

**Date: Wednesday 21 October 2009**

**Subject: Councillor Call for Action**

## **1. Executive Summary**

- 1.1 A new power known as the “Councillor Call for Action” (CCfA) was brought into force, with effect from 1 April 2009 (30 April for crime and disorder matters). The relevant provisions are contained in:
- Section 119 of the Local Government and Public Involvement in Health Act 2007, which inserts a new Section 21A into the Local Government Act 2000. This section introduces a Call for Action in respect of local government matters in general.
  - Section 19 of the Police and Justice Act 2006 as amended by Section 126 of the Local Government and Public Involvement in Health Act 2007. This section introduces a Call for Action in respect of Crime and Disorder matters.
- 1.2 This report seeks approval to the necessary changes to the Council’s Constitution and other procedures to reflect these provisions and the approval of the attached Councillor Call for Action protocol.

## **2. Recommendations**

- 2.1 That the Council be recommended to approve changes to paragraph 8 of the Policy and Scrutiny Procedure rules to the Constitution set out below.

### **“8 Rights of Members to request the inclusion of agenda items**

- (a) Any member of a Policy and Scrutiny committee or sub-committee shall be entitled to give notice to the Proper 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 proper officer will inform the Chairman of the relevant Policy and Scrutiny Committees or Sub-Committee and ensure that it is included on the agenda for the next practicable meeting.
- (b) Having had regard to any guidance issued by the Secretary of State, any member shall be entitled to give notice to the Proper 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 proper officer will inform the Chairman of the relevant Policy and Scrutiny Committee or Sub-Committee on the agenda for discussion at the next practicable meeting.

- (c) The Head of Legal Services will not include any matters on the relevant agenda where they have been excluded by any Orders made by the Secretary of State.
- (d) The relevant Committee may, when considering whether or not to exercise its powers in relation to a request received under (b) above, have regard to any representations made by the member as to why it would be appropriate for the committee to exercise any of its powers and any actions which the member has taken under the Council's Neighbourhoods programme.
- (e) Where the relevant Committee decides not to exercise any of its powers in relation to any request made under (b) above, it will notify the member of its decision, and the reasons for it.
- (f) Where the relevant Committee makes a report or recommendations to the authority it shall provide a copy of the report or recommendations to the member who referred the matter in question and any other responsible authorities and co-operating persons and bodies as it thinks appropriate.

2.2 That the Council approve the attached protocol for the use of Councillor Call for Action.



City of Westminster

# General Purposes Committee Report

Item No:	
Date:	Wednesday 21 October 2009
Classification:	For General Release
Title of Report:	Councillor Call for Action
Report of:	Head of Legal Services
Wards involved:	None
Policy context:	Management of the Council
Financial summary:	There are no financial implications arising from this report
Report Author:	Mick Steward
Contact details	Tel: 020 7641 3134; msteward@westminster.gov.uk

### **3. Background Information**

- 3.1 The Councillor Call for Action (CCfA) has been developed as part of the government's initiative to empower local communities. The legislation and guidance has left it to Councils to develop local CCfA procedures that best suit individual Councils. A CCfA protocol for Westminster City Council is appended to this report. Members will be required to complete a CCfA request form and submit it to the Head of Legal Services when requesting a CCfA.
- 3.2 Section 21A(1)(c) of the Local Government Act 2000 requires the executive arrangements of a local authority in England to include provision enabling those of its members who are not members of the authority's overview and scrutiny committee to refer to that committee any "local government matter" relevant to the committee's functions. Specifically the Council's Constitution needs to include provisions which:
- (a) Enables any member of an Overview and Scrutiny committee to refer to the Committee any matter which is relevant to the functions of the Committee.
  - (b) Enables any member of an Overview & Scrutiny Sub-Committee to do the same.
  - (c) Enables any member to refer to an Overview and Scrutiny Committee of which he is not a member any local government matter which is relevant to the functions of the Committee.
- 3.3 The Council's Policy and Scrutiny procedure rules already provide for (a) and (b) but not for (c). Accordingly, it is proposed that paragraph 8 of the Policy and Scrutiny Procedure Rules be amended to reflect the new provisions. The proposed amended paragraph 8 is set out in the recommendations above, 8 (a) has not changed but 8 (b) – (f) reflect the new provisions.
- 3.4 Also included in the expanded paragraph 8 is the requirement for the relevant Policy and Scrutiny Committee to have regard, when considering whether to exercise their powers, to any representations made by the member (who is not a member of the relevant committee or sub-committee) requesting the CCfA and the requirement for the relevant Committee to notify that member of their decision and reasons if they decide not to exercise their powers.
- 3.5 As is currently the case with any business, Committees themselves can decide the extent to which they wish to discuss matters referred in this way. Any Member wishing to submit an item under paragraph 8 (b) must have regard to the best practice guidance issued by the Secretary of State. The guidance currently available is the "Councillor Call for Action best practice guidance" issued on behalf of the Communities and Local Government by the Centre for Public Scrutiny and the Improvement and Development Agency.

3.6 The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 specifies matters which are excluded from being the subject of a Section 21A Call for Action, ie:

- (a) any matter relating to a planning decision;
- (b) any matter relating to a licensing decision;
- (c) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
- (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 the overview and scrutiny committee or at a meeting of a sub-committee of that committee.

*(Note: A matter falling within (a), (b) or (c) will not be excluded if the concern being expressed is that there are systematic failings in relation to licensing or planning decisions or other matters affecting individuals, even if they do have other rights of recourse).*

3.7 Additionally section 19 of the Police and Justice Act 2006, introduces a Call for Action in respect of Crime and Disorder matters. Section 19 (3) (b) requires a local authority to “make arrangements which enable any member of the authority who is not a member of the crime and disorder committee to refer any local crime and disorder matter to the committee”. Unlike the CCfA under section 21A (1) (c) there is no statutory provision for any excluded types of “local crime and disorder matters”. Therefore all CCfAs made under the 2006 Act will have to be referred to the Council’s Community Safety Policy and Scrutiny Committee.

3.8 The CCfA process is designed as a means of “last resort”, with issues being raised at committee after other avenues have been exhausted. It is not designed to provide an immediate solution and, as such, a key part of the process will be managing the expectations of members and the community of the outcomes that CCfA can achieve. Whilst the recommendations, if any, emanating from the Scrutiny Committee will be a strong influence in addressing the issue, it will be for the relevant decision taker to determine what action should be taken.

3.9 The Council’s Constitution already requires the Council and the Executive to respond to reports of Policy and Scrutiny Committees. Accordingly, no change to this aspect of the Constitution is necessary in order to satisfy this provision of the Act.

3.10 When considering whether to exercise any of its powers under section 21(2) of the Local Government Act 2000, the relevant Policy and Scrutiny Committee or Sub-Committee may take into account any representations as to why the member requesting the CCfA considers that it is appropriate for the committee

to exercise those powers and also any actions which that member has taken under the Council's Neighbourhoods programme.

- 3.11 In order to advise all Members of these new provisions it is intended, once the necessary Council approval has been obtained, to include an article in the Weekly Information Bulletin (WIB), explaining how these provisions can be exercised and draw attention to the Council's CCfA protocol.
- 3.12 Members of the Westminster Scrutiny Commission have been consulted on the protocol and support the approach set out.

#### **4. Legal Implications**

- 4.1 These are set out in the body of this report.

#### **5. Financial Implications**

There are no financial implications arising from this report.

#### **Background Papers**

- 1. Local Government and Public Involvement in Health Act 2007 Sections 119 and 126
- 2. Police and Justice Act 2006 – section 19
- 3. The Local Government Act 2000
- 4. The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 ("008 No. 3261)
- 5. Local Government and Public Involvement in Health Act 2007 (Commencement No. 8) Order 2008 (2008 No. 3110)
- 6. Councillor Call for Action – Best Practice Guidance

<p>If you have any queries about this report or wish to inspect any of the Background Papers, please contact: Mick Steward on 020 7641 3134</p>
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# **WESTMINSTER CITY COUNCIL**

## **Councillor Call for Action Protocol**

### **1. Introduction**

- 1.1 The “Councillor Call for Action” (CCfA) was introduced by Section 119 of the Local Government and Public Involvement in Health Act 2007 which inserted Section 21A(1)(c) into the Local Government Act 2000. This protocol was agreed by the Council on 4 November 2009.
- 1.2 Section 21A (1) (c) enables any member of the Council to refer to the relevant Policy and Scrutiny Committee any local government matter which is relevant to the functions of the Committee.
- 1.3 In addition, the amended Section 19 of the Police and Justice Act 2006 came into force on 30 April 2009. This enables any member of the Council to refer to their Crime and Disorder Committee any local crime and disorder matter which affects their Ward. The Community Safety Policy and Scrutiny Committee will discharge these functions.
- 1.4 Any Councillor can refer a local government matter even if he/she has not been asked by a member of the public to consider the matter..

### **2. Limitations**

- 2.1 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 try to overcome them.

### **3. Issues excluded from referral as a CCfA**

- 3.1 The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 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 an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
  - (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 the overview and scrutiny committee or at a meeting of a sub-committee of that committee.

- 3.2 A matter will not be excluded under (a) – (c) where the allegation consists of the function not being discharged at all or that its discharge has failed or is failing on a systematic basis.

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

- 4.1 Prior to a Councillor referring a matter as a CCfA to a Policy and Scrutiny Committee, that Councillor should have tried to resolve the matter themselves using all mechanisms available to them.

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

- 5.1 If the matter can not be resolved then the Councillor can refer it to a Policy and Scrutiny Committee as a “Councillor Call for Action”. To do this the Councillor should complete the attached CCfA form and return it to the Head of Legal Services. The form requires the following details :

- The name of the Councillor and ward they represent.
- Title of the CCfA and date of submission.
- Why you think the issue should be looked at and by which Policy and Scrutiny Committee.
- A brief synopsis of what the main areas of concern are.
- What evidence you have in support of your CCfA.
- Which, if any, areas or community groups are affected by the CCfA.
- What you have done 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 being examined by a formal complaints process?
- Are there any deadlines associated with the CCfA of which the Policy and Scrutiny Committee needs to be aware.
- Whether there are any other issues which may be of use to the Policy and Scrutiny Committee.

- 5.2 The Head of Legal Services will assess the matter to ensure that it is not excluded from referral to the Policy and Scrutiny Committee by virtue of any orders made by the Secretary of State. Only the Head of Legal Services in consultation with the Chairman of the relevant Policy and Scrutiny Committee, can take the decision that the matter is an excluded matter.



- 5.3 If the matter is not an excluded matter, the Head of Legal Services will inform the Chairman of the relevant Policy and Scrutiny Committee that the item will be included on the next Committee agenda. It is then up to the members of the Committee to decide whether or not to exercise any of its powers under section 21 (2) of the Local Government Act 2000 in relation to that matter.

## **6. Decision of the Committee whether to take the matter further**

- 6.1 When the Committee are considering whether or not it will exercise any of its powers in relation to the CCfA request, it will have regard to any representations made by the Councillor (making the CCfA request) as to why the Committee should exercise its powers and also any actions that that Councillor has taken under the Council's Neighbourhoods Programme.
- 6.2 The Councillor who submitted the CCfA request can either present their CCfA request without supporting papers (save for their CCfA request form), or of preparing a report setting out their views.
- 6.2 The criteria the Committee will use to decide whether or not to exercise any of its powers in relation to the CCfA request will include:
- Is the Committee satisfied that all reasonable attempts have been made to resolve the issue by the Councillor submitting the request? And do the responses received by that Councillor demonstrate that the matter is not being progressed?
  - Has the Committee 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 work plan?
  - Relevant time pressures on resolving the CCfA should be taken into account.
  - Have all relevant service areas or partner organisations been informed and 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 complaints procedure?
  - Is the issue part of an issue of genuine local concern which could have an impact on the local community?
  - 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 members ward?

- 6.3 When considering a CCfA request, the Policy and Scrutiny Committee may invite the relevant Head of Service and/or an external organisation to discuss the issue with the Committee and answer any questions.
- 6.4 If the Committee decides not to accept the CCfA referral it will inform the Councillor (if that Councillor is not a member of the relevant committee or sub-committee) and provide reasons.
- 6.5 If the Committee decides to accept the CCfA referral, it must decide how it intends to take the matter forward and include the CCfA in its work plan and inform the Councillor of the action to be taken.

## **7. Potential Outcomes**

- 7.1 There are a number of potential outcomes following the consideration of the issue:
- The Committee could determine not to make a report or recommendations and will notify the Councillor (if that Councillor is not a member of the relevant committee or sub-committee) in writing;
  - The Committee could determine that it is a issue that requires further investigation and will commission a scrutiny review of the issue;
  - The Committee could write a report and make recommendations on the CCfA to the Council, the Cabinet, relevant Cabinet Members, Committee or Chief Officers.
- 7.2 Once the Committee has completed its work on the CCfA referral the member who made the CCfA request will receive a copy of the report or recommendations made. The report will also be made available on the Council's website.

## **8. Timescales**

- 8.1 Once a CCfA request has been assessed as not being an excluded matter, the item will be included on the next Committee agenda.
- 8.2 Should a CCfA request result in recommendations to Full Council or Cabinet an item will be placed on the agenda for the next ordinary meeting.
- 8.3 Should a CCfA request result in recommendations to partner organisations, such organisations will be invited to make a response to the recommendations.

## **Councillor Call for Action Request Form**

This form should be used by any Councillor who would like the Policy and Scrutiny Committee to consider a Councillor Call for Action

**Councillor:**

**The ward you represent:**

**Title of your Councillor Call for Action:**

**Date of Submission:**

**Why do you think the issue should be looked at by the Policy and Scrutiny Committee:**

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

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

**Which, if any, areas or community groups are affected by the CCfA:**

**How have you tried to resolve this issue:**

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

**Are there any deadlines associated with the CCfA of which the Policy and Scrutiny Committee needs to be aware:**

**Whether there are any other issues which may be of use to the Policy and Scrutiny Committee**

Please forward to the Head of Legal Services  
(For the attention of Mick Steward)  
15<sup>th</sup> Floor  
Westminster City Hall  
64 Victoria Street  
London SW1E 6QP  
Email: [msteward@westminster.gov.uk](mailto:msteward@westminster.gov.uk)