

Councillor Call for Action (CCfA) – Adoption of Draft Protocol

RECOMMENDATION

1. To approve the draft protocol for the use of Councillor Calls for Action and to agree that Scrutiny Management Commission reviews its operation after twelve months.

SUPPORTING INFORMATION

- 2.1 At its meeting on 3 March 2009 the Scrutiny Management Commission was briefed in the Councillor Call for Action (CCfA) which came into force on 1 April 2009. Members were informed that it was intended to prepare a draft protocol that set out the CCfA process
- 2.2 The draft protocol was presented to a special meeting of Scrutiny Management Commission on 28 April 2009. Having considered and made a minor amendment to the protocol, SMC members resolved to recommend that it be adopted by Council.
- 2.3 The draft protocol is contained in Appendix 2 of this report. The amendment requested by the Commission was to include a requirement that the Councillor making the call for action should ideally give their reasons verbally, together with a written report, to the relevant scrutiny commission.
- 2.4 Council is recommended to adopt the draft protocol for the use of Councillor Calls for Action. If the protocol is adopted its working will be reviewed by Scrutiny Management Commission after 12 months.
- 2.5 It should be noted that CCfA is different from Call-in which is where any three members can call-in a key decision taken by the Council Cabinet for review by a scrutiny commission. The rules giving Members rights to place items on commission agendas are largely unaffected.

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Background papers: Appendix 1 – Implications
List of appendices: Appendix 2 – Draft protocol for the use of Councillor Calls for Action

IMPLICATIONS

Financial

1. None arising from this report. It is anticipated that any additional costs resulting from the consideration of Councillor Calls for Action will be contained within the budgets of the Overview and Scrutiny Commissions and the affected service departments.

Legal

2. The Councillor Call for Action was introduced through the Police and Justice Act 2006 and the Local Government and Public Involvement in Health Act 2007. Consequent amendments to the Constitution are proposed in a separate report to the Council.

Personnel

3. None arising from this report.

Equalities impact

4. Councillor Calls for Action have the potential to be of benefit to all Derby people.

Corporate Objectives

5. This report has the potential to link with all the Council's Corporate Objectives.

Draft Protocol for the Use of Councillor Calls for Action

Introduction

1. Councillor Calls for Action (CCfA) are defined under Section 21A of the Local Government Act 2000 and were brought into effect from 1 April 2009. Section 21A was inserted into the Local Government and Public Involvement in Health Act 2007.
2. The legislation enables any member of the Council to refer to a relevant scrutiny Commission any local government matter or any crime and disorder matter which affects their ward. It should be noted that CCfA is different from Call-in which is where any three members can call-in a key decision taken by the Council Cabinet for review by a scrutiny commission. The rules giving Members rights to place items on commission agendas are also unaffected.
3. 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.
4. Detailed best practice guidance on the use of Councillor Calls for Action has been provided by the Improvement and Development Agency and the Centre for Public Scrutiny and can be accessed via the following link.

<http://dcc-dms01/CMISWebPublic/Binary.ashx?Document=12969>
5. Councillor Calls for Action are intended to help Councillors to resolve issues and problems on behalf of residents. However the guidance makes it clear that CCfA are a means of last resort and should only be used after other methods have been exhausted. It should be recognised that a CCfA is not guaranteed to solve a given problem. It can however provide a method for discussing a problem and the discussion may in turn suggest a possible solution.
6. The flow chart in Appendix A sets out the process for making a Councillor Call for Action.

Matters that cannot be referred as a Councillor Call for Action

7. The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes from referral to a scrutiny Commission as a CCfA any matter:
 - a) relating to a planning or licensing decision
 - b) relating to an individual or an entity in respect of which the individual or entity has a right of recourse to a review or the right of appeal

- c) which is vexatious, discriminatory, or not reasonable to be included in the agenda or discussed by the scrutiny Commission

Steps that should be taken before making a Councillor Call for Action

8. Before a Councillor refers a matter to a scrutiny commission as a CCfA he/she should have tried to resolve the issue themselves using the processes and resources available to them at ward level. Attempts to resolve an issue might include:

- In the case of a local crime and disorder matter, by raising the issue through the Derby Community Safety Partnership.
- Ensuring 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 MPs or public bodies).
- Ensuring that all relevant internal routes to solution have been followed (for example, through informal discussions with officers and/or members).
- Making sure that it is not an issue which is being pursued through the Council's Corporate Complaints Procedure or the Local Government Ombudsman (LGO), or which should be pursued through the Corporate Complaints Procedure or by referral to the LGO.

Steps involved in making a Councillor Call for Action

9. If it appears that all other practicable action to resolve the issues has been taken and has not been successful, the councillor can refer the matter to the relevant scrutiny Commission as a "Councillor Call for Action". The steps in the referral process are as follows:

1. The member making the CCfA should complete the request form contained in Appendix B of this protocol and should send/give the completed form to the Director of Corporate and Adult Services
2. Upon receipt of the completed request form the Director of Corporate and Adult Services will determine whether the subject of the CCfA falls within one of the excluded categories listed in paragraph 7 (a, b and c) above, and if it does will inform the member that the matter cannot be considered as a CCfA.
3. If the subject of the CCfA does not fall within one of the excluded categories listed in (2) above, the Director of Corporate and Adult Services will inform the chair of the relevant scrutiny commission of the receipt of the CCfA and in consultation with him/her will agree how/when the CCfA will initially be considered by the Commission. A

CCfA may be considered at a scheduled meeting of the relevant scrutiny commissions or at a special meeting if the matter is complex or urgent or if there will not be a scheduled meeting of the relevant commission within a reasonable period of time.

4. Having consulted with the chair of the relevant scrutiny commission the Director of Corporate and Adult Services will inform the member who has made the CCfA when the matter will initially be considered by the Commission.

Consideration of a CCfA by the relevant scrutiny Commission

10. When undertaking their initial consideration of a CCfA the aim of the members of the relevant scrutiny commission should be to decide whether or not to accept the CCfA. In making their decision the Commission members should take into account:

1. The reasons given by the councillor for making the CCfA (ideally these should be provided verbally with an accompanying written report to the commission meeting, although in certain circumstances a written report alone may be considered acceptable)
2. Whether the issue is a matter of genuine local concern which has or will have a significant impact on the local community
3. The actions already taken by the councillor in order to resolve the issues which are the subject of the CCfA
4. Whether the relevant Council departments and partner organisations have been informed of the issues which are the subject of the CCfA and have been given sufficient time to resolve them
5. Any actions taken by the relevant Council departments and the partner organisations and the outcomes or anticipated outcomes of those actions
6. Whether and to what extent there is the potential for the scrutiny commission to make recommendations which could realistically be implemented and would lead to improvements for people living and working in the councillor's ward.

11. If the relevant commission decides not to accept the CCfA it must inform the councillor and give its reasons.

12. If the relevant commission decides to accept the CCfA it must inform the councillor and must also decide how it intends to take the matter forward. This might involve:

- Meeting with the relevant service heads and representatives of partner organisations to discuss the issues and seeing what options are available to resolve them
- Commissioning an investigation into the matters that are the subject of the CCfA and considering the outcomes of the investigation

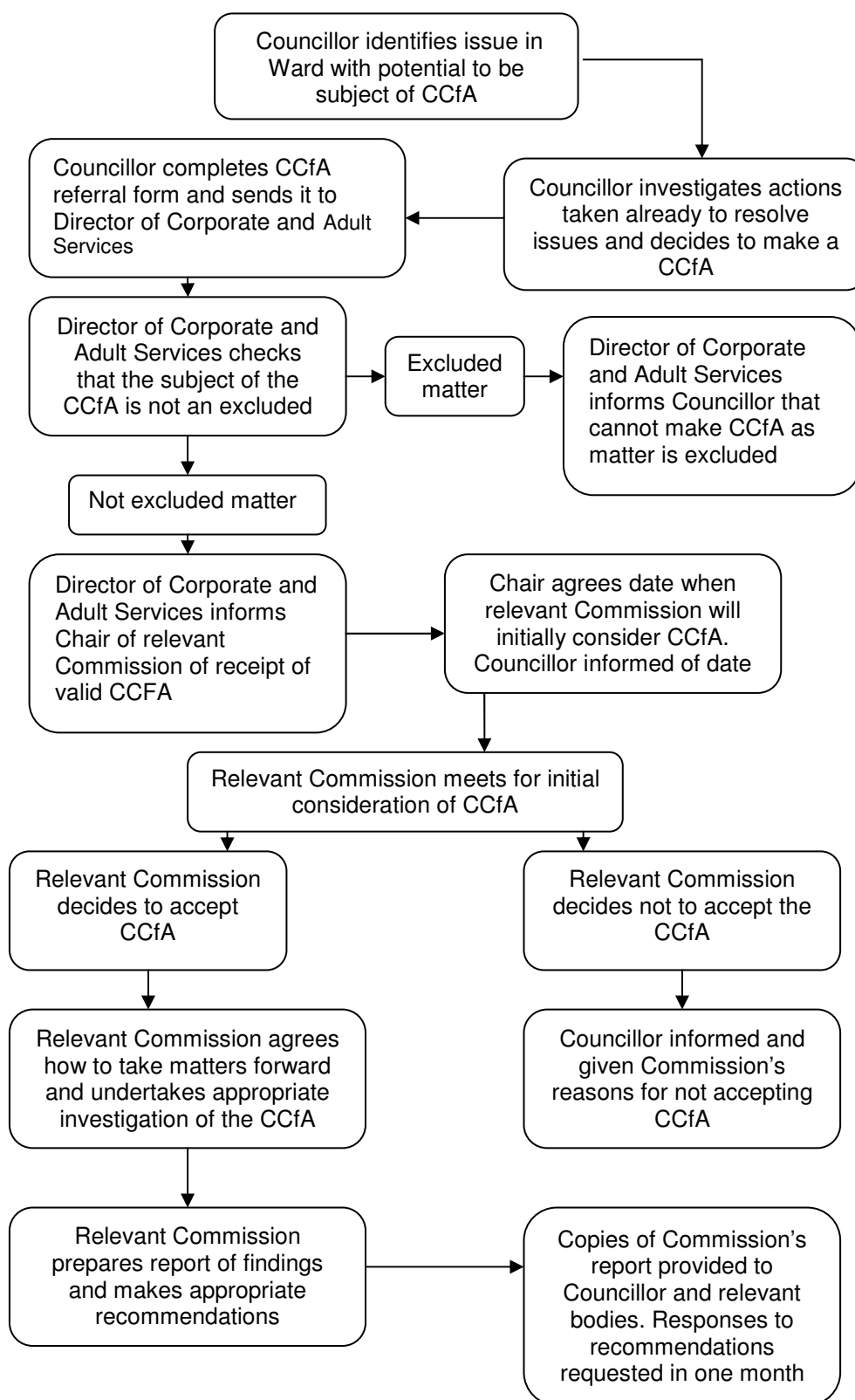
- A detailed review by the commission of the matters that are the subject of the CCfA

13. Once the relevant commission has completed its work on the CCfA it will prepare a report and will provide a copy of that report to the councillor who made the CCfA and to any other relevant bodies.

14. Where the relevant commission makes recommendations in respect of its work on a CCfA those bodies that are the subject of recommendations will be asked to respond in writing to the commission within a period of one month from the date of issue of the commission's report.

DRR 30 April 2009.

Appendix A – Flow chart of CCfA Process



Appendix B

Request for a Scrutiny Commission to consider a Councillor Call for Action (CCfA)

This form should be used by any Councillor who would like the relevant scrutiny Commission to consider a CCfA in their ward.

Name of the Councillor making the CCfA

Name (print):

The Ward represented by the Councillor:**Title of your CCfA:****Date of Submission:**

Do you intend to speak to the relevant Scrutiny Commission on the matter?

☐

Yes

☐

No

It is expected that a member making a CCfA will attend the Commission meeting when it is considered

Have you approached the relevant Scrutiny Commission on the same issue in the past six months?

☐

Yes

☐

No

Why you think the issue should be looked at by the relevant Scrutiny Commission? :

Please give a brief synopsis of the main areas of concern:

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

Which areas or community groups are affected by the CCfA?:

How have you tried to resolve the issue? :

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

Are there any deadlines associated with the CCfA of which the relevant Scrutiny Commission needs to be aware?:

Signed

Date

Please complete and return this form to the Director of Corporate and Adult Services.