

CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of meeting: 16 April 2009
Report of: Borough Solicitor
Title: Community Call for Action

1.0 Purpose of Report

- 1.1 To advise the Committee and Council on new arrangements to allow individual members to pursue particular problems affecting their ward via Overview and Scrutiny Committees, where other methods of resolution have been exhausted.

2.0 Decision Required

- 2.1 To receive the report and to approve a provisional process the Council should adopt for dealing with requests for Overview and Scrutiny Committees to consider matters raised under the Community Call for Action powers.
- 2.2 That the report be referred to the Corporate Scrutiny Committee for comment.
- 2.3 That a briefing note be prepared for circulation to all members outlining the main components of Community call for action.
- 2.4 That the Borough Solicitor be requested to draw up a suitable checklist to assist members with requests for Community Call for Action in accordance with the principles outlined in this report.

3.0 Financial Implications 2009/10 and beyond

- 3.1 There are no identifiable costs for 2009/10 and beyond although increased Overview and Scrutiny activity could place an additional burden on Overview and Scrutiny Officer resources.

4.0 Legal Implications

- 4.1 It is important to have a clear and robust process in place to allow members to have access to Overview and Scrutiny to attempt to resolve difficult ward issues.

5.0 Risk Assessment

- 5.1 There are no identifiable risks.

6.0 Background and Options

- 6.1 Ward Councillors play a central role in the life of a local authority and provide a vital link between the Council and its residents. They have traditionally championed local concerns, but until now have not had formal means of resolving particularly difficult issues within their wards. The Government, through its “Strong and Prosperous Communities” White Paper of 2006 and “Communities in Control” White paper 2008, had pursued an aim of giving more power to local people and local ward Councillors, to strengthen the ability of local councillors to speak up for their communities and demand an answer when things go wrong. Through Community Call for Action (CCfA), and optional powers contained in section 236 of the Local Government and Public Involvement in Health Act 2007 which allow Councils to delegate some functions to individual Councillors (which will be the subject of a subsequent report to a future meeting) possibilities exist to allow individual members to bring about improvements in local areas.

7.0 Overview of Day One, Year One and Term One Issues

- 7.1 The new legislation took effect from 1 April 2009 and it is therefore important to have in place as soon as possible a process so that any early action by members can be dealt with in a structured way. The Government has not introduced a prescriptive regime of how Councils must set about putting CCfA into practice, and it is therefore expected that each authority will develop its own arrangements to use CCfA to its maximum possible effect. Undoubtedly, whatever arrangements are put in place now, will need fine tuning in the light of experience.

8.0 Reasons for Recommendation

- 8.1 To ensure that the criteria and process are transparent and effective.

9. Introduction

The Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006 introduced new powers for ward councillors to help them tackle constituency problems. Councillors now have the ability to require Overview and Scrutiny (O&S) Committees to discuss matters of concern in their ward, which have failed to be resolved through normal channels. This power is known more commonly as “Councillor Call for Action” (CCfA). The powers are limited to issues affecting single council wards. There are restrictions on the range of matters that can be referred to Scrutiny under the legislation. These are listed below. The thinking about CCfA has shifted significantly from that originally envisaged in the white paper and there is now less emphasis on the role of Overview and Scrutiny.

CCfA will be a means of “last resort” with issues only being raised at an O&S Committee after all other avenues have been exhausted.

- 9.1** It is acknowledged that some more experienced Councillors who are quite happy to use their contacts and knowledge of the Council and its partner agencies are likely to resolve matters themselves, whilst other members may need assistance to guide them through the process.

10. Main principles of CCfA

- Successful CCfA will rely on several broad principles which are: -
 - Transparency in decision-making and the involvement of O&S in the decision-making process at some level;
 - A willingness on behalf of the Council to identify mistakes and shortcomings, and a recognition of the need to resolve problems through discussion;
 - An understanding (among senior officers and Cabinet members in particular) of the role that Scrutiny can play to help the Council improve its services;
 - An understanding and a wish to bolster and support the role that ward Councillors play as champions and leaders of their communities;
- The focus of the CCfA is on neighbourhood or locality issues and specifically the quality of public service provision at a local level where local residents have concerns about persistent or serious problems in their area.
- CCfA must relate a genuine local concern – based on the local councillor’s judgements.
- CCfA powers are limited to issues affecting single wards.
- It should relate to a persistent problem, which the local councillor has been unable to resolve through local action and discussion with the Cabinet or relevant services and/or outside agencies.
- It is expected that Overview and Scrutiny consideration of a CCfA will be short and focused. It is important that the public see this as a responsive and un-bureaucratic process which delivers tangible outcomes
- CCfA is not appropriate for dealing with individual complaints by members of the public. Nor is it intended to add additional bureaucracy

to everyday requests from constituents, which form part of the regular interaction between ward members and their locality.

- The purpose of CCfA is to provide a possible remedy. O&S will therefore not look at issues which cannot be resolved e.g. revisiting a need to close a school after closure.
- CCfA is not appropriate for dealing with issues that relate to individual 'quasi judicial' decisions (e.g. planning or licensing) or to council and non-domestic rates as these are subject to their own statutory appeals processes.

11.0 Suggested Check List

11.1 Recently, a number of authorities have piloted CCfA in conjunction with the IDeA. Some of the pilot authorities have adopted a checklist, which not only assists an individual Councillor in their efforts to resolve an issue before it becomes necessary to involve O&S, it also puts in place a framework for the authority to manage CCfA and ensures that O&S can add value.

11.2 It is suggested that Cheshire East adopts such a checklist based upon the issues raised below, which will act as a filter to ensure that ward councillors have made every effort to try solve the matter locally.

- **Are the concerns individual complaints?**

Scrutiny is not appropriate for individual complaints from the public. The regulations on exclusions, specifically exclude complaints (that is, a complaint by an individual resident which relates to the individual service that the Council provide to him or her). If it is a complaint of this nature, advice can be given about the Corporate Complaints procedure. The matter should also be rejected if the matter is considered to be vexatious, or discriminatory or not reasonable for inclusion in the agenda for an O&S committee.

- **Do the concerns relate to individual 'quasi judicial' decisions (e.g. planning/licensing) or another council appeals process such as education appeals or Council tax?**

Scrutiny is not appropriate for dealing with these kinds of concerns as they are subject to their own statutory or Council appeals processes. However, patterns of issues may be appropriate to consider as a concern under CCfA e.g. community concerns about the proliferation of licensed premises in a local neighbourhood.

- **Do the concerns relate to the quality of public service provision at a local level?**

This is appropriate for CcfA which not only looks at issues of concern relating to councils services, but also issues relating to other public services and service areas, such as concerns about anti social behaviour, community safety, and health services.

- **Is the issue a genuine local concern?**

Councillors will want to be sure that the concerns are genuine and not just an individual 'hobby horse'. Finding out the views of other community members will help clarify this.

- **Is an apology, explanation or an assurance about a particular problem enough to satisfy a community concern?**

Some CCfA can be satisfied by public explanation and do not require service change or a scrutiny review. These should not be dealt with by Scrutiny, although patterns of issues may be appropriate for consideration by O&S.

12.0 Next Steps

- 12.1 If a councillor agrees to champion a CCfA they will need to demonstrate that they have made every effort to resolve the matter of concern before it is presented to O&S. If an individual member feels that all possibilities have been explored having had regard to the above check list, they would then be required to submit a written request to the appropriate Scrutiny Committee for it to consider the CCfA.
- 12.2 If the committee decides that the CCfA is justified and that every other means of resolution has been attempted, the committee may make recommendations to the appropriate service provider at the time or establish a task and finish group to look at the issue in more detail with the aim of finding a speedy solution and making recommendations to either the Cabinet, Council, appropriate Council department or council partner. Alternatively it may take no further action and give their reasons for doing so.
- 12.3 If the issue is one to do with Crime and Disorder, it will be referred straight to the O&S Committee dealing with this area of work i.e. the Sustainable Communities Overview and Scrutiny Committee (Police and Justice Act 2006).

For further Information:

Officer Mark Nedderman

Tel no 01270 529640

Email Mark.Nedderman@cheshireeast.gov.uk