

OVERVIEW & SCRUTINY COMMITTEE

Monday, 23 November 2020 at 6.30 p.m., Online 'Virtual' Meeting -
<https://towerhamlets.public-i.tv/core/portal/home>

SUPPLEMENTAL AGENDA B

This meeting is open to the public to view.

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7 .4 Councillor Call for Action Guide

All Wards

112 - 125

The Committee to receive a presentation on the Councillor Call for Action (CCfA) Proposals.

In addition, an advanced copy of the report for consideration by General Purpose Committee on 8th December 2020 is attached.

Agenda Item 7.4

General Purpose Committee 8 December 2020	 TOWER HAMLETS
Report of: Will Tuckley, Chief Executive	Classification: Unrestricted
Procedure Update: Councillor Call for Action	

Lead Member	Mayor John Biggs
Originating Officer(s)	Sharon Godman, Divisional Director Strategy, Policy and Performance
Wards affected	All wards
Key Decision?	No
Forward Plan Notice Published	[Insert date notice was published]
Reason for Key Decision	[Financial Threshold / Impact on Wards]
Strategic Plan Priority / Outcome	Priority 3 A dynamic outcomes-based Council using digital innovation and partnership working to respond to the changing needs of our borough Outcome 9 People say we are open and transparent putting residents at the heart of everything we do

Special circumstances justifying urgent consideration

This report was not available for publication by the statutory publication deadline because additional information was required. It is presented for consideration at this meeting as it is not possible to defer until the next meeting. It should also be noted that the report title was made available as part of the original meeting agenda.

Executive Summary

The Council's constitution Part B makes a vague reference to 'Councillor Call for Action' in the Overview and Scrutiny Procedure Rules (Page197) Paragraph 6 section (i):

'To consider any local government matter referred to the Committee by a Councillor in accordance with section 119 of the Local Government and Public Involvement in Health Act 2007'.

This report proposes approval for the Councillor Call for Action procedure to be added to the main Overview and Scrutiny Procedure Rules in Part B of the Constitution by amending paragraph 6 section (i) to include:

'To consider any local matter referred to the Committee by a Councillor in accordance with section 119 of the Local Government and Public Involvement in Health Act 2007 and S.9 FC of the Local Government Act 2000 as amended (set out in the Councillor Call for Action guide).'

Reference to it will also be included in the introduction to Overview and Scrutiny in Part A of the Constitution.

Recommendations:

The General Purposes Committee is recommended to:

1. Approve the Councillor Call for Action (CCfA) guide to be added to the main Overview and Scrutiny Procedure rules in Part B of the Council's Constitution and the attached Councillor Call for Action Guide.

1 REASONS FOR THE DECISIONS

- 1.1 The CCfA guide provides clarity how councillors can raise a Councillor Call for Action.

2 ALTERNATIVE OPTIONS

- 2.1 The Council can opt to do nothing and remain with status quo position; however, this option is not advisable as the constitution does not reflect the changes brought about from Localism Act 2011 i.e. Councillor can refer matter which are not restricted to local government. Issues raised by the Councillors cannot be satisfactorily resolved using the Council's current resolution channels.

3 DETAILS OF THE REPORT

3.1 The 'Councillor Call for Action' powers were introduced by the Local Government and Public Involvement in Health Act 2007 and came into force 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.
- Section 9FC (c) of the Local Government Act 2000 which enables any member of the authority to refer to overview and scrutiny committee any matter which is relevant to the functions of the committee and is not an excluded matter.(an excluded matter is one that can be referred under section 19 of the Police and Justice Act (see above), This introduces a Call for Action in respect of any matters not caught by the above that are relevant to the functions of the committee.

3.2 The CCfA guide has been developed as part of the strengthening local democracy framework. It's allows Councillors to raise issues or matters of local concern and affecting their ward for consideration by OSC. The Localism Act 2011 broadens this so that Councillor can refer matters which are not restricted to local government.

3.3 The CCfA is a 'last resort' means and Councillors must demonstrate that other methods of resolution have been exhausted first. The CCfA guide includes limitations and exclusions from its remit (Appendix 1).

3.4 The Council's constitution Part B makes reference to the CCfA under the Overview and Scrutiny Procedure rules (Page 197) paragraph 6 section (i)

'To consider any local government matter referred to the Committee by a Councillor in accordance with section 119 of the Local Government and Public Involvement in Health Act 2007'.

3.5 This report proposes this section of the constitution be updated with following:

'To consider any local matter referred to the Committee by a Councillor in accordance with section 119 of the Local Government and Public Involvement in Health Act 2007 and as amended by Localism Act 2011 and set out in the CCfA procedure'

Benchmarking with Other Local Authorities on CCfA

- 3.6 We undertook benchmarking activities with other London Local Authorities for developing the 'CCfA' guide. Haringey Council confirmed they have not received any CCfA referrals from Councillors despite having the policy for a number of years.

Promotion of CCfA procedure

- 3.7 The council will promote the CCfA guide to Members via the Members bulletin and incorporate the CCfA guide within the existing scrutiny toolkit.

4 EQUALITIES IMPLICATIONS

- 4.1 The CCfA guide will support ward councillors to address local issues of concerns which can include inequalities faced by local residents. The procedure also ensure all councillors have access to this process in an equal and fair way.

5 OTHER STATUTORY IMPLICATIONS

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications,
- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.
- Data Protection / Privacy Impact Assessment.

6 COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 There are no direct financial implications arising from this report.

7 COMMENTS OF LEGAL SERVICES

- 7.1 The Localism Act 2011 added a new Section 9FC (c) to the Local Government Act 2000. This provision enables any member of the authority, to refer to Overview and Scrutiny committee any matter which is relevant to the functions of the committee, and is not an excluded matter (an excluded matter is one that can be referred under section 19 of the Police and Justice Act). The right to request a 'Call for Action' under this provision is not currently reflected in the constitution and the report seeks approval for amendments to be made.

- 7.2 Under part B of the Council's constitution, General Purposes Committee has delegated power to consider and make non-material changes to the Council's Constitution upon the recommendation of the Monitoring Officer. The decision required in this report can therefore be made by the committee
- 7.3 The body of the report sets out other powers under which members may make 'Calls to Action'. These reflect the legislative provisions.
- 7.4 The development of a protocol/procedure to guide members in respect of the exercise of 'Calls to Action' is matter that the council has power to do.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE.

Appendices

- Appendix 1: Councillor Call for Action Guide

Background Documents – Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012

- NONE

Officer contact details for documents:

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Tower Hamlets Councillor Call for Action (CCfA) Guide

November 2020



Introduction

Councillor Call for Action (CCfA) powers were first introduced in the Local Government and Public Involvement in Health Act (2007) to provide a formal mechanism that allows councillors (in England) to refer an issue of local concern e.g. related to local government matter and affecting their ward for consideration by the Overview and Scrutiny Committee (OSC). The Localism Act (2011) further clarifies that councillors can refer matters which are not restricted to local government that are relevant to the functions of the committee. The Police and Criminal Justice Act (2006) also provides a 'Call for Action' in relation to crime and disorder issues.

A CCfA can be used to tackle problems on a neighbourhood or ward specific level which has been unable to resolve through normal channels e.g. corporate complaints, petitions, Member's Enquiries, Freedom of Information (FOI) requests and mediation. It is at the discretion of each councillor as to what issues they wish to raise for a potential review through the CCfA. However, councillors must demonstrate that other methods of resolution have been exhausted first. A CCfA request should not be considered as merely 'scrutiny process' it should be viewed as a whole council approach, that can assist councillors to resolve issues on behalf of their constituents.

Principles

The CCfA process works on the basis of some broad principles:

- Transparency in the decision-making process, and the involvement of scrutiny in the decision-making process;
- Willingness to identify mistakes and shortcomings, and a recognition of the need to resolve problems through discussions;
- A good level of understanding (amongst Mayor, Cabinet and senior officers) of the role that scrutiny can play to help the Council to improve its services; and
- An understanding and a wish to strengthen and support the role of councillors as champions and leaders of their communities.

Prior to undertaking a CCfA

Have existing complaints procedures and other solution options been exhausted?

Councillors should consider the following to resolve local issues:

- Member's Enquiries and FOI
- Mediation
- Advising a resident to make an individual complaint.
- Supporting residents to submit a petition.
- Seeking an apology from the council/local service involved
- Collecting evidence from their ward to support the issue.
- Request to discuss the issue with relevant agencies.
- Signpost to relevant council committee, if appropriate.

When a referral should be made

Under the CCfA, councillors are able to refer issues to OSC where it can demonstrate the following:

- the issue is of genuine and persistent local concern;
- the issue is not subject to ongoing legal processes; and

- other courses of action have failed to resolve the matter.

Importantly, undertaking a CCfA will be a means of 'last resort' with issues being raised at OSC **only after other methods of resolution have been exhausted**. Furthermore, undertaking a CCfA does not guarantee to resolve an issue but it offers the chance to bring a pressing matter to a wider audience with an opportunity to discuss the item.

Benefits of a CCfA

The CCfA process provides an opportunity:

- for recognition that an issue is significant enough for time, attention and resources to be allocated to the issue in an attempt to resolve it;
- for a public forum for discussion of the issues;
- to discuss the issues in a neutral environment;
- to discuss an issue with others with the sole aim of resolving it; and
- A high-profile process owned by the councillor.

Limitations of a CCfA

There are some issues that are excluded from referral as a CCfA:

- Planning and licensing decisions or pending applications;
- Any matter where a person or entity has a statutory right of review or appeal (not including the right to complain to the Ombudsman) e.g. issues relating to a welfare benefit appeal;
- Any issues that is vexatious, discriminatory or not reasonable; and
- Any matter already on the work programme for OSC or its subcommittees.
- A CCFA would not be accepted if the matter had already been considered by Overview and Scrutiny (including through the Call-in process) unless there has been a material change to the issue.
- Any matter that is not relevant to the functions of the OSC.

How will Overview and Scrutiny Committee deal with a CCfA Request?

A CCfA referral to OSC will place an issue on the OSC's agenda. It is up to the Committee to decide whether or not to take the issue further. To determine if the CCfA needs to be looked at in detail, the OSC will be able to use the following criteria:

- Is the OSC satisfied that appropriate attempts at resolving the issue have been made by the ward councillor before initiating the CCfA?
- Is this a case that is being, or should be pursued, via the council's corporate complaints system?
- Has the OSC considered any similar issue recently - if so, have the circumstances or evidence changed to warrant re-consideration?
- Has the relevant service or partner agency been informed and provided enough time to resolve the issue? What response has the councillor received?
- Is this issue already featured in the OSC's and or subcommittees work programme?

If the OSC decides to take any action, then it will inform the councillor that raised the CCfA and provide that councillor with a copy of any report or recommendations that are made in relation to the CCfA. Where relevant the councillor will also be provided with any response received from the Cabinet or a partner organisation in relation to the CCfA.

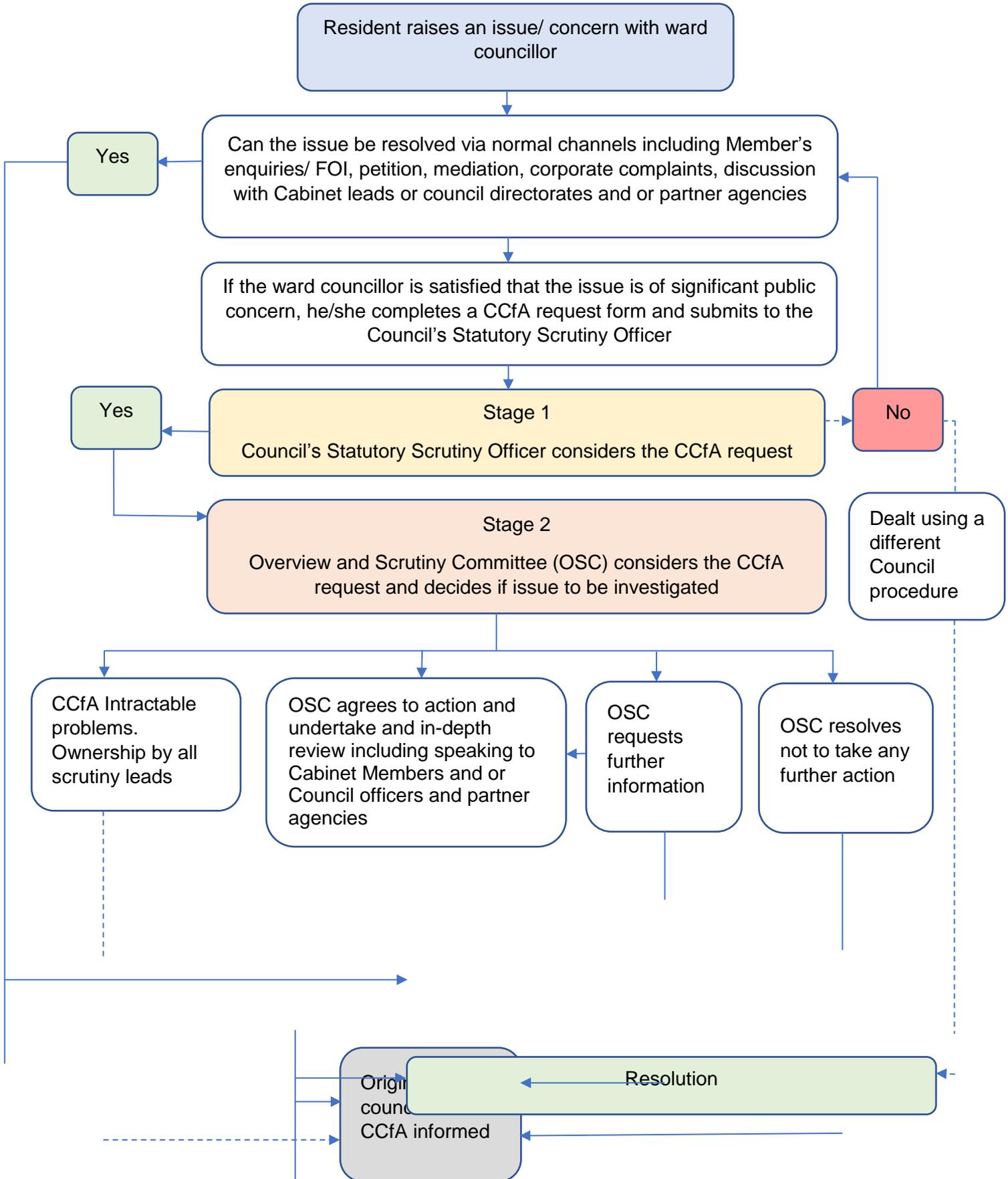
Statutory Scrutiny Officer

There are some circumstance where a CCfA will not be dealt with under this scheme as specified by the limitations of a CCfA; or any other circumstances which, in the opinion of the Statutory Scrutiny Officer would mean the CCfA would be better dealt with using a different Council procedure.

Timeframe for a CCfA Requisition

For a CCfA to be considered, it must be submitted at least 10 working days in advance of the OSC meeting. If a CCfA submission request falls within 10 working days, it will need to be scheduled for the next OSC meeting.

Councillor Call for Action (CCfA) process



London Borough of Tower Hamlets

Overview and Scrutiny Committee – 2020/21

‘Councillor Call for Action’ Requisition

Councillor (s) raising CCfA	Name	Signature
Title of “Councillor Call for Action”		
Reasons for “Councillor Call for Action”		
Approach taken to resolve the Issue		
Is the “Councillor Call for Action” subject to any legal action by any party?		
Are there any deadlines associated with “Councillor Call for Action”		
Within the Council’s Policy or Budget Framework		

**Once completed please return to Sharon Godman, Statutory Scrutiny Officer,
Divisional Director Strategy Policy and Performance Tel: 020 7364 3267**

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