrutiny Panel if it is to be included on the agenda for that meeting).

If the Panel agrees to take the matter forward, the hearing will usually be held 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 recommendations to the Cabinet, Cabinet must respond to the recommendations, setting out any action it intends to take at its next scheduled meeting.

Should a CCfA hearing result in recommendations to partner organisations, such organisations will also be requested to make a response to the recommendations, although they are under no legal obligation to do so. Any response received will be reported back to the Cabinet and the Overview & Scrutiny Panel.

Appendix A

## THANET DISTRICT COUNCIL

### Councillor Call for Action (CCfA) Request Form

This form is for District Councillors to raise topics of concern to Thanet District Council to enable investigation by the Overview & Scrutiny Panel, or other method as appropriate. To ensure that Scrutiny’s work is most effective, Members must provide evidence of what they have previously done to try to resolve the issue. When deciding which topics to scrutinise, the primary aim is adding value to the work of the Council, focusing on the things that matter most and which make a real difference to the local community.

For this reason, Scrutiny does not get involved with individual cases or minor matters, which should be addressed through other channels, including the appropriate service area or Ward Councillor. Scrutiny does not deal with individual complaints, which should be directed through the Councils’ Complaints Procedure.

<b>Your contact details:</b>
Name (print);
<b>Address:</b>
<b>Contact number:</b>
<b>Email address:</b>

<b>The Ward you represent:</b>

Description of the topic
Please describe as fully as possible what the issue is with specific examples where possible.

**Why are you raising the topic?**

Please explain what has prompted you to raise the topic, e.g. concerns by residents, etc.

**Who does it affect?**

Please describe if any other wards / parishes are affected, or if it is local to your ward, how many residents are affected?






**What solutions have already been tried?**

Please describe what avenues to solve the issue have already been tried and the outcomes.

**What outcomes are required?**

Although a specific solution may not be possible, it will assist the Committee if you describe what outcomes or solutions you would prefer.

**What evidence do you have in support of your CCfA?**

- Letters 
- Emails 
- Agendas/Minutes of meetings 
- Photographs 
- Film 

Other (please specify)

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

**What (if any) are the critical deadlines?**

Please make clear if there are specific deadlines for this topic.

**Would you like the opportunity to speak to the Overview & Scrutiny Panel?**

Yes 

No 

**Have you approached the Overview & Scrutiny Panel on the same issue in the past six months?**

Yes 

No 

**Would you like your response by:**

Email 

Letter 

**Signature:**

**Date of submission:**

Please complete and return the form to:  
 Glenn Back  
 Democratic Services and Scrutiny Manager  
 Thanet District Council  
 Council Offices  
 Cecil Street  
 Margate  
 Kent CT9 1XZ



## Appendix B

**Overview & Scrutiny Committee Councillor Call for Action (CCfA) Guidance**

The following questions are intended to assist Overview & Scrutiny Committee Members in deciding whether to take up or reject a matter referred as a Councillor Call for Action (CCfA). Positive answers indicate that the matter referred should be taken up and negative answers that they should not be taken up.

Question	Yes	No
1. Does the matter referred relate to a local government function?		
2. Does the matter referred affect all or part of the Member's ward, or anyone living or working in it?		
3. Is it confirmed that the issue referred is not an excluded matter, e.g. planning, licensing or legal procedure?		
4. Is it confirmed that no other relevant body / partner organisation is taking up the matter referred to Overview & Scrutiny as a Councillor Call for Action?		
5. Does the matter referred have the potential for Overview & Scrutiny Members to produce recommendations, which could realistically be implemented, and lead to improvements for anyone living or working in the referring Member's ward?		
6. Has the referring Councillor provided evidence of the steps s/he has taken to try to resolve the issue?		
7. Do the responses received by the referring Councillor demonstrate that the matter is not being progressed?		

## 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 (i.e. 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 & Scrutiny Committee is to be excluded’.

#### Vexatious/Persistent

Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all 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, may actually be entirely reasonable.

CCfA’s need to be looked at on their merits, rather than on the basis of who is bringing them, or whether someone 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 45 of the Equality Act 2006, in relation to religion and belief, as follows:

A person (A) discriminates against another (B) if on the grounds of the religion or belief of (B) or of any other person except (A), treats (B) less favourably than he treats others. This definition can easily be amended to deal with other forms of discrimination, such as discrimination for reasons of sex and/or race. So a discriminatory CCfA might be one which implies or states that a group of people or an area receives better, or worse, services on account of that group's predominant religion, race, sex or other characteristic, as covered by discrimination legislation.

### **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**

The Chairman of the Overview & Scrutiny Panel will determine the most appropriate arrangements for considering the CCfA matter.

Appendix 3

**Flow Chart of CCfA Mechanism**

