

AGENDA ITEM 6

OVERVIEW & SCRUTINY BOARD

9 February 2010

COUNCILLOR CALLS FOR ACTION

Purpose of the Report

- 1 To seek agreement to the proposed processes in relation to Councillor Calls for Action, and approval for the draft Guidance for Councillors.

Background – national guidance

- 2 Councillor Calls for Action (CCfA) were introduced by the Local Government & Public Involvement in Health Act 2007. They came into force on 1 April 2009. CCfA give Councillors a new right to raise matters of local concern with their Council's Overview & Scrutiny Committee (OSB).
- 3 The Government Guidance notes that Ward Councillors play a central role in the life of a local authority, as a conduit for discussion between the Council and its residents, and as a champion for local concerns. In order to enhance Councillors' ability to carry out this second role, the Government has introduced Councillor Calls for Action. These provide Members with the opportunity to ask for discussions at Scrutiny Committees on issues where local problems have arisen and where other methods of resolution have been exhausted.
- 4 CCfA is a process to assist Councillors to resolve issues and problems on behalf of their residents. CCfA should not be regarded as merely a "scrutiny process". Being able to use CCfA effectively will require Councillors to consider a wide range of council processes, including Corporate Complaints procedures, call-ins, petitions and other local actions.
- 5 CCfA are intended to complement and build on existing neighbourhood working arrangements by ward Councillors, not to replace them.

Local Guidance

- 6 A draft copy of the Middlesbrough Guidance is attached at Appendix 1 and accords with the legislation and the national Guidance. Some of the key issues are as follows:
 - Initiation of CCfA rests with local Councillors
 - It will be up to individual Councillors to determine any issues to present as a CCfA
 - A CCfA may cover any function of the authority, along with broader matters affecting a Councillors' ward and constituents, including crime and disorder. CCfA cannot be used for matters involving more than one ward – in these cases procedures for requesting Scrutiny to look at matters already exist
 - CCfA should reflect matters of genuine community concern, not the views of individuals or those of unrepresentative groups in the community
 - CCfA should not be used where other provisions apply (Complaints, Members' One-Stop, Petitions) or for quasi-judicial or other matters where there are specific routes of appeal
 - Ward Members will be expected to undertake a number of actions before a CCfA can be considered by the Overview and Scrutiny Board (OSB) – these actions are set out in Section 2 of the attached draft Guidance
 - Whilst a Councillor may refer the matter for consideration to scrutiny, it will be the decision of OSB whether or not to determine if the issue is to be addressed. If the OSB chooses not to do so, there is no right of appeal
 - CCfA are not a pathway to additional funding. If the Council has already decided not to take a particular course of action it might well be that the funding is simply not available.
- 7 The draft Guidance provides a framework as to how to identify issues that might be subject of a CCfA, and the process to be followed. It provides a number of checklists intended to guide and advise Members on when and how to initiate a CCfA.
- 8 Any Scrutiny reviews resulting from a CCfA will be undertaken by Scrutiny Panels.
- 9 Locality based scrutiny reviews will normally be a 'short and sharp' review – it is important that this is a responsive process which delivers tangible outcomes.
- 10 The draft Guidance advises Members how to initiate a CCfA, and makes it clear that a CCfA will not be progressed to Scrutiny for consideration unless and until certain actions have been taken by the ward Councillor. These actions may be summarised as follows:
 - The Member must have given proper consideration to other appropriate actions such as using the One-Stops, the Complaints system, advising submission of a Petition, etc..
 - The issue must be clearly defined, and focussed.

- Community views must have been obtained – and must be supportive of the subject of the CCfA.
- Relevant groups (eg residents' associations, relevant single issue groups etc) must have been contacted for support.
- The views of the Community Council must have been sought.
- The Executive Member must have been contacted, or, if the matter is an Environment Department issue, the Member must have taken the matter to the relevant Executive Surgery.
- The relevant Corporate Director must have been written to outlining the issue and the required resolution.
- A report to OSB must have been prepared by the ward Member setting out the issue, the actions taken to address the issue, any outcomes so far, and the actions required to resolve the matter.

Section 4 of the Guidance deals with Scrutiny of the CCfA.

- 11 The Act only requires that the matter subject to a CCfA is placed on the Scrutiny agenda, and that it is discussed. The Act does not require that a scrutiny investigation is undertaken with regard to the matter, or that the Scrutiny Committee takes any further actions.
- 12 However, if the Scrutiny Committee decides not to exercise any of its powers in relation to the matter, it must notify the Member who proposed the CCfA of:
 - (a) its decision, and
 - (b) the reasons for it.
- 13 If the Scrutiny Committee decides not to exercise any of its powers in relation to the CCfA there is no right of appeal against that decision either by the Member who raised the CCfA, or by the residents who asked for it to be raised.
- 14 If the decision is to undertake a Scrutiny investigation into the CCfA, then it is recommended that OSB will refer the matter to the appropriate Scrutiny Panel for consideration. Crime and disorder issues will be considered by the Community Safety & Leisure Panel: all others will be considered by the Ad Hoc Panel, unless there are particular reasons why this would not be appropriate..
- 15 Once the investigation is complete, then Scrutiny recommendations will be reported to the Council and/ or to the Executive in accordance with the provisions of the Council Constitution. If this recommendation is accepted, then the terms of reference of the Ad Hoc Scrutiny Panel will be amended accordingly.
- 16 The Government Guidance points out that Members will require support in respect of CCfA. This Guidance points out that the Members' Office will advise and assist in the booking of rooms for community meetings, producing community questionnaires, advising on the wording of questionnaires and reports, and will assist in processing CCfA through to OSB.
- 17 If Committee approves the attached Guidance, then the Members' Office will arrange briefings for all Members on the legislation and the local guidance in respect of CCfA.

Conclusions and Recommendations

- 18 The Guidance attached at Appendix 1 is intended to reflect the fact that CCfA is not simply a “scrutiny process” but is a process which must include full and proper consultation with the community, and must utilise existing Council provisions including the complaints process, call-ins, petitions, and Executive Members’ surgeries.
- 19 Members are asked to approve the Guidance for Councillors as attached, and to refer the matter to Corporate Affairs Committee for implementation.

Background Papers

Local Government & Public Involvement in Health Act 2007
Councillor Calls for Guidance: best practice guidance. Centre for Public Scrutiny / I&DeA 2009

Author

Chris Davies
5 January 2010