

MIDDLESBROUGH COUNCIL

Councillor Calls For Action

**Procedures and Guidance
for Councillors**

SECTION 1: WHAT ARE COUNCILLOR CALLS FOR ACTION?

INTRODUCTION

- 1.1 Councillor Calls for Action (CCfA) were introduced under Section 119 of the Local Government & Public Involvement in Health Act 2007.
- 1.2 The Department of Communities and Local Government has issued guidance that is not intended to be prescriptive, but is intended to give Councils a steer as to how CCfA should be implemented. However, the main thrust of the guidance is that CCfA should be seen as a means of 'last resort' where local issues have arisen and other methods of resolution have been exhausted.
- 1.3 CCfA is a legitimate process to resolve issues. The purpose of CCfA is not to address vexatious, persistent, unreasonable or discriminatory matters or to achieve actions for political reasons. The key points are:
 - Initiation of CCfA rests with the local Councillor
 - It will be up to individual Councillors to determine which issues to present as a CCfA
 - There will be **no** right of appeal by constituents via the Council's Executive.
 - The CCfA may cover any local government matter relating to any function of the Authority or matters affecting a Councillor's ward and constituents.
 - Whilst a Councillor may refer the matter for consideration to scrutiny, it will be the decision of the Overview and Scrutiny Board (OSB) to determine if the issue is to be addressed.
 - CCfA can include any issue, including Crime and Disorder.
- 1.4 If a Councillor Call for Action is considered by Scrutiny, whether by a Scrutiny Panel or OSB, their only power is to refer the matter, if appropriate, to the Executive for its consideration.

IDENTIFYING A COUNCILLOR CALL FOR ACTION (CCfA)

- 1.5 This Guidance is intended to provide a framework and clarity on how to identify issues that might be subject of a CCfA, and the process to follow.
- 1.6 A Councillor Call for Action:
- puts ward Councillors at the centre of the process for resolving issues **of local concern**;
 - focuses **on neighbourhood and locality issues**, specifically the quality of public service provision at a local level;
 - should represent **genuine local community concern** (based on a Councillor's judgement);
 - should only be referred to Scrutiny as a **last resort** when the ward Councillor has been unable to resolve the issue.
- 1.7 Scrutiny reviews resulting from a CCfA are undertaken by Scrutiny Panels.
- 1.8 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.
- 1.9 The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 specifies that Councillor Calls for Action are NOT appropriate for dealing with:
- Individual complaints concerning personal grievances or commercial issues;
 - Any matter which is vexatious, discriminatory;
 - Councillors' day-to-day casework;
 - Matters subject to call-in;
 - 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:
 - Matters that relate to individual 'quasi judicial' decisions (e.g. planning or licensing) or to Council Tax and National Non Domestic Rates as these are subject to their own statutory appeals procedures.

CHECKLISTS

The initial issue Checklist

1 Are the concerns to do with the quality of public service provision at a local level?

Councillor Calls for Action are intended to address issues of broad concern in the community relating to Council services. But they can also address broader issues relating to other public services. These might include matters such as anti-social behaviour, community safety, health services and issues relating to local schools.

2 Are the concerns individual complaints?

Councillor Calls for Action are not appropriate for dealing with individual complaints. If the matter relates to a complaint, advice can be given about how this may be best brought to the Council's attention and dealt with.

3 Do the concerns relate to individual 'quasi judicial' decisions (e.g. Planning or Licensing) or to Council Tax or Non-Domestic Rates?

Councillor Calls for Action are not appropriate for dealing with these matters as they are subject to other appeals processes.

However, patterns of issues may be appropriate to consider as a concern under CCfA – for example, community concerns about the proliferation of licensed premises in a local neighbourhood.

The Local Community Concern Checklist

4 Is the focus of concern on a neighbourhood or locality issue?

Councillor Calls for Action focus on neighbourhood or locality issues. They provide a mechanism for ward Councillor/s to help resolve issues of concern in their wards.

If the concern is of a more general nature – for example, about policy or town-wide issues – a request for Scrutiny can still be made in the usual way.

5 Is the issue a genuine local concern?

You will need to be sure that the concerns in your ward are genuine and widely held, and not just an individual constituent's point of view or 'hobby horse'.

Establishing the views of other members of the community will be essential in clarifying this.

The 'Championing a Request' Checklist

6 Resolving an issue.

The core purpose of the CCfA is to assist in the resolution of local problems and concerns. Before you agree to championing a CCfA consider other appropriate courses of action such as complaints procedures, Members' One-Stops or petitions.

7 When an apology, explanation or an assurance about a particular problem is enough to satisfy a community concern.

Where a Councillor raises an issue an apology, an explanation, or an assurance that an action will not be repeated might be given. If that addresses the concerns identified, and further actions such as changes to service provision are not required, then referral to Scrutiny would not be appropriate.

8 If the above are not appropriate or have been tried and not succeeded.

If other actions such as complaints, Members' One-Stops or petitions have been tried without success, then you might wish to consider CCfA. Pursuing a CCfA will require you to:

- raise the issue with any local interest groups;
- facilitate an informal discussion meeting to consider residents' views – ensuring that ALL points of view are recorded and reported;
- raise the issue at Community Council, cluster group etc;
- discuss the issue with the appropriate Executive Member;
- contact the Service for the appropriate service area

Before you start down this route, you should first register with the Scrutiny team your intent to action a CCfA.

The 'Reality' Checklist

9 Be selective

Only agree to take on issues that have wide support: don't forget that for every group of residents that support a particular scheme, there will probably be another group that oppose it. Don't set yourself impossible objectives - don't set yourself up to fail.

Councillor Calls for Action 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 not available. Use the One-Stop to get information BEFORE committing yourself to a particular course of action.

SECTION 2: HOW TO PROGRESS A CCfA

- 2.1 Democratic Services can advise on how to progress Councillor Calls for Action at any point, but preferably before you start the process.
- 2.2 CCfA is about helping Councillors to resolve issues and problems on behalf of their residents, and giving ward Members the opportunity to respond to local need. CCfA is not merely a Scrutiny Process: Scrutiny is the final step in a longer process. Hearing by OSB only comes into play when all other methods of resolution by the Member concerned have been exhausted.
- 2.3 Before starting with a CCfA, consider all the other avenues that might be appropriate. These might include:
- submitting a One-Stop
 - advising (or assisting) resident(s) to use the Complaints Procedure
 - advising on a petition
 - Call-In of Executive decisions (where appropriate)
- 2.5 Before a CCfA can be sent to Scrutiny for consideration, all actions in the chart below should have been taken, or at least considered.

| STEP 1: REGISTERING YOUR CCfA WITH DEMOCRATIC SERVICES | |
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| Actions to be taken | Notes / Guidance |
| Ensure that other appropriate avenues (see above) have been exhausted. | e.g. consider One-Stops, Complaints, Petition |
| Define the issue. Set out, in writing , what the issue isthis will avoid misinterpretation at a later stage. | Be very specific, and focus down in order to concentrate on the essence of the matter. |
| Contact the Principal Democratic Services Officer to register your intent to pursue a CCfA. | See Section 3 below |

| STEP 2: ESTABLISHING THAT YOUR CCfA IS A COMMUNITY ISSUE | |
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| Actions to be taken | Notes / Guidance |
| Obtain community views | Consider calling a public meeting or undertaking a survey. If a public meeting is held, ensure that you have someone taking minutes that reflect all opinions/views. |
| Contact any relevant special interest or single interest groups in the area | For example, there might be Residents' Groups, or 'single interest' groups (e.g. playing field committees); 'Friends of' groups or users' groups (e.g. that have interest in Parks, Cemeteries, etc). |
| Get the matter raised at the Community Council | Obtain the relevant minutes |

| STEP 3: TAKING UP THE ISSUE WITHIN THE COUNCIL | |
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| Actions to be taken | Notes / Guidance |
| Raise the matter with the relevant Executive Member | Democratic Services can advise on the full extent of Executive Members' portfolios. If the potential CCfA relates to an outside organisation (eg Health, bus companies, social housing) then the matter MUST be raised with the Executive Member. Ward Members should NOT make direct contact with external agencies, as approaches will need co-ordinating. |
| Write to the Service Director. | Once all of the above steps have been taken, you should write to the Service Director explaining the issue, what you have done so far, and the desired outcome. |

| STEP 4: INITIATING THE CCfA FOR CONSIDERATION BY SCRUTINY | |
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| Actions to be taken | Notes / Guidance |
| Contact the Scrutiny Support Team. See Section 3 below. | Before a matter can be taken to Scrutiny, you will be required to demonstrate that all of the above steps have been either undertaken, or at least considered. If they have not been undertaken, you will be asked to indicate the reasons. |

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| Prepare a report to Overview & Scrutiny Board | You will need to write a report to OSB demonstrating that other avenues have been tried, and if not, why they were not thought to be appropriate. Your report will need to be based on the evidence you have gathered at Step 2 above, and outline the responses that you have been given at Step 3 above. |
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SECTION 3: REGISTERING A CCfA WITH DEMOCRATIC SERVICES

- 3.1 To register a CCfA as outlined in Step 1 in the preceding Section, you should contact the Democratic Services Team. Registering your intent to pursue a CCfA is indicating that you are committing yourself to the process outlined in Section 2, above.
- 3.2 At the time of registering the CCfA you will be required to provide the information set out below:
- Name of councillor who registering the concern
 - Date of register
 - Any other councillors supporting the CCfA
 - Details of the matter that Scrutiny is being asked to consider
 - Details of actions already taken by you (and other Members supporting the CCfA) to resolve the concern
 - Officers, services and partner agencies involved
 - Clarification regarding the resolution desired
 - Update if progress has been made

SECTION 4 – SCRUTINY CONSIDERATION OF YOUR CCfA

- 4.1 If the required actions listed in Section 2 above (How to Progress a CCfA) have been completed, and the matter is still unresolved, then you can request that the matter is referred to the next available meeting of the Overview & Scrutiny Board (OSB) for consideration.

The Legislation

- 4.2 The relevant sections of the Local Government & Public Involvement in Health Act 2007 that introduce Councillor Calls for Action enables Councillors to refer a matter to a Scrutiny Committee.
- 4.3 The Act only requires that the matter is placed on the agenda, and that it is discussed. The Act does not require that a scrutiny is undertaken with regard to the matter, or that the Scrutiny Committee takes any further actions (such as referring the matter elsewhere for consideration).

- 4.4 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.
- 4.5 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. Also, there is no right of appeal by constituents to the Council's Executive
- 4.6 The Scrutiny Committee must provide the Member who proposed the CCfA with a copy of any report or recommendations which it makes to the Council, or to the Executive, in relation to the matter.

Have all required steps been taken?

- 4.7 At the point that you request your CCfA to be heard by OSB, a Democratic Services Officer will complete a pro-forma setting out the details as follows:

| | | YES/ NO | EVIDENCE- please provide |
|----------|---|--------------------|--|
| 1 | Has there been proper consideration of other appropriate actions eg One-Stops, Complaints, Petitions | | List actions |
| 2 | Has the issue been clearly defined? | | Insert the matter for consideration as CCfA |
| 3 | Community views obtained – and supportive of the CCfA? | | List all. Take copies of minutes etc |
| 4 | Relevant groups contacted for support? (eg single issue groups etc) | | List all. Take copies of minutes etc |
| 5 | Is the Community Council supportive of the CCfA? If not, why not? | | Take copy of minutes |
| 6 | Has the Executive Member been contacted? | | Copy letters, e-mails, etc |
| 7 | Has the Service Director been written to? | | Copy letters / e-mails |
| 8 | Have you prepared a report to OSB setting out the issue, the actions taken to address the issue, the outcomes so far, and the actions required to resolve the matter? | | Attach report. Check format, content. Advise accordingly |

- 4.8 If all of the steps detailed in this Guidance have been completed, then your CCfA will be placed on the agenda of the next available OSB. Officers do not have the power to screen out any CCfA where all the preparatory steps have been completed.

Scrutiny Actions - OSB

- 4.9 The Overview & Scrutiny Board will reject a CCfA if:
- The issue is currently going through the Council Complaints procedure;
 - Ward Councillors have not explored the issue fully and exhausted all avenues as set out in this Guidance;
 - The Scrutiny process could not add any value to the work undertaken by the ward Councillor(s);
 - Matter has already been subject to call-in.
 - The matter has been considered by Scrutiny or the Executive within the previous 6 months, and there are no changes in circumstances that require fresh consideration;
- 4.10 When the OSB accepts as valid a CCfA, it can take a number of actions when giving initial consideration to your CCfA. Essentially, OSB can:
- Decide to take no action. In this case, OSB must give you reasons for that decision.
 - Refer your CCfA to the Ad Hoc Scrutiny Panel for consideration.
- 4.11 The legislation requires that when the decision is to refer a CCfA that relates to crime and disorder matters to a Scrutiny Panel for consideration, then it must be remitted to the Panel that deals with such matters.
- 4.12 In respect to CCfA, the term 'crime and disorder' is defined as matters relating to:
- i) crime and disorder (including forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment), or
 - (ii) 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
- 4.13 All other matters subject to CCfA will be referred to the Ad Hoc Scrutiny Panel, unless OSB agrees that there are exceptional circumstances which require the matter to be referred to another Scrutiny Panel (for example where another Panel is already giving consideration to a similar matter).

Scrutiny Actions - Panels

- 4.14 It will be the decision of the Scrutiny Panel, taking account of any guidance from OSB, as to the nature and duration of the Scrutiny investigation in respect of a CCfA.
- 4.15 As indicated above, even if your CCfA is considered by OSB or a Scrutiny Panel, their only power is to refer the matter, if appropriate, to the Executive or to the Council for consideration of Scrutiny recommendations.
- 4.16 If the Executive or the Council decide not to take any actions to resolve the matters raised by the CCfA, that is the end of the matter. Scrutiny cannot, at that point, take the matter any further.