

SCRUTINY PROCEDURE RULES

1. The Council will have the Scrutiny Committees set out in [Article 7](#) and will appoint to them as it considers appropriate from time to time.

1.1 The roles of the formal Committees are as follows:

(a) Joint Audit and Standards Committee

This Committee discharges the Audit Committee function for the authorities providing a strengthened governance assurance mechanism to Councillors as a focused control mechanism in this time of change and increased risk of governance failure. The Standards Committee function is also provided through this Joint Committee. The linking of these oversight functions recognises the strong synergies between a widened audit function which focuses on the ethical culture in the organisation and the Standards function which seeks to develop high ethical standards for Councillors, thus ensuring a comprehensive and unified approach for both Councillors and officers.

(b) Overview and Scrutiny Committee

This Committee provides a focus for scrutinising the work of external stakeholders and service providers, and the role of holding the Cabinet to account.

Scrutiny ensures that Cabinet are held accountable for their decisions, that their decision-making process is clear and accessible to the public and that there are opportunities for the public and their representatives to influence and improve public policy.

(c) Joint Overview and Scrutiny Committee

This Committee provides a focus for scrutinising matters which affects both Councils.

2. SCRUTINY

2.1 The key purpose of the Overview and Scrutiny Committee is to:-

- (a) scrutinise the work of external stakeholders and service providers;
- (b) hold Cabinet to account;
- (c) be the home of call-in (see below);
- (d) be the home of Councillor call for action (see below).

- 2.2 To ensure that actions of the Cabinet accord with the relevant policies and budget of the Council.
- (i) To review relevant decisions of the Cabinet referred pursuant to the "Call-in Protocol" (set out below) whereupon the Committee may either –
 - (a) confirm or accept the decision of the Cabinet which may then be implemented immediately, or
 - (b) refer the matter back to the Cabinet for further consideration, or
 - (c) refer the matter to Council for a final determination, or for referral back to the Cabinet, or
 - (d) defer consideration until a specified time when further reports shall be considered.
 - (ii) In the event that the matter is referred back to Cabinet in accordance with (i) (b) above, and the Cabinet does not accept the recommendations of the Scrutiny Committee, then in these circumstances the original decision of the Cabinet, together with the report and recommendations of Scrutiny Committee shall be referred to Council for consideration and Cabinet cannot implement its original decision until Council has debated the matter.
 - (iii) In undertaking such a review of any decision, the Overview and Scrutiny Committee may question members of the Cabinet and the Chief Executive, Directors and Assistant Directors and any other person (with their consent) and shall consider whether the appropriate criteria were applied in reaching the decision in question, whether the decision accords with the policy of the Council, is lawful and/or within the powers of the Council and whether it contributes to the efficient, effective and economic discharge of the function.

3. GENERAL

- 3.1 As soon as it is practicable after the start of each municipal year the Committee shall prepare a work programme showing the matters they propose to scrutinise during that year.
- 3.2 A copy of the approved work programme shall be sent to full Council for information, the Overview and Scrutiny Committee need not keep to the approved work programme.

4. WHO MAY SIT ON A SCRUTINY COMMITTEE?

- 4.1 All Councillors, except the members of the Cabinet, may be members of a Scrutiny Committee. No Councillor may be involved in scrutinising a decision in which he/she has been directly involved.

4.2 Non-Elected members could be representatives of other local authorities, emergency services, voluntary groups, health providers, social landlords.

5. **NON-ELECTED MEMBERS**

5.1 The Scrutiny Committees or any Sub-Committees shall be entitled to recommend to Council the appointment of a number of people as non-voting non-elected members. Non-voting members shall be subject to the same rules relating to declarations of interests as members.

6. **WORK PROGRAMME**

6.1 The Scrutiny Committees/Sub-Committees will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.

7. **AGENDA ITEMS**

7.1 Any member of a Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Corporate Manager – Democratic Services 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 Corporate Manager – Democratic Services will ensure that it is included on the next available Agenda.

7.2 Any member of the Council who is not a member of the Scrutiny Committees may give written notice to the Corporate Manager – Democratic Services that he/she wishes an item to be included on the Agenda of the relevant Scrutiny Committee. If the Corporate Manager – Democratic Services receives such a notification, then he/she will include the item on the first available Agenda of the relevant Scrutiny Committee for consideration by the Committee.

7.3 The Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet to review particular areas of Council activity. Where they do so, the Scrutiny Committees shall report their findings and any recommendations back to the Council via the Cabinet.. The Cabinet and Council shall consider the report of a Scrutiny Committee within one month of receiving it.

8. **REPORTS FROM SCRUTINY COMMITTEES**

(a) Once it has formed recommendations, the Overview and Scrutiny Committee will prepare a formal report and submit it to the appropriate Strategic Director for consideration by the Cabinet (if the recommendations are consistent with the existing budgetary and policy framework) or to the Council as appropriate (if the recommendation would require a departure from or a change to the agreed budget and policy framework).

(b) If a Scrutiny Committee cannot agree on one single final report to the Council or the Cabinet as appropriate, then not more than one minority report may be

prepared and submitted for consideration to the Council or Strategy Committee with the majority report.

- (c) The Council or the Cabinet shall consider the report of the Overview and Scrutiny Committee within two months of it being submitted to the Strategic Director.

9. RIGHTS OF SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS

- (a) In addition to their rights as Councillors, members of Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the [Access to Information Procedure Rules](#) in Part 3 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the the Cabinet and Scrutiny Committees as appropriate depending on the particular matter under consideration.

10. MEMBERS AND OFFICERS GIVING ACCOUNT

- (a) Any Scrutiny Committee or Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions in accordance with the Committee's Terms of Reference and the Scrutiny Rules. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service, and senior officer to attend before it to explain in relation to matters within their remit:-
 - (i) any particular decision of the Cabinet or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and/or
 - (iii) their performance.

and it is the duty of those persons to attend if they are required, save that in exceptional circumstances where those persons are unable to attend they could nominate an officer to attend on their behalf.

- (b) Where any Councillor or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chairman of that Committee will inform the appropriate Strategic Director. The Strategic Director shall inform the Councillor or Officer in writing giving at least five working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, (for example illness) the Councillor or Officer is unable to attend on the required date, and it is not appropriate for another person to substitute then the Overview and Scrutiny Committee shall, in consultation with the Councillor or officer, arrange an alternative date for attendance to take place within a maximum of twenty-one days from the date of the original request.

11. ATTENDANCE BY OTHERS

- 11.1 A Scrutiny Committee may invite people other than those referred to in the paragraph above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and Councillors and Officers in other parts of the public sector and shall invite such people to attend, and these attendances of course are entirely optional.

12. CALL-IN

- 12.1 Call-in should only be used in exceptional circumstances.
- 12.2 Any key decision or any decision taken by Cabinet is subject to the call-in procedure set out below.
- 12.3 A key decision made by an officer with delegated authority is subject to the call-in procedure set out below.
- 12.4 Every decision which is subject to call-in cannot be implemented until 5pm on the fifth working day after the call-in period starts.
- 12.5 The call-in period starts on the day on which the decision is published.
- 12.6 Where a decision is subject to call-in and is not taken at a formal meeting the decision must be published as soon as possible on the Councils website.
- 12.7 Every substantive decision taken with respect to Cabinet functions is subject to call-in apart from a decision falling within one or more of the following categories:-
 - (a) A decision which is not a key decision and which has been taken by an officer under delegated powers.
 - (b) A decision which the decision maker has certified as urgent (giving the reason for urgency).
 - (c) A decision by Council.
 - (d) A decision to make a proposal, recommendation or request to Council or a Committee or Working Group or a Panel of the Council.

- (e) Any decision if at the time when the decision has been taken 20 call-in notices have already been served during that Council year.
- (f) A decision taken at stages (i) to (j) of the call-in process.

12.8 Call in process:-

Stage 1

- (a) When a decision is made by the Cabinet, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two days of being made. All Councillors will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless it is called in.
- (c) During that period of time, a minimum of five members including at least one member from a minority party or an independent member (but not a member of the Cabinet) may request that a decision of the Cabinet be called-in for scrutiny by the appropriate Scrutiny Committee. The request shall be submitted to the Monitoring Officer.

Stage 2

- (d) When the Monitoring Officer receives a valid call-in notice with respect to a decision. That decision may not be implemented until that decision has completed the call-in process.
- (e) Upon receipt of a call-in request, the Monitoring Officer shall consult with the Chairman of the Overview and Scrutiny Committee to decide which would be the most appropriate format for the Scrutiny Committee to consider the call-in.
- (f) The Chairman of the Overview and Scrutiny Committee shall consider the validity of a call-in request in consultation with the Monitoring Officer.
- (g) The Chairman may request that particular Councillors or officers attend the call-in.
- (h) Where a 'call-in' is deemed valid the Monitoring Officer shall call a meeting of the Overview and Scrutiny Committee on such a date as he/she may determine, after consultation with the Chairman (or Vice-Chairman in his or her absence) of the Committee. Such meeting to be held as soon as practicable.

Stage 3

- (i) After considering the decision, the Scrutiny Committee will then decide to take the following courses of action:-
 - (i) refer it back to the Cabinet for reconsideration, together with the observations of the Overview and Scrutiny Committee. Cabinet will then take a final decision and that decision cannot be called in.
 - (ii) Seek the advice of the Monitoring Officer as to whether the decision is contrary to, or not wholly in accordance with the policy framework or the budget, and if applicable refer the matter to full Council for a final decision.

in each case setting out in writing the nature of its concerns.

- (j) If referred to Cabinet, the Cabinet shall then reconsider as soon as practicable. If Cabinet does not accept the recommendations of the Scrutiny Committee the issue shall be referred to Council for consideration. If Cabinet accepts the recommendations of the Scrutiny Committee, it may adopt the amended decision.
- (k) The Overview and Scrutiny Committee may refer any called in decision to the Monitoring Officer/Section 151 Officer if it considers it to be contrary to the policy framework or budget. The officers will then submit a report on the matter to the next meeting of Cabinet. A copy of the report will be sent to all members of the Council. No action may be taken in respect of the decision or its implementation pending that meeting.
- (l) If in that report the Monitoring Officer and/or the Chief Finance Officer is of the view that the decision referred to him/her by the Overview and Scrutiny Committee is not a departure from the policy framework or budget the decision can be implemented immediately. A report to this effect will be submitted to the Overview and Scrutiny Committee for information. However if a referred matter is deemed to be a departure from the policy framework or the budget by the Monitoring Officer/Section 151 Officer the Cabinet has two options:-
 - (i) Firstly it may choose to adjust its decision to bring it within the policy framework or budget, in which case it can then be implemented. In these circumstances the Cabinet would submit a report to the next meeting of the Overview and Scrutiny Committee explaining its actions.
 - (ii) Secondly if the Cabinet does not wish to adjust its original decision, it must prepare a report for the full Council. This report must include the views of the Overview and Scrutiny Committee. No action may be taken in respect of the decision or its implementation until the Council has met to consider the matter.

- (m) If following the setting up of the meeting for consideration of the call-in request the Overview and Scrutiny Committee does not meet on the date specified by the Monitoring Officer, the decision shall take effect on the date it is known that the meeting will not take place. If the Committee does meet but does not refer the matter back to the Cabinet or refer it to Council the decision shall take effect on the date of the Overview and Scrutiny Committee meeting.
- (n) If the matter was referred to full Council under (i) (ii) above or in circumstances where the Cabinet did not accept the recommendations of the Overview and Scrutiny Committee (as set out in (i) above) and Council does not object to the original decision, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if Council does object, Council will refer any decision to which it objects back to the Cabinet, together with the Council's views on the decision. The Cabinet shall then make its decision in accordance with the views expressed by Council at a meeting convened to reconsider the matter as soon as practicable following Council's referral.
- (o) If the Council does not meet, or if it does but does not refer the decision back to the Cabinet the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

12.9 A proposal should only be called in once. If, however, the Cabinet substantially amends the original proposal in a way which the Overview and Scrutiny Committee has not considered, nor could reasonably have foreseen, to the extent that in reality it is a different proposal, the Overview and Scrutiny Committee has the right to call it in again.

13. PROCEDURE ON CALL-INS

13.1 The end of the call-in period will normally be 5.00 p.m. on the fifth working day after the publication of the Cabinet decision. The Monitoring Officer will be responsible for informing the Leader of the Council and the Senior Leadership Team of any item that has been called-in.

13.2 Officers need to bear in mind that if a call-in is registered, then the Cabinet decision cannot be actioned until finally dealt with. Only work that can be undertaken without presuming the ultimate decision can be undertaken.

13.3 The item called in will require the following papers:-

- (a) the report that was presented to the Cabinet;
- (b) the relevant extract of the Cabinet Minutes;
- (c) any supplementary report, either updating figures and information which was supplied orally to the Cabinet or giving further updated information available to the Cabinet, or both.

- 13.4 Councillors who have exercised call-in can withdraw their request at any time before the meeting either individually or “en bloc”.
- 13.5 Officers may be approached for information before the Overview and Scrutiny Committee and they are referred to the Councillor/Officer protocol to deal with any such issues. Generally any information which is necessary for the Councillor’s understanding of the item coming to Overview and Scrutiny Committee is a matter that must be dealt with by the Officer. In cases of confidential/exempt matters the same applies but for good administrative practice this should be limited to members of the Cabinet, Overview and Scrutiny Committee and Councillors who have called-in the item.
- 13.6 At the meeting, the Overview and Scrutiny Committee shall determine whether the called-in item shall be further considered having regard to the reasons given in the call-in request in relation to the criteria specified in the call-in Protocol against which a call-in request is to be determined. If the reason for the call-in is not, in the opinion of the Committee, a valid reason for call-in, no further consideration of the item shall take place and the decision of the Cabinet shall take immediate effect but if the Committee is satisfied that the call-in request cites a valid reason for call-in, it will proceed to determine the merits of the reason. The Committee will determine the focus of the evidence that it wishes to hear in relation to the Decision.
- 13.7 The Overview and Scrutiny Committee will consider the called in decision. The protocol before and during the meeting will be as follows:-
- (a) The Chairman will speak with the lead signatory before the Committee to determine the scope of the call-in. This will be put to the Committee for approval at the start of the meeting.
 - (b) The call-in members to make a presentation for their reasons for the call-in (this will be no greater than 10 minutes).
 - (c) The Chairman will then ask:
 - (i) The appropriate Cabinet member to present the reason(s) why the decision was taken by Cabinet (this will be no greater than 10 minutes)
 - (ii) In circumstances where an officer key decision has been called in, the officer will be asked to present why the reason was taken (this will be no greater than 10 minutes)
 - (d) The Committee will then be given the opportunity to question the lead signatory and the portfolio holder or officers to ask them to provide further information.
 - (e) The Committee will then be able to ask officers, other members of the Cabinet, members and members of the public (if the public is allowed to be present) to provide further information and/or answer questions.

- (f) In light of new or additional information gathered during points (d) and (e) above, further questions may be asked of the lead signatory or the Portfolio Holder(s) or officers.
- (g) The Portfolio Holder or officer followed by the lead signatory will be asked to summarise their respective cases. The allowed time for each summary will be five minutes.
- (h) Members of the Cabinet and the lead signatory will then leave the room.
- (i) Debate findings
- (j) There will be a vote giving the reason for the Overview and Scrutiny Committee's decision (if the Cabinet member has indicated that he/she is prepared to take the matter back to the Committee that will be noted and referred to together with the reason).
- (k) The Chairman of the Overview and Scrutiny Committee will have the discretion to operate the above process flexibly where it is considered that changes would be conducive to the effective performance of the Scrutiny role.

14 **QUESTIONING**

Scrutiny Committee members may ask any questions which are supplemental or related to the reason(s) attributable to call-in. The decision as to whether such questions are appropriate will be a matter for the Chairman of Overview and Scrutiny Committee.

15 **CONSIDERING EVIDENCE**

A member of the Overview and Scrutiny Committee should participate in the determination and voting on a matter that has been called-in, only if he or she has been present during the Committee's consideration of the item.

16 **CALL-IN AND URGENCY**

The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Council must agree both that the decision proposed is reasonable in all circumstances and to it being treated as a matter of urgency. In the absence of the Chairman the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

17 **COUNCILLOR CALL FOR ACTION ([PROTOCOL 3](#))**

Any Councillor may request a Councillor Call for Action (CCfA) under the terms of the CCfA Protocol contained in Part 3 of this Constitution. The operation of CCfA will be in full compliance of the Protocol.

18 **PROCEDURE FOR SCRUTINY COMMITTEE MEETINGS**

(a) Overview and Scrutiny Committees shall consider the following business:-

- (i) Minutes of the last meeting;
- (ii) Declarations of interest,
- (iii) Consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
- (iv) Responses of the Cabinet to reports of the Overview and Scrutiny Committee; and
- (v) The business otherwise set out on the Agenda for the meeting.

(b) Where the Overview and Scrutiny Committee conducts investigations the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:-

- (i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy and that they treat the Committee members and Officers with respect and courtesy; and
- (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

In addition the following principles shall also apply:-

- (a) Where someone requested to attend is genuinely unable to attend, then he or she may nominate another Councillor or Officer who is able to speak on the topic to attend.
- (b) Anyone asked to speak to a Overview and Scrutiny Committee shall be entitled to see the Terms of Reference of the particular matter under consideration by the Overview and Scrutiny Committee before attending to speak.

- (c) Anyone asked to speak to a Overview and Scrutiny Committee shall be entitled to see the public papers which have been made available to the Overview and Scrutiny Committee and wherever possible on the same timescale for a member of the Overview and Scrutiny Committee.
- (d) Anyone asked to speak to a Overview and Scrutiny Committee shall wherever possible be given access to statements submitted by people from whom the Overview and Scrutiny Committee has already heard but not those who have not yet given evidence. The Chairman and members of the Overview and Scrutiny Committees shall have a discretion to disclose other papers, including statements submitted by following speakers and confidential (exempt) material, if he or she considers that will help the speakers to address a particular point or will otherwise assist the Overview and Scrutiny Committee's examination of the issue.
- (e) All speakers shall respect the confidentiality of any confidential or exempt information they receive and shall not disclose it without the authorisation of the Overview and Scrutiny Committee.
- (f) Speakers may submit papers in advance to the Overview and Scrutiny Committee but such papers shall be clear and succinct.
- (g) Speakers shall be able to bring such notes and diaries as are helpful to them in assisting the Overview and Scrutiny Committee, but shall expect to make available any such notes to the Committee on the request of the Chairman.
- (h) Papers submitted by speakers shall become public documents once they have presented their evidence and shall be cited as background papers to the Overview and Scrutiny Committee's published report unless they contain exempt information.
- (i) Overview and Scrutiny Committee members may expect to ask searching questions but will always behave in a polite and respectful way to anyone contributing to Overview and Scrutiny Committee's proceedings.
- (j) The speaker shall have at least five minutes to contribute evidence or a longer period as the Chairman of an Overview and Scrutiny Committee may specify. If someone making such a contribution exceeds the time limit given the Chairman may stop him or her. The Chairman may also structure a discussion and limit the time allowed for questioning by members of the Overview and Scrutiny Committee.
- (k) Speakers shall be entitled to a copy of any draft Minute or other record taken of their contribution for comment. Should they feel that such record is not accurate then they shall be given the opportunity to make a written representation asking for the correction to be submitted to the next meeting of the Overview and Scrutiny Committee.

- (l) Overview and Scrutiny Committee meetings shall be open to the press and public except where they are considering matters which would give rise to the disclosure of confidential or exempt information as defined in Schedule 12A of the Local Government Act 1972.
- (m) Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

19 DOCUMENTATION

19.1 Overview and Scrutiny Committee:-

- (a) may commission research or advice (including from external organisations) to assist in any deliberations.
- (b) shall have access to all relevant papers of the Council.

19.2 Overview and Scrutiny Committee members who have access to confidential material shall at all times respect the confidentiality of that material and shall not use it in a context other than the Overview and Scrutiny Committee examination without the permission of the Overview and Scrutiny Committee.

19.3 Overview and Scrutiny Committees will also have access to background information for a range of sources, including:-

- The Policy Framework and Strategic Plan.
- Service plans.
- Audit Management letter.
- Internal and external audit plan.
- Government reports and national studies.
- CIPFA statistics.
- Complaints.
- Representations from the community (individuals, community groups, local members, Area Committees and Forums, residents, surveys, etc.).
- Research published by other organisations or commissioned by Scrutiny Committees.
- Evidence from expert witnesses at the Overview and Scrutiny Committee's request.

PROTOCOL 3

BABERGH DISTRICT COUNCIL

COUNCILLOR CALL FOR ACTION PROTOCOL

1. Introduction

- 1.1 The “Councillor Call for Action” (CCfA) was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007, and came into force on 1 April 2009.
- 1.2 The 2007 Act enables any member of the Council to refer to the Overview and Scrutiny Committee any local government matter which affects their Ward and is relevant to the functions of the Committee.
- 1.3 In addition, Section 119 of the Police and Justice Act 2006 came into force on 30 April 2009 and enables any member of the Council to refer to the Crime and Disorder Committee any local crime and disorder matter which affects their Ward. The Overview and Scrutiny Committee will discharge the function of the Crime and Disorder Committee.
- 1.4 The power to refer a matter is available only where the matter is of direct concern to the Ward or division which the Councillor represents. The matter may affect all or part of the Ward Member’s area or any person who lives or works in that area. 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.

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, trying to overcome them.

3. Issues excluded from referral as a CCfA

- 3.1 The Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:
 - 3.1.1 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:

Council Tax/Housing Benefit appeals

Issues currently under dispute in a court of law.

- 3.1.2 Any matter relating to a planning or listed building application or enforcement decision.
- 3.1.3 Any matter relating to a licensing application, review or enforcement decision.
- 3.1.4 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 or any of its Sub-Committees.
- 3.2 A matter will not be excluded under 3.1.1 to 3.1.3 where the allegation consists of the function not being discharged at all or that the function has failed or is failing on a systematic basis.
- 3.3 A referral, provided it is covered by the legislation and is not an excluded matter (see above), will ensure that the matter is included on the agenda of the Overview and Scrutiny Committee. It is then up to the members of the Committee to decide whether or not to take the matter further.
- 3.4 A referral made to the Overview and Scrutiny Committee is seen as being the end of the CCfA process (the last resort) and not the first step.

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 the Overview and Scrutiny Committee, a Councillor **must** have tried to resolve the issue/problem themselves using all mechanisms and resources available to them at ward level. Councillors should:
- If a local crime and disorder matter, raise the issue through the Community Safety Partnership to find a way to resolve the issue.
 - Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve it, for example through formal letter written on behalf of constituents, discussion at public meetings, petitions, communication with local MPs and Councillors in other authorities etc.
 - Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with officers and/or Councillors, questions at committees, motions on the agenda at full Council etc.
 - Ensure that this is not an issue that is currently being or should be pursued via the Council's complaints procedure.
 - Ascertain whether or not any other form of local scrutiny is investigating the issue, e.g. Suffolk County Council.

5. How to make a Councillor Call for Action referral

- 5.1 If the issue/problem is still not resolved the Councillor can refer it to the Overview and Scrutiny Committee as a “Councillor Call for Action”. To do this the councillor should complete and submit to the Strategic Director a CCfA Request Form outlining what the issue is and what steps have been taken towards a resolution. The request form, a specimen is attached as [Appendix 1](#), is available on the Council’s website, or from the Strategic Director. The request form for a CCfA includes:
- 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 by the Overview and Scrutiny Committee
 - A brief synopsis of what the main areas of concern are
 - What evidence you have in support of your CCfA
 - Which areas or community groups are affected by the CCfA
 - What you have done to try and resolve the issue prior to requesting a CCfA
 - Whether the CCfA is currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints process
 - Whether there are any deadlines associated with the CCfA of which the Overview and Scrutiny Committee needs to be aware.
- 5.2 The Strategic Director will receive the referral form, log it to track its progress, and, after consultation with the Monitoring Officer, assess the issue to ensure that it is covered by the legislation referred to above and is not a matter excluded from referral to the Overview and Scrutiny Committee. A decision that a matter is excluded pursuant to paragraph 3.1.4 above will only be taken by the Strategic Director in consultation with the Chairman of the relevant Overview and Scrutiny Committee.
- 5.3 The Strategic Director will inform the Chairman of the relevant Overview and Scrutiny Committee that the item will be included on the next Committee agenda. The Councillor will be informed whether or not their referral has been successful.
- 5.4 A successful referral will ensure that the CCfA will be placed on the next agenda of the Overview and Scrutiny Committee. It is then up to the members of the Committee to decide whether or not to take the matter further.

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

6.1 In deciding whether or not to take the matter further the relevant Overview and Scrutiny Committee will consider:

- Anything that the Councillor has done in relation to this matter; and
- Representations made by the Councillor as to why the Committee should take the matter up. (Councillors have the option of either presenting their CCfA form without supporting papers, or of preparing a report setting out their views).

6.2 The criteria the Committee will use to decide whether or not to take the matter further include:

- Is the Committee satisfied that all reasonable attempts have been made to resolve the issue by the Ward Councillor? And do the responses received by the referring 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? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account.
- Have all relevant service areas or partner organisations been informed and been 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 it relating to a "quasi-judicial" matter or decision such as planning or licensing?
- Is the issue part of an individual's own personal agenda (an issue of genuine local concern should have an impact on the local community)?
- Is this an issue currently being looked at by another form of local scrutiny, e.g. Suffolk County Council?
- 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 Councillor's ward?

6.3 In considering the CCfA, the Overview and Scrutiny Committee may invite the Chief Executive or relevant Director, Head of Service or 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 must inform the Councillor 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. This could include:

Before holding a formal hearing:

- Asking the service area(s)/partner organisation(s) to respond to the CCfA
- Setting up a research group to undertake a more in-depth review.

At formal hearings

- Asking for further evidence and/or witnesses to be brought to a future meeting then making recommendations to the Cabinet/partner organisation.

7. Potential outcomes

- 7.1 Following a formal hearing, there are a number of potential outcomes from the Committee meeting:

- The Committee could determine not to make a report or recommendations (perhaps because it is not considered the right time to consider a particular issue), with the ward Councillor notified in writing;
- The Committee could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;
- The Committee could write a report and make recommendations on the CCfA to the Cabinet and/or relevant partners.
- The Committee could make a report or recommendations to full Council where the CCfA is a local crime and disorder matter.

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

8. Timescales

- 8.1 Once the CCfA has been assessed as not being a matter which is excluded from referral to the Overview and Scrutiny Committee, the item will be included on the next Committee agenda.

- 8.2 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.
- 8.3 Should a CCfA hearing result in recommendations to the Cabinet or full Council being made, an item will be placed on the agenda for the next Cabinet or Council meeting, respectively.
- 8.4 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.

APPENDIX 1 – 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:

Title of your Councillor Call for Action:

Date of Submission:

Have you approached the Overview and Scrutiny Committee on the same issue in the past six months?

Yes

No

Why you think the issue should be looked at by the Overview 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 areas or community groups are affected by the CCfA:

How have you tried to resolve the issue:

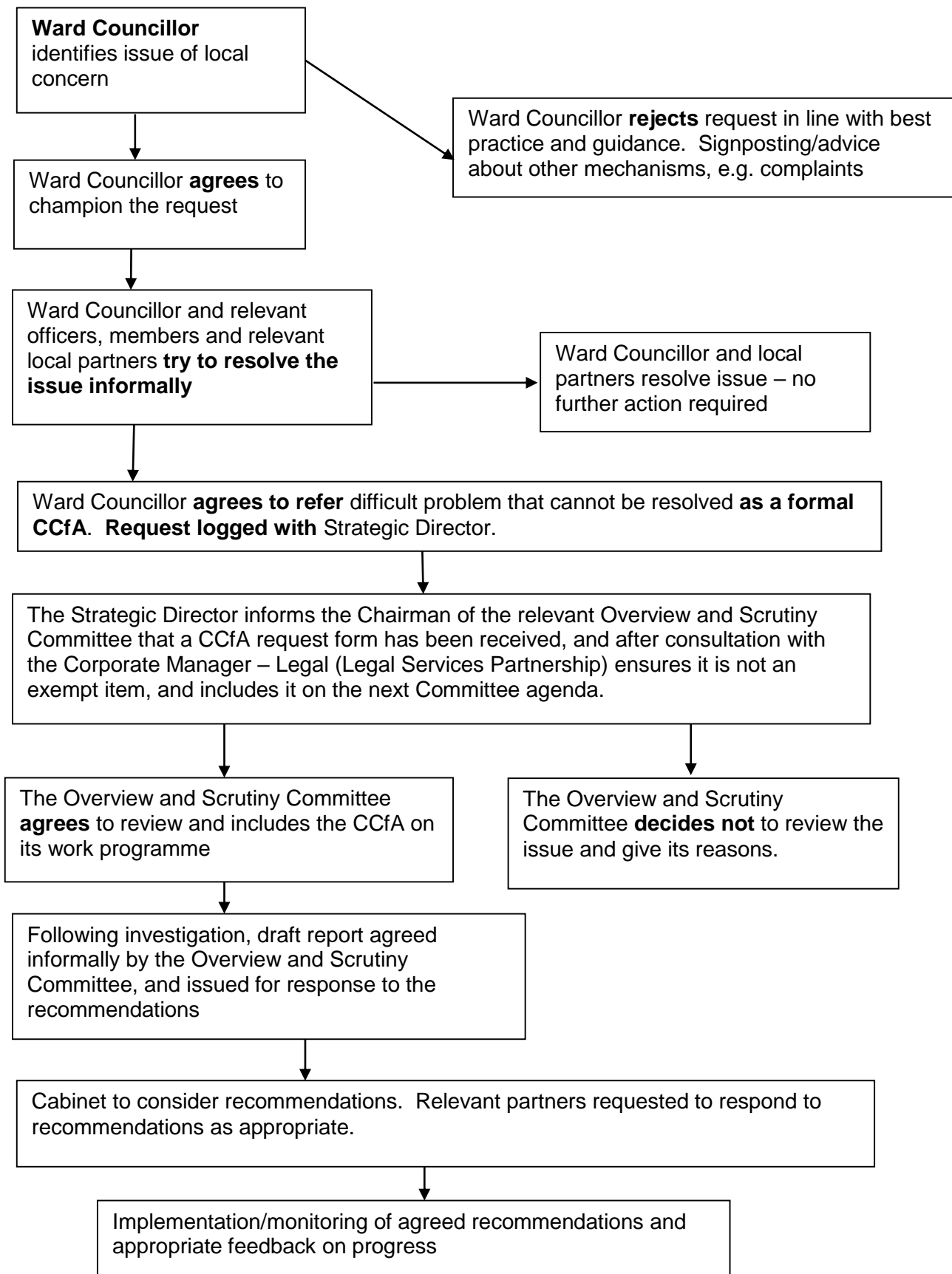
Is the CCfA currently the subject of legal action by any party (to your knowledge) or being examined by a formal complaints process?

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

Please complete and return the form to:

Strategic Director
Council Offices
Endeavour House
8 Russell Road
IPSWICH
IP1 2BX

APPENDIX 2 – SUMMARY OF CCfA MECHANISM



APPENDIX 3 – EXPLANATORY NOTES

1. Definition of a local government matter and a local crime and disorder matter

Local government matter

For the purpose of the 2007 Act a “local government matter”, in relation to a member of a local authority is one which:

- Relates to any 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 (i.e. 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 in the 2006 Act to mean a matter concerning:

- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social 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.

2. 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 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 should receive better, or worse, services on account of that group's predominant religion, race, gender 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.

3. Structure of the CCfA hearing

A CCfA hearing will be based on the Overview and Scrutiny Committee's protocol for dealing with call-in hearings.

The following protocol is intended to formalise the conduct of CCfA hearings and the preparation work carried out in the run-up to such a hearing. It should be noted, however, that the protocol may be varied by the Chairman of the Overview and Scrutiny Committee to meet the requirements of any particular circumstances.

Prior to the hearing

1. The CCfA Request Form and any additional papers provided by the referring Councillor will be published with the agenda for the meeting.
2. The referring Councillor and relevant officers and partners will be invited to the meeting.
3. Any other relevant external witnesses will be invited to the meeting.
4. Seven days' notice of a request to attend the meeting will be given to all participants. If a question plan is to be produced, seven days' notice of the questions planned will also be given to participants.
5. Prior to the meeting any Councillor who may have a conflict of interest will be given relevant advice by the Monitoring Officer.

The hearing

1. The CCfA hearing will normally be the first item of business on the agenda, in order that participants and other witnesses are not kept waiting.
2. Participants and witnesses will be placed around the table with the Committee if space permits, but if there is a large number of witnesses or other attendees at the meeting; they may be required to wait in a separate seating area or the public gallery.
3. The referring Councillor will be invited to make a presentation outlining his or her main reasons for referring the matter as a CCfA. A question and answer session will follow.
4. Any other parties relevant to the hearing, for example Portfolio Holders, officers or partners, will be invited to make presentations outlining their response to the CCfA. Question and answer sessions will follow.
5. Any other relevant external witnesses will be invited to make a presentation to the Committee without interruption, following which there will be a question and answer session.
6. Witnesses will be given the opportunity to add any points of clarification before any resolution or recommendation is moved.
7. The referring Councillor will be given the opportunity to add any points of clarification before any resolution or recommendation is moved.