

**REPORT TO:** CABINET  
**COUNCIL**  
**DATE:** 9 JULY 2009

**SUBJECT:** COUNCILLOR CALL FOR ACTION &  
SCRUTINY OF CRIME AND DISORDER  
**WARDS AFFECTED:** ALL

**REPORT OF:** CAROLINE ELWOOD, LEGAL DIRECTOR

**CONTACT OFFICER:** MICHELE WAINWRIGHT, EXTN. 2666 / DEBBIE CAMPBELL, EXTN.  
2254  
**EXEMPT/  
CONFIDENTIAL:** NO

**PURPOSE/SUMMARY:**

To seek the authority to implement the Councillor Call for Action protocol and to designate the Overview and Scrutiny Committee (Performance and Corporate Services) as the Council's "Crime and Disorder Committee".

**REASON WHY DECISION REQUIRED:**

In accordance with the legislation introduced under the Local Government and Public Involvement Act 2007, and Section 19 of the Police and Justice Act 2006 and the Crime and Disorder (Overview and Scrutiny) Regulations 2009.

**RECOMMENDATION(S):**

1. That the Councillor Call for Action Protocol be approved for implementation; and the terms of reference within the Council's Constitution for three of the four Overview & Scrutiny Committees be amended accordingly; and
2. That the Overview & Scrutiny Committee (Performance & Corporate Services) be designated the Crime and Disorder Committee for the purposes of Section 19 of the Police and Justice Act and the Crime and Disorder (Overview & Scrutiny) Regulations 2009, and its terms of reference within the Council's Constitution be amended accordingly.

**KEY DECISION:** No

**FORWARD PLAN:** No

**IMPLEMENTATION DATE:** Following the meeting of the Council on 9<sup>th</sup> July 2009.

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**ALTERNATIVE OPTIONS:**

None

**IMPLICATIONS:****Budget/Policy Framework:** None arising from this report.**Financial:**

<b><u>CAPITAL EXPENDITURE</u></b>	<b>2009/ 2010 £</b>	<b>2010/ 2011 £</b>	<b>2011/ 2012 £</b>	<b>2012/ 2013 £</b>
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<b><u>REVENUE IMPLICATIONS</u></b>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

There are no financial implications arising as a result of this report.

**Legal:** Reflected within the attached protocols.**Risk Assessment:** Risks have been addressed within the protocol developed for this function.**Asset Management:** None arising from this report.**CONSULTATION UNDERTAKEN/VIEWS**Overview and Scrutiny Management Board  
Overview & Scrutiny Committee Members

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**CORPORATE OBJECTIVE MONITORING:**

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Creating Safe Communities	√		
3	Jobs and Prosperity		√	
4	Improving Health and Well-Being		√	
5	Environmental Sustainability		√	
6	Creating Inclusive Communities	√		
7	Improving the Quality of Council Services and Strengthening local Democracy	√		
8	Children and Young People		√	

**LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT**

None

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## **BACKGROUND:**

1. Councillor Call for Action (CCfA) has been introduced by the Government under the Local Government and Public Involvement in Health Act 2007, to strengthen the role of the ward councillor. The CCfA is a process for a Councillor to take action on behalf of residents to resolve a local issue of concern, acting as a last resort for people who cannot get issues resolved through any other means.
2. Issues relating to Crime and Disorder are not dealt with through the CCfA, as Section 19 of the Police and Justice Act 2006 requires every local authority to have a “Crime and Disorder Committee”, with the power:-
  - to review or scrutinise decisions made, or action taken, in connection with the discharge by the “Responsible Authorities,” who comprise the Crime and Disorder Reduction Partnership of their crime and disorder functions;
  - to make reports and recommendations to the Council with regard to the discharge of the Responsible Authorities’ function.
3. The “Responsible Authorities” means the bodies and persons who are responsible authorities within the meaning given by section 5 of the Crime and Disorder Act 1998 (c. 37) (authorities responsible for crime and disorder strategies) in relation to the local authority’s area, namely:-
  - Local Authority
  - Police Authority
  - Police Force
  - Fire and Rescue Authority
  - Primary Care Trust
  - Registered Social Landlords

## **TERMS OF REFERENCE**

In order to implement the Councillor Call for Action protocol and designate a “Crime and Disorder Committee”, certain amendments will be required to the Council’s Constitution and these are detailed below.

### **Overview and Scrutiny Committee (Performance and Corporate Services)**

*That, in accordance with Section 19 of Part 3 of the Police and Justice Act 2006, this Committee be designated as the Council’s “Crime and Disorder Committee”, with power to:-*

- (a) *review and scrutinise decisions made or other action taken in connection with the discharge by the responsible authorities of their crime and disorder functions;*

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*(b) make reports or recommendations to the Council with respect to the discharge of these functions.*

**Overview and Scrutiny Committee (Children's Services)**

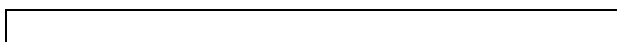
**Overview and Scrutiny Committee (Health and Social Care)**

**Overview and Scrutiny Committee (Regeneration and Environmental Services)**

*That, in accordance with Section 119 of the Local Government and Public Involvement in Health Act 2007, these Committees consider a Councillor Call for Action which has been referred by the Overview and Scrutiny Management Board.*

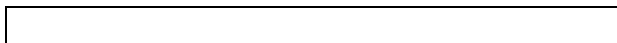
**RECOMMENDATIONS:**

1. That the Councillor Call for Action Protocol be approved for implementation; and the terms of reference within the Council's Constitution for three of the four Overview & Scrutiny Committees be amended accordingly; and
2. That the Overview & Scrutiny Committee (Performance & Corporate Services) be designated the Crime and Disorder Committee for the purposes of Section 19 of the Police and Justice Act and the Crime and Disorder (Overview & Scrutiny) Regulations 2009, and its terms of reference within the Council's Constitution be amended accordingly.



# **Councillor Call for Action**

Guidance for Councillors  
APRIL 2009



## **Councillor Call for Action – Protocol**

The Councillor Call for Action (CCfA) process provides ward members with a means of escalating matters of ward concern (any local government matter or any crime and disorder matter) to an Overview and Scrutiny Committee (OSC), for possible onwards recommendations to the Council's executive and / or other agencies. The power to refer a matter to Overview & Scrutiny 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.

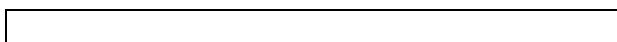
However it is very important to note that a CCfA is intended to be a measure of “last resort” and may not be used until all other avenues have been exhausted. The CCfA may not be used in relation to individual planning and licensing decisions or where other avenues of appeal exist.

A ward member requesting a call for action will be asked to demonstrate that they have sought to address the issue through all existing means and the call will not be considered unless the Overview & Scrutiny Management Board is satisfied that:

- the councillor has made all reasonable efforts to resolve the matter via dialogue with council officers and / or relevant partner agencies;
- the issue of concern is a matter in respect of which the Council has a statutory power or duty to deal with which is not precluded by legislation; and
- the issue of concern has a demonstrable impact on a part of, or the whole of, a councillor's ward.

Before a CCfA can be progressed to scrutiny, the member must provide documentation to show that they have taken the following steps:

- If a local crime and disorder matter, raise the issue through the Crime and Disorder Reduction Partnership to find a way to resolve the issue. (Crime & Disorder issues are referred to the Overview & Scrutiny Committee (Performance & Corporate Services) which acts as the Crime & Disorder Scrutiny Committee).  
Made the relevant service request / members' enquiry/ letter to the relevant partner agencies and given enough time for them to resolve it.
- Ensure that all relevant internal routes have been exhausted – for example discussions with Cabinet Members, Officers, questions at committees, motions on the agenda at full Council as appropriate.
- Raised the issue of concern at area level.
- Ensure that this is not an issue that is currently being, or should be, pursued via the Council's complaints procedure.



## **How to make a Councillor Call for Action Referral**

As a “last resort” a ward councillor may submit a signed referral form to the Head of Overview and Scrutiny. This form is available on the Council’s website or from the Overview & Scrutiny Team. The form for a CCfA includes:

- The name of the councillor and ward they represent;
- Title of the CCfA and date of submission;
- Whether the CCfA relates to a local government matter or a crime and disorder matter;
- Background – including details of attempts to resolve matter via other means;
- Evidence in support of the CCfA;
- Desired outcomes; and
- Any deadlines associated with the CCfA of which the Overview & Scrutiny Management Board / Committees needs to be aware.

The Head of Overview & Scrutiny will receive the referral form, log it to track its progress and will submit the request to the next available Overview & Scrutiny Management Board for consideration.

The Head of Overview and Scrutiny will, within five working days of the Overview & Scrutiny Management Board notify the sponsoring councillor that the CCfA is considered, and will refer the item to the appropriate Overview & Scrutiny Committee agenda. A valid CCfA will be considered at the next available meeting, in public session unless the consideration of the issue involves the disclosure of exempt or confidential information as defined by the Access to Information Procedure Rules, of the Constitution.

Alternatively if the CCfA is rejected the Overview & Scrutiny Management Board may give advice and / or signposts on other appropriate ways forward to help resolve the issue. The lead councillors and relevant Cabinet Members will be advised accordingly.

The Overview & Scrutiny Management Board may reject any Call for Action if it entails:

- Individual complaints concerning personal grievances or commercial issues.
- 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:
  - Planning and licensing applications and appeals;
  - Council Tax/Housing Benefits complaints and queries; or
  - Issues currently under dispute in a court of law.
- Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the relevant Overview and Scrutiny committee.



- Substantially the same as a Councillor Call for Action which has been put to any meeting of the Council in the past 6 months.

The ward councillor's role in the consideration of the CCfA, as with any formal council business, is subject to compliance with the Members' Code of Conduct.

### **Referral to the Overview & Scrutiny Committee**

If the Overview & Scrutiny Management Board decides that the matter should be taken to the relevant Overview & Scrutiny Committee then the appropriate Overview & Scrutiny Officer will liaise with the Chair of the Committee to decide how the matter should be taken forward and included within the work programme. This could include:

- asking the service area (s) / partner organisation (s) to respond to the CCfA;
- setting up a working group to undertake a more in-depth review;
- asking for further evidence and / or witnesses to be brought to a future meeting then making recommendations to the Cabinet / partner organisations.

### **Potential Outcomes**

Following referral to the Overview & Scrutiny Committee there are a number of potential outcomes:

- The Committee could determine not to make a report or recommendations with the ward councillor notified in writing;
- The Committee could determine that it is a complex issue that requires further investigation and undertake a mini-investigative review or in-depth review of the issue;
- The Committee could write a report and make recommendations on the CCfA to the Cabinet and/or relevant partners.

Once the Committee has completed its work on the CCfA referral the member who made the CCfA referral will receive a copy of the report or recommendations made. The report / recommendations will also be made available on the Council's website, unless the matter is an exempt item, in which case the report cannot be made public.

Once a CCfA has been assessed as not being a matter which is excluded from referral to Overview and Scrutiny Committee, the item will be included on the next OSC agenda. If the Committee agrees to take the matter forward, the hearing will usually be held as an item on the next available agenda. In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened.

Should a CCfA hearing result in recommendations to the Cabinet being made, the Cabinet will usually respond to the recommendations, setting out any action it intends to take, within 28 days of the date of the Cabinet agenda within which the recommendations are included.

Should a CCfA hearing result in recommendations to partner organisations, such organisations will also be requested to make a response to the recommendations.

Although they are under no legal obligation to do so, they are obliged to “take it into consideration”.

## **Explanatory Notes**

### Definition of a local government matter and a local crime and disorder matter:

#### *Local government matter*

For the purpose of the Act a local government matter, in relation to a member of a local authority is one which:

- relates to the discharge of any function of the authority;
- affects all or part of the electoral area for which the referring member is elected or any person who lives or works in the area (ie it must be specific to a particular locality); and
- is not an excluded matter.

However, the guidance produced by the Centre for Public Scrutiny and Improvement and Development Agency advises that, to give full effect to **CCfA** the interpretation of “local government matter” needs to be broader. This includes issues relating to the Council’s partners, in line with the area focus of Comprehensive Area Assessment (CAA), and the fact that an authority’s duties increasingly impact on other organisations, and involve partners within and outside the Local Strategic Partnership (LSP).

#### *Local crime and disorder matter*

A local crime and disorder matter, in relation to a member of a local authority, has been defined to mean a matter concerning:

- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- (b) 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.

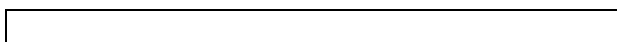
### Definitions of “vexatious”, “persistent”, “discriminatory” and “not reasonable”

Statutory regulations deal with matters that can be excluded from **CCfA**, stating that “any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee is to be excluded”.

#### *Vexatious/Persistent*

Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause. Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid – it may relate to a systematic problem that has not been effectively resolved.

CCfAs need to be looked at on their merits, rather than on the basis of who is bringing them, or whether somebody thinks there is an ulterior motive for them being



brought. Where a request for a **CCfA** is clearly vexatious, detailed reasons for coming to this decision will be given to the councillor concerned. There could, however, be instances where changes to the scope of the **CCfA**, or its focus, could make it more acceptable while still meeting the councillor's requirements.

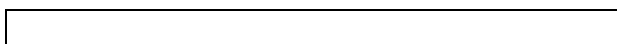
#### *Discriminatory*

A modern interpretation of the word "discrimination" is provided at Section 45 of the Equality Act 2006, in relation to religion and belief, as follows:

A person (A) discriminates against another (B) if on the grounds of the religion or belief of B or of any other person except A, A treats B less favourably than he treats others. This definition can easily be amended to deal with other forms of discrimination, such as discrimination for reasons of sex and/or race. So a discriminatory **CCfA** might be one which implies or states that a group of people or an area receives better, or worse, services on account of that group's predominant religion, race, sex or other characteristic, as covered by discrimination legislation.

#### *Not reasonable*

It is suggested that, in the interests of transparency, authorities do not interpret "not reasonable" as being the same as the legal word "unreasonable". It is best to consider it as a qualifier to the word "vexatious", as a vexatious request is likely not to be reasonable and a request that is not reasonable is likely to be vexatious.



## Councillor Call for Action Request Form

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

Councillor:
The ward you represent:
'Is this referral related to a local government matter or crime and disorder matter?'
Title of your Councillor Call for Action:
Date of Submission:
Have you approached the Overview and Scrutiny Commission on the same issue in the past six months? If yes, please give details:
Why you think the issue should be referred to the Overview and Scrutiny Committee:
What evidence do you have in support of your <b>CCfA (please enclose any supporting information)</b>
How have you tried to resolve the issue:
Is the <b>CCfA</b> currently the subject of legal action by any party (to your knowledge) or being examined by a formal complaints process? If yes, please give details:
Are there any deadlines associated with the <b>CCfA</b> of which the Overview and Scrutiny Committee needs to be aware:
Would you like your response by Email or Letter:

Please complete and return the form to:  
Head of Overview & Scrutiny  
Sefton MBC  
Town Hall  
Lord Street  
Southport  
PR8 1DA

Or an electronically signed form to:  
[scrutiny@sefton.gov.uk](mailto:scrutiny@sefton.gov.uk)

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**SEFTON M.B.C.**  
**SCRUTINY OF CRIME AND DISORDER MATTERS**  
**- PROCEDURE RULES**

**Introduction**

These procedure rules have been produced in accordance with Part 3 of the Police and Justice Act 2006 and the Crime and Disorder (Overview and Scrutiny) Regulations 2009.

The legislation requires every local authority to have a “Crime and Disorder Committee”, with the power:-

- to review or scrutinise decisions made, or action taken, in connection with the discharge by the “Responsible Authorities” of their crime and disorder functions;
- to make reports and recommendations to the Council with regard to the discharge of the Responsible Authorities’ function.

Councillor Calls for Action (CCfA) regarding crime and disorder issues and community safety issues are addressed within these rules.

A separate CCfA has been produced, outlining how CCfA’s that do not relate to crime and disorder issues will be dealt with.

**Scrutiny of Crime and Disorder**

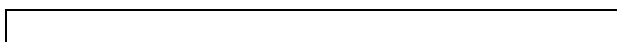
The Overview and Scrutiny Committee (Performance and Corporate Services) is designated as the Council’s “Crime and Disorder Committee” (referred to as “the Committee” below).

**Role of the “ Crime and Disorder Committee”**

The role of the Committee should be focused on the work of the Partnership as a whole and its joint responses to issues of community safety. If issues arise which relate specifically to a particular partner organisation, it may be appropriate to refer such issues to the governing body of that organisations for action e.g. the Police Authority

**Option to Co-Opt Additional Members**

1. The Crime and Disorder Committee may co-opt additional members, in accordance with the Regulations, to serve on the Committee where it is considered appropriate for the exercise of its functions
2. A co-opted person’s membership may be limited in relation to the Committee’s discharge of its functions in relation to a particular matter or type of matter.
3. The Committee shall not co-opt any person to consider a matter where that person was wholly or partly responsible for a decision or action, or otherwise directly involved.



4. A person co-opted to serve on the Committee has the same entitlement to vote as any other member.
5. The number of any additional co-opted members shall not be greater than the number of permanent Committee members (10 as at 2009/10).
6. The Committee shall not co-opt any person who is:-
  - a member of the Executive (i.e. the Cabinet);
  - not an employee or officer of the responsible authority / body
7. The Committee will consult the relevant authority / body as to the most appropriate person before co-opting an additional member.

### **Co-option and Police Authorities**

Police Authorities have a clear statutory role to hold to account the police. The police authority should play an active part at committee when community safety issues are being discussed – particularly when the police are to be present.

The Committee should co-opt a member of the police authority onto the committee when policing matters are being considered. The police authority shall decide the most appropriate member to appoint. This can be independent or a councillor member.

### **Frequency of Meetings**

The Committee will meet to review / scrutinise decisions / actions taken in connection with crime and disorder functions, not less than twice in a 12 month period.

### **Responsible Authorities**

- “Responsible Authorities” are those defined in Section 5 of the Crime and Disorder Act 1998, namely:-the Council;
- the Police Force
- the Police Authority;
- the Fire and Rescue Authority; and
- the Primary Care Trust.

### **Co-operating Bodies**

Responsible Authorities have a duty to work in co-operation with the “Co-operating Bodies” who are Probation, parish councils, NHS Trusts, NHS Foundation Trusts, proprietors of independent schools and governing bodies of an institution within the further education sector.

### **Request for Information**

1. Where the Committee requires information in relation to the discharge of its functions, the Partnership and/or the responsible authority, or co-operating bodies must provide that information no later than the date requested or as soon as reasonably possible.

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2. Information requested shall not identify an individual unless identification is deemed necessary / appropriate.
3. Information requested shall not prejudice legal proceedings or current or future operations carried out by the responsible authorities or co-operating bodies.
4. All requests for information should be notified to the Partnership Manager (Assistant Chief Executive Safer Stronger Communities) who will seek to coordinate an appropriate response by the date requested.

#### **Attendance at Committee Meetings**

1. The Committee may require attendance of a representative of the Partnership and /or a responsible authority in order to answer questions or provide information, giving reasonable notice to that representative. Notice shall be at least two weeks unless the representative agrees shorter period of notice.
2. All requests for attendance at Committee should be notified to the Partnership Manager (Assistant Chief Executive Safer Stronger Communities) who will seek to ensure appropriate attendance on the date requested.

#### **Reports & Recommendations**

1. When the Crime & Disorder Scrutiny Committee makes a report or recommendations which have an impact on community safety issues the committee will send a copy of the report and recommendations to the responsible authorities or co-operating bodies as are affected by the report or recommendations, the Partnership Manager, or as otherwise appropriate in accordance with section 19(8) of the Police and Justice Act 2006
2. the responses to such report or recommendations shall be in writing and within one month from the date of the report or recommendations, or if this is not reasonably possible, as soon as possible thereafter
3. The Crime & Disorder Committee shall review such responses and agree with the relevant partner(s) how the actions will be monitored, in accordance with its powers under section 19(1) of the 2006 Act.

#### **Councillor Call for Action**

Issues relating to Crime & Disorder shall follow the Council's process for Councillor Call for Action, with the exception that the request would be directed to the Chair of the Crime and Disorder Committee, rather than the Overview & Scrutiny Management Board, who would then make the decision about the validity of the request.

