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**COUNCILLOR CALL FOR ACTION**

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**Responsible Cabinet Member - Councillor Jenny Chapman,  
Communities and Engagement Portfolio**

**Responsible Director - Paul Wildsmith  
Director of Corporate Services**

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**SUMMARY REPORT**

**Purpose of the Report**

1. The purpose of this report is to seek approval for the procedure for receiving and dealing with a Councillor call for action.

**Summary**

2. The Local Government and Public Involvement in Health Act 2007 s119 introduced the power for Scrutiny Committees to consider issues raised by individual members of the public through their local Councillors. The commencement order for this provision has not yet been implemented but recent guidance issued by the Centre for Public Scrutiny and the IDeA and a statement from John Healey, Minister for Local Government, has indicated that it will be implemented from 1 April 2009. To ensure readiness for implementation, Members approval is sought for a procedure for dealing with Councillor Call for Action.

**Recommendation**

3. It is recommended that:
  - (a) Members approve the procedure for dealing with a Councillor Call for Action.
  - (b) Members approve the changes to the Constitution to give effect to the procedure. These changes will be made when the legislation comes into force.

**Reasons**

4. The recommendations are supported by the following reasons:
  - (a) To ensure compliance with new legislation.
  - (b) To enhance opportunities for Members of the public to raise issues with the Council.

**Catherine H Whitehead  
Borough Solicitor**

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## **Background Papers**

Best Practice Guidance Councillor Call for Action – Centre for Public Scrutiny and IDeA

## **Appendices**

- 1 Procedure for Dealing with a Councillor Call for Action
- 2 Changes to the Constitution

C Whitehead : Extension 2306

S17 Crime and Disorder	The Police and Justice Act 2006 sets out a different power for dealing with CCfA in relation to Crime and Disorder although the provisions are essentially identical.
Health and Well Being	Issues concerning Health and Well Being can be raised through the Councillor Call for Action
Sustainability	Issues concerning Sustainability can be raised through the Councillor Call for Action
Diversity	The procedure is designed to give all members of the public equal chance to raise issues through the Councillor Call for Action.
Wards Affected	All wards are affected equally
Groups Affected	All groups are affected equally
Budget and Policy Framework	This decision does not affect the budget or policy framework
Key Decision	This is not an executive decision
Urgent Decision	N/A
One Darlington: Perfectly Placed	The Community Strategy aims to ensure through NI 4 that everyone can influence the decisions that affect them. Councillor Call for Action provides a route to enable them to do so.
Efficiency	The procedure provides two opportunities for either the local member or Scrutiny to reject small or trivial issues which can be dealt with through other means. This proposal does not include any specific proposals for efficiency.

## MAIN REPORT

### Information and Analysis

5. The Government has introduced a series of white papers, bills and legislation all of which is designed to enhance the opportunities for ordinary people to become involved in decisions affecting their communities. The aim runs through the White Papers Strong and Prosperous Communities and Communities in Control. The first of these proposed a number of measures which were enacted in the Local Government and Public Involvement in Health Act 2007. The latter proposes further provisions including those relating to the power for local communities to submit petitions which is currently making its way through parliament in the Local Democracy, Economic Development and Construction Bill.
6. The Councillor Call for Action was initially intended to allow a direct request to a Scrutiny Committee from a member of the public, but on its way through Parliament it became the Councillor Call for Action which enables a member of the public to make a request to their local Councillor so that the Councillor can ask for discussions at Scrutiny Committees on issues where local problems have arisen and where other methods of resolution have been exhausted. This Authority already has a power for members of the public to make a direct request to Scrutiny Committees to put an item on the agenda and therefore implementation of the new power is unlikely to have a significant effect. Take up of the existing opportunity has been limited.
7. The legislation provides that once the request is made the Scrutiny Committee must notify the Member of any decision it makes and the reasons for it. The Committee must also provide the Member with a copy of any report or recommendations which it makes to the authority or the executive.
8. The procedure proposes that other avenues of resolution should be exhausted first, for example the Member raising the issue directly with officers concerned. If this has not happened the Scrutiny Committee may wish to reject a proposal put forward by a Member without the opportunity being given to officers to resolve the issue informally. Where the issue is personal rather than a concern for a section of the community the matter will be more suited to the Council's complaints procedure, and the Member will be expected to redirect members of the public to the appropriate channel in those cases. Only where there is ongoing dispute about a community issue which cannot be resolved, will it be necessary to employ the Councillor Call for Action procedure. Where a decision is made to conduct a review Scrutiny will use existing legislation to consider the matter and refer to the Executive.

### Partners

9. Under Section 21A a Councillor Call for Action must relate to a 'local government matter'. This could be interpreted narrowly, to mean only those issues under the direct control of the Authority. However, to give full effect to CCfA, the interpretation of 'local government matter' should be broader to include issues relating to the Council's partners, in line with the area focus of Comprehensive Area Assessment (CAA) and the fact that Authority's duties increasingly impact on other organisations and involve partners within and outside the Local Strategic Partnership. Under the 2007 Act Scrutiny has new powers to look at partner organisations and request information from them. So in relation to CCfA it has powers to consider a particular issue; look at the performance of the partner in relation to

that issue; demand information from the partner to assist in carrying out that consideration and then make recommendations in a public report to the partner. As with internal scrutiny in relation to the Executive, Scrutiny has no power to force a partner to take any action.

### **The Procedure**

10. The proposed procedure is set out at **Appendix 1**, and involves a number of stages, which enable the member of the public to raise the issue with the member; the Member to consider whether it is appropriate for referral to Scrutiny; Monitoring and Co-ordination to decide the appropriate Scrutiny Committee; the Committee to decide whether to consider it. If it does decide to do so, the Scrutiny will conduct the review in the usual way with referral to Cabinet, in accordance with existing procedures. Information will be provided by Scrutiny to the Member who made the call for action including any report and recommendations.
11. The procedure provides that the matter will be referred to Monitoring and Co-ordination Group to refer the issue to the appropriate Scrutiny Committee. It may be that there are a range of issues within one issue which cut across a number of Scrutiny Committees, the issue may relate to one of our partners in which case the relevant Scrutiny Committee may not be immediately apparent.

### **Constitution**

12. The procedure will need to be incorporated into the Council's Constitution and it is therefore recommended that the changes attached at **Appendix 2** be made.

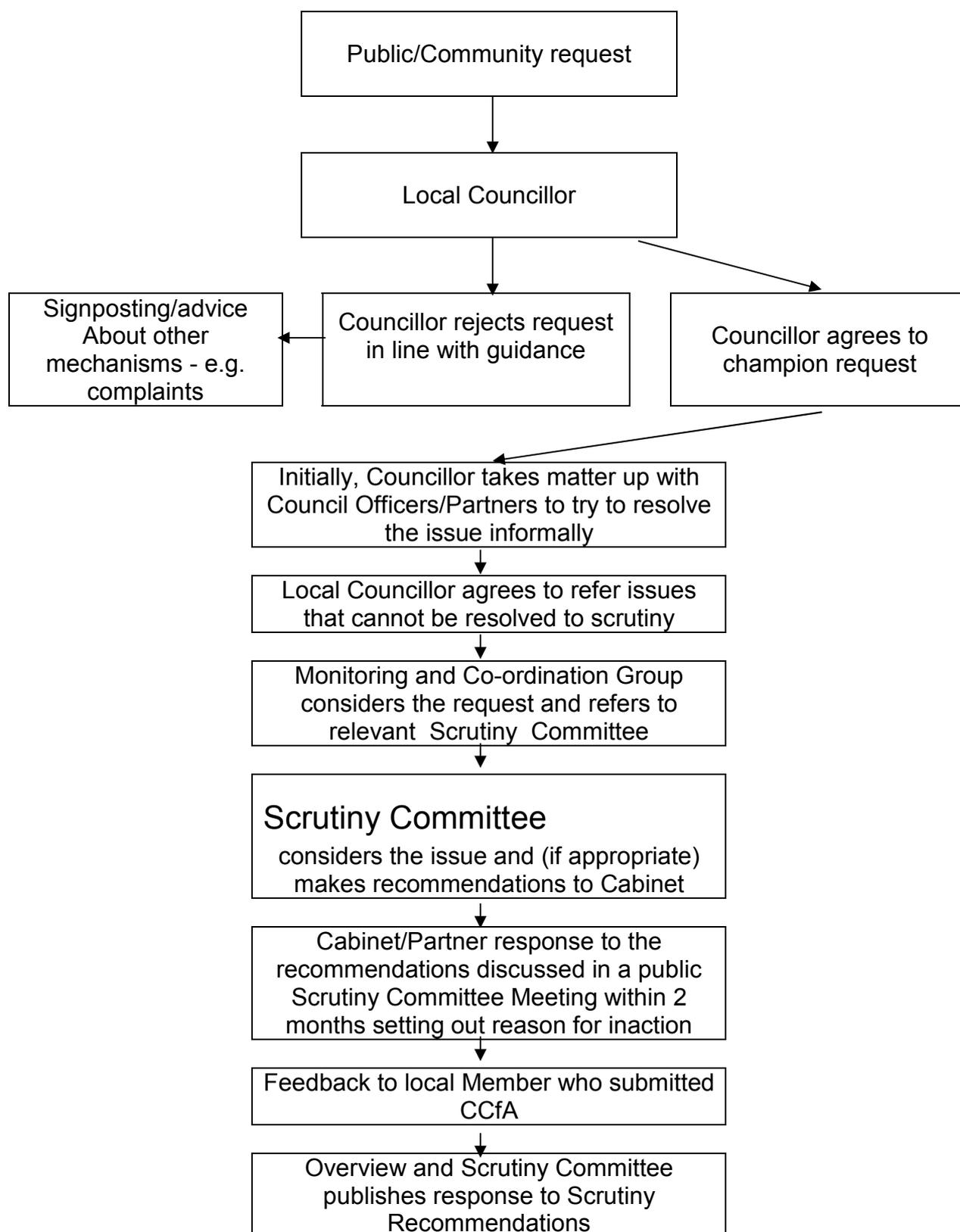
### **Implementation**

13. The Local Government and Public Involvement in Health Act 2007 contained the relevant provisions but these have not been brought into force. The implementation has long awaited guidance on how the CCfA would work in practice. Guidance has recently been issued by the Centre for Public Scrutiny and IDeA although there may be further statutory guidance. The indication from John Healey, Minister for Local Government, at the moment is that the legislation will be brought into force before April 2009 although there is no commencement order yet which will do so. Given the indications it seems appropriate to agree a procedure in readiness for implementation which can be tweaked if necessary if guidance differs greatly from indications in the guidance currently available.

### **Outcome of Consultation**

14. The guidance was issued on 13 February 2009 with an implementation date of 1 April which has afforded little opportunity for consultation. However on 2 March 2009 the proposed procedure was referred to Monitoring and Co-ordination where discussion informed some changes to the procedure and responses to questions raised by Scrutiny members have been incorporated into this report.

**PROCEDURE FOR DEALING WITH A COUNCILLOR CALL FOR ACTION**



## **Changes to the Constitution**

### **Summary and Explanation**

In the Summary and Explanation to the Constitution which is the first document which summarises the key parts of the constitution for members of the public the following should be added:-

### **Overview and Scrutiny**

30. Scrutiny Committees can receive requests to consider issues through local Councillors. Further details of how this works in practice are set out in the Scrutiny Procedure Rules.

### **Rights and Responsibilities of the Public**

Paragraph 49 (new bullet point)

- Any member of the public can ask a local Member to refer an issue to Scrutiny Committee for consideration this is called the Councillor Call for Action (details of how this operates are set out in the Scrutiny Procedure Rules).

### **Scrutiny Procedure Rules**

The procedure will be appended to the existing procedure rules and the following added:

A new heading Councillor Call for Action should be added after paragraph 15 with a new paragraph with the following text.

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

16. Any member of the public can approach a Member of the Council to ask that an issue is referred to a meeting of Scrutiny. This is referred to as a Councillor Call for Action. The procedure for dealing with this is set out in the procedure at Appendix 1 to these rules.'

In addition paragraph 13 shall be replaced by the following under the heading Agenda Items

13. Any Member of a Scrutiny Committee of the Authority may refer to the committee any matter which is relevant to the functions of the Committee.

Any member of a Sub-Committee of such a Committee may refer to the Sub-Committee any matter which is relevant to the functions of the Sub-Committee and

Any member of the Authority may refer to a Scrutiny Committee of the Authority of which he is not a member any Local Government matter which is relevant to the functions of the committee.

Referral is by way of notice to the Proper Officer (the Director of Corporate Services) that an item be placed on the next available meeting of the committee. Ten working days notice (that is not counting the day of the meeting or the day of delivery) of an item shall be given to the Proper Officer (Director of Corporate Services) in writing together with sufficient information to enable the officer to advise about the nature and purpose of the item. Referral under (c) above is Councillor Call for Action and will be dealt with under the procedure set out in Appendix 1 to these rules.

These changes will be made to the Constitution when the legislation comes into force.