

Overview and Scrutiny Procedure Rules

1. **The number and terms of reference of the Scrutiny Board and the Scrutiny Panels.**
- 1.1 The Council will have a Scrutiny Board and the Scrutiny Panels set out in Article 7 and will appoint to them as it considers appropriate from time to time. The Health Scrutiny Panel may need to undertake joint arrangements with other local authority scrutiny committees as are necessary to facilitate the overview and scrutiny of health functions. Where this is required, these arrangements will be established by Full Council on a case-by-case basis.
- 1.2 The terms of reference for the Scrutiny Board and Panels are set out in Article 7.
- 1.3 The general responsibilities of each of the Scrutiny Panels are outlined below. Detailed terms of reference, specific to each Panel, are in Article 7.
 - a. To assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues and by liaison and discussion with the Cabinet.
 - b. To conduct research, community and other consultation in the analysis of policy issues and possible options.
 - c. To consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
 - d. To question Cabinet Members and/or Council employees about their views on issues and proposals affecting the area.
 - e. To liaise with individuals and external organisations operating in the area, whether national, regional or local, to ensure that the interests of the citizens of Wolverhampton are enhanced by collaborative working.
 - f. To review and scrutinise the decisions made by and performance of the Cabinet and Council employees both in relation to individual decisions and over time.
 - g. To review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas and to receive and consider other reports received from external auditors and external regulatory Inspectors and to work with the Cabinet to respond to recommendations from reviews and inspections.
 - h. To undertake reviews of the Councillors, Call for Action where referred by the Monitoring Officer.
 - i. To question Cabinet Members and/or Council employees about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.

Overview and Scrutiny Procedure Rules

- j. To make recommendations to the Cabinet and/or appropriate Regulatory or other Committee and/or Council arising from the outcome of the scrutiny process.
- k. To review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Panel and local people about their activities and performance.
- l. To consider call-ins related to their area of responsibility.
- m. To question and gather evidence from any person (with their consent).
- n. To deal with any other matter which is by law required to be dealt with by an “overview and scrutiny committee”.

2. Who may serve on the Scrutiny Board and Scrutiny Panels

2.1 Councillors

All Councillors except Cabinet Members may be members of the Scrutiny Board or a Scrutiny Panel. However, no Councillor may be involved in scrutinising a decision in which he/she has been directly involved.

2.2 Co-opted Members

The term Co-opted Members is restricted to:

- a. Statutory Parent Governor, Church Diocesan and Youth Council representatives, appointed to serve on the Children, Young People and Families Scrutiny Panel by the Annual Council Meeting.
- b. Wolverhampton HealthWatch representatives appointed to serve on the Health Scrutiny Panel.

The membership of Scrutiny Panels and Scrutiny Review Groups by representatives of external organisations or individuals will be restricted to those Co-opted Members appointed at Annual Council.

The Children, Young People and Families Scrutiny Panel shall include in its membership the following representatives:

- a. One voting Church of England diocesan representative.
- b. One voting Roman Catholic diocesan representative.
- c. Two voting parent governor representatives*.
- d. One non-voting Youth Council representative.

*Details of the eligibility and appointment arrangements relating to parent governor representatives are set out in section 26.17.

When the Panel deals with matters other than those relating to education functions, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

The Health Scrutiny Panel shall include in its membership three representatives of Wolverhampton HealthWatch.

Overview and Scrutiny Procedure Rules

It is a requirement of accepting a position as a Co-opted Member that those persons should sign and abide by the Councillors' Code of Conduct.

A review, inquiry or task and finish group may appoint representatives of external organisations to support their work as appropriate, and may invite 'witnesses' to present evidence to meetings. These are not Co-opted Members.

3. Times and locations of meetings of the Scrutiny Board and Scrutiny Panels

- 3.1 The Council will approve a programme of Ordinary Meetings for the Scrutiny Board and each Scrutiny Panel. In addition, extraOrdinary Meetings may be called from time to time as and when appropriate. A Board or Panel meeting may be called by the Chair or one quarter of the total number of voting Councillors or by the Head of Paid Service if he/she considers it necessary or appropriate.
- 3.2 Meetings shall take place at the Civic Centre or such other location(s) as may be agreed.

4. Quorum

- 4.1 The quorum for the Scrutiny Board and Scrutiny Panels shall be as set out for Regulatory or other Committees in the Council Procedure Rules in Part 3.

5. The Chairs of the Scrutiny Board and Scrutiny Panels

- 5.1 The Chair and Vice-Chair will be appointed by the Council from amongst eligible Councillors.

6. Work programme

- 6.1 Each Scrutiny Panel will, subject to guidance from the Scrutiny Board, be responsible for setting and reviewing their priorities and work programme for the year.

7. Agenda items

- 7.1 Any member of the Scrutiny Board or a Scrutiny Panel shall be entitled to give notice to the Head of Paid Service that he/she wishes an item relevant to the functions of the Panel be included on the agenda for the next available meeting of the Board or Panel. On receipt of such a request the Head of Paid Service will ensure that it is included on the next available agenda.

8. Ensuring that overview and scrutiny reports are considered by the Cabinet

- 8.1 Once a Scrutiny Board or Scrutiny Panel report on any matter which is the responsibility of the Executive has been completed, it shall be included on the agenda of the next available meeting of the Cabinet or, by agreement with the Chair of the Board or Panel, the next meeting of the Cabinet which is scheduled to consider the subject matter of the report. If for any reason the Cabinet does not consider the Board or Panel report the matter will be

Overview and Scrutiny Procedure Rules

referred to Council for review, and the Head of Paid Service will call a Council meeting to consider the report and make a recommendation to the Cabinet.

- 8.2 The Scrutiny Board and Scrutiny Panels will have access to the Executive's timetable for decisions and intentions for consultation. The Board and Panels may consider any such item in advance of a decision by the Cabinet and may require the Cabinet to have regard to their views when considering the item. The Board and Panels will also use the decision schedule to identify items for scrutiny prior to decision in accordance with paragraph 12.2.

9. Rights of Scrutiny Board and Scrutiny Panel members to documents

- 9.1 In addition to their rights as Councillors, members of the Scrutiny Board and Scrutiny Panels have additional right to documents, and to notice of meetings, as set out in the Access to Information Procedure Rules in Part 4.
- 9.2 Nothing in this section prevents more detailed liaison between the Cabinet and the Scrutiny Board and Scrutiny Panels as appropriate depending on the particular matter under consideration.

10. Councillors and employees giving account

The Scrutiny Board and Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Cabinet Member, the Head of Paid Service and/or any Designated Officer to attend before it to explain in relation to matters within their remit:

- a. any particular decision or series of decisions;
- b. the extent to which the actions taken implement Council policy; and/or
- c. their performance,
- d. and it is the duty of those persons to attend if so required.

11. Attendance by others

- 11.1 The Scrutiny Board and Scrutiny Panels may invite people other than those people referred to in paragraph 10 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 employees in other parts of the public sector and may invite such people to attend.

12. Scrutiny and Call-in

- 12.1 Scrutiny of Executive decisions will be undertaken by the Scrutiny Board and Scrutiny Panels (NB: this does not include decisions made by regulatory committees, such as Licensing and Planning, which are not subject to call-in provisions). It has two principal elements:
- a. consideration of forthcoming decisions, known as pre-decision scrutiny, through which the Scrutiny Board or Panel can scrutinise a decision yet to be made and, if appropriate, shape the final decision through comment and advice to the Executive;

Overview and Scrutiny Procedure Rules

- b. consideration of Executive decisions already made, whether by the Cabinet or an individual Cabinet Member, through call-in or post-implementation review.

12.2 Pre-decision scrutiny

Although decisions made by the Executive must be open to scrutiny, the Council wishes the primary focus of its scrutiny process to be on shaping and informing decisions through pre-decision scrutiny.

- 12.3 The Scrutiny Board and Panels will have access to the Executive's schedule of forthcoming decisions and proposals for consultation. Often, the provision of additional or explanatory data and information can avoid the need for formal consideration of a decision or issue. The initial emphasis, therefore, will be on the free flow of information from Council employees in response to requests for clarification or elaboration from Councillors.

- 12.4 Thereafter, as part of its work programme, the Board or an individual Panel may request a report on any forthcoming decision that falls within its purview, in advance of its consideration by the Executive. Having considered a particular issue, the Board or Panel may require the decision-maker to have regard to its views as part of the decision-making process.

- 12.5 Subject to the proposals considered by the decision-maker being substantially the same as the information previously presented to the Scrutiny Board or Panel, matters that have been considered through pre-decision scrutiny may not be called in for post-decision scrutiny under the provisions outlined in paragraph 12.3.

- 12.6 Any item being considered as pre-decision scrutiny will therefore not be eligible for call-in once a decision is made by the Executive. Reports to be considered as pre-decision scrutiny by the Scrutiny Board or a Scrutiny Panel will carry the message:

'This item is being considered is pre-decision scrutiny and will therefore not be available to call in once a decision is made by the Executive.'

13. Parameters for post-decision scrutiny (call-in or review)

- 13.1 An amber decision, made by the Cabinet or a Cabinet Panel, may be called in for scrutiny prior to its implementation. A green decision, made by an individual Cabinet Member in consultation with an employee, can be reviewed by the Scrutiny Board or the relevant Scrutiny Panel, although this may be after implementation.

- 13.2 The following decisions may not be called in:

- a. a red decision, made by the Council;
- b. a red decision, approved by the Cabinet for consideration by the Council;
- c. a decision made by an employee under delegated authority;
- d. an amber decision made under the urgency provisions outlined in paragraph 17;

Overview and Scrutiny Procedure Rules

- e. an amber decision, where it has previously been subject to pre-decision scrutiny (as outlined in paragraph 2.4).
- f. a green decision, made by a Cabinet Member in consultation with an employee

13.3 The decision to effect a call-in can be made by any of the following:

- a. the Chair of the Scrutiny Board
- b. the Vice-Chair of the Scrutiny Board
- c. the Leader or Deputy Leader of the main opposition group.

14. Review of green decisions

14.1 The Scrutiny Board or relevant Scrutiny Panel can decide to review a green decision, considering whether it should have been made as a green decision, as well as reviewing the merits of the decision itself. Such reviews must be notified to the accountable Cabinet Member and employee within three working days of the decision being reported to the Cabinet (Resources) Panel and will be incorporated into the Scrutiny Board or Panel's work programme.

15. Scrutiny of Amber Decisions

15.1 Decisions made by the Cabinet or a Cabinet Panel (known as Amber Decisions) will be summarised in the minutes of the relevant meeting and published on the Council's website, normally within five working days of the meeting occurring.

15.2 Within the parameters outlined in paragraph 12.3, call-in of an amber decision can be made within three working days of the decision being published. Once this period has expired, and if no call-in has been received, the decision can be implemented.

16. Arrangements for considering call-ins

16.1 If an amber decision has been formally called in under paragraph 12.5, the Scrutiny Board or appropriate Scrutiny Panel should convene to consider the matter within ten working days of the call-in being received. In the event that the relevant Scrutiny Panel cannot be convened within ten working days, or if the Councillor calling in the decision so requests, the Chair of the Scrutiny Board can determine that the call-in will be considered by the Board and convene a meeting accordingly. The Board meeting should still take place within ten working days of the call-in being received.

16.2 An amber decision that has been called in, may not be implemented until the call-in process is complete.

16.3 The Scrutiny Board or Panel will consider the called-in decision and supporting information, including receiving oral and written comments from both the appropriate Cabinet Member(s) and Senior Manager(s). The Board or Panel will exercise one of the following options:

- a. note the decision, which can then be implemented immediately;
- b. ask the Cabinet or Cabinet Panel to reconsider the decision (a decision can only be reconsidered once);

Overview and Scrutiny Procedure Rules

- c. refer the decision to the Council's next meeting to see if it wishes the decision to be reconsidered.
- 16.4 The relevant Cabinet Member(s) and Senior Manager (s), given reasonable notice, have a duty to attend the Scrutiny meeting to respond to questions and provide information about the call-in. In the event that they are unable to attend, they should ensure a nominated substitute (for Cabinet Members) or appropriate representative (for Senior Management) is able to attend in their place.
- 16.5 If the decision is referred to Council and the Council does not object to the decision, it can be implemented immediately. The Council may not substitute its own decision unless the original decision is contrary to the policy framework or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer the matter back to the next meeting of the Cabinet or Cabinet Panel, detailing the Council's views on the decision. The Cabinet or Cabinet Panel will then choose whether to amend the decision or not, before reaching a final decision and implementing it.

17. Call-In and Urgency

- 17.1 The call-in procedure set out above shall not apply where the decision being taken by the Cabinet or Cabinet Panel 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 interest. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Monitoring Officer must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Monitoring Officer, the Deputy Monitoring Officer'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.
- 17.2 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.

18. Procedure at Scrutiny Board and Scrutiny Panel Meetings

- 18.1 The Scrutiny Board and Scrutiny Panels shall consider the following business:
- a. consideration of the minutes of the last meeting;
 - b. declarations of interest;
 - c. consideration of any matter referred to the Board or Panel for a decision in relation to call in of a decision;
 - d. responses of the Cabinet to reports of the Board or Panels and
 - e. the business otherwise set out on the agenda for the meeting.
- 18.2 Where the Board or Panel conducts investigations (e.g. with a view to policy development), it may ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:

Overview and Scrutiny Procedure Rules

- a. that the investigation be conducted fairly and all Councillors of the Board or Panel be given the opportunity ask questions of attendees, and to contribute and speak;
- b. that those assisting the Board or Panel by giving evidence be treated with respect and courtesy; and
- c. that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

18.3 Following any investigation or review the Board or Panel shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

19. Substitution of Councillors at Scrutiny Board

19.1 Any permanent Councillor of the Scrutiny Board may nominate another Councillor to attend a meeting of the Scrutiny Board where:

- a. the permanent Councillor will be unable to attend for the entire duration of the meeting of the Board;
- b. the permanent Councillor will be unable to attend at the commencement of, or for any part of a meeting or;
- c. the permanent Councillor will be required to be absent from any part of a meeting or during consideration of a particular item as a result of the need to declare a prejudicial interest.

19.2 Where a substitute Councillor is nominated to attend a meeting of the Scrutiny Board.

- a. The substitute Councillor will have all the powers and duties of a permanent Councillor of the Board whilst attending the meeting or part thereof in place of the permanent Councillor and may speak and vote.
- b. The substitute Councillor may be replaced during the course of a meeting by the permanent Councillor on the proviso that as far as is practically possible the substitute Councillor will be required to remain in the meeting for the duration that the items(s) for which they are substituting are under discussion.
- c. All substitutions to be notified to the Democratic Services Section by the permanent Councillor as soon as possible prior to the commencement of the meeting either in writing or via email.

20. Matters within the remit of more than one Scrutiny Panel

20.1 Where a matter for consideration by a Scrutiny Panel also falls within the remit of one or more other Panels the decision as to which Panel will consider it will be resolved by the Scrutiny Board.

21. Arrangements for the appointment of parent governor representatives

21.1 The role and responsibilities of local authority parent governor representatives

21.2 The overall role of parent governor representatives (PGR) is to represent parents and not parent governors and to hold the authority to account for education policy and decision-making. The responsibilities of the PGR are listed below:

Overview and Scrutiny Procedure Rules

- a. act as an apolitical voice for parents in the area, representing to the local education authority the main education issues which concern parents of pupils in schools maintained by the authority'
- b. PGRs are not expected to represent the views of all parents across the local authority through any sort of delegated mandate. However, there is an expectation that as best you can that you remain in touch with your wider constituency in order that you can reflect diverse views;
- c. liaise with the other PGRs on the Children, Young People and Families Scrutiny Panel;
- d. attend and contribute to the Children, Young People and Families Scrutiny Panel to which they have been appointed;
- e. establish good relations with other Councillors members and officers;
- f. feedback discussions of and decisions on education matters from the Children, Young People and Families Scrutiny Panel to parents;
- g. sign and abide by the Councillor Code of Conduct;
- h. act with due propriety according to standards laid down for conduct in local government.

21.3 Eligibility criteria for local authority parent governor representatives

Any parent governor (who is still a parent of a child in a maintained school within the authority or the parent of a registered pupil educated at a school maintained by the local authority at the time of election) can stand for election, even if they only have a short time left to serve.

Employees of the local authority, at any of its schools, and local councillors, are not eligible to apply.

A person can only be a parent governor representative in one local authority at any one time.

If a person resigns or is disqualified as a PGR or they become a local councillor or member of school staff, they will not be eligible to apply for a vacancy.

A person will not be disqualified if their term of office as a parent governor comes to an end in the normal way, or they cease to be a parent governor of the school due to changes to the constitution of the governing body or the closure of the school.

It is the responsibility of parent governor representatives to inform the local authority of any circumstance which they believe disqualifies them from office. Where there is a disqualification (or a PGR cannot complete the term of office for some other reason) the local authority can decide whether to appoint a successor for the unexpired portion of the term or for a full term. In any event when there is a vacancy (mid or full-term) an election should be held within six months.

21.4 Election of local authority parent governor representatives

The Council is responsible for making all the necessary arrangements for and to determine all other matters relating to the holding of an election of a local

Overview and Scrutiny Procedure Rules

authority parent governor representative. The Council, through the Monitoring Officer, will appoint a returning officer to ensure that as far as possible that the election of a PGR is conducted fairly and complies with the requirements detailed below (source: s4, Parent Governor Representatives (England) Regulations 2001):

- (1) A local education authority shall make all the necessary arrangements for, and determine all other matters relating to, the holding of an election of a parent governor representative but nothing in this regulation shall prevent an authority from appointing another body to conduct or oversee that election.
- (2) A local education authority may make arrangements
 - (a) dividing parent governor representatives into different categories representing (i) particular types of school, or (ii) maintained schools in a particular area; and
 - (b) where they have done so, restricting the electorate for each such category to parent governors of the same type of school or parent governors of maintained schools in that area (but they need not do so).
- (3) Where a vacancy for a parent governor representative is required to be filled by election the local education authority shall announce that vacancy and at the time of that announcement shall
 - (a) appoint a returning officer who shall ensure that so far as possible the election is conducted fairly;
 - (b) take such steps as are reasonably practicable to secure that every person who is known to them to be eligible to vote in the election of a parent governor representative is (i) informed of the vacancy and that it is required to be filled by election; (ii) informed that he is entitled to vote at the election; (iii) informed of any arrangements made in respect of the election under regulation 4(2) (iv) informed of the details of the electoral timetable and procedures; (v) informed of the qualifications which a person requires in order to be elected as a parent governor representative, and of the term of office of a parent governor representative; and (vi) provided with a description of the role of a parent governor representative.
- (4) Any election of a parent governor representative which is contested shall be held by secret ballot.
- (5) No ballot paper in such an election shall contain any indication of an affiliation with a political party.
- (6) Where a vacancy for a parent governor representative arises, the local education authority shall

Overview and Scrutiny Procedure Rules

- (a) determine, for the purposes of the election, any question as to a person's entitlement to vote or eligibility to stand for election;
 - (b) provide for every person who is eligible to vote in the election to have an opportunity to do so by post;
 - (c) secure that the results of the election are announced not more than one week after the date of the election, and not more than three months after the announcement of the vacancy.
- (7) Where a vacancy remains unfilled because no, or not enough, candidates seek election, the local education authority shall comply with the requirements of this regulation again within one year of the original vacancy having arisen and at six monthly intervals thereafter, calculated from the first anniversary of the original vacancy having arisen, until the vacancy is filled.
- (8) Nothing in these Regulations shall require a ballot to be held if the number of vacancies to be filled is equal to or exceeds the number of candidates for election.'

21.5 Returning Officer's discretion

Once appointed by the Monitoring Officer in response to a vacancy, the Returning Officer shall make all necessary arrangements and determine all matters relating to the holding of an election of a parent governor representative and shall have discretion not to arrange a ballot where the number of places to be filled is equal to or exceeds the number of parent governor representative's candidates for election.

21.6 Disqualification due to non-attendance of meetings

The Chair of the Children, Young People and Families Scrutiny Panel has the discretion to disqualify a parent governor representative who does not attend panel meetings for a period of six months.

22. Councillor Call for Action Protocol

2.1 Introduction

The "Councillor Call for Action" (CCfA) was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007 (the Act), and came into force on 1 April 2009.

The Act enables any Councillor to refer to the relevant Committee any local government matter or any crime and disorder matter which affects their Ward.

The power to refer a matter 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.

2.2 Limitations

It is important to recognise that CCfA is not guaranteed to solve a given issue. CCfA provides a method for discussing such issues and, through discussion, trying to overcome them.

22.3 Issues excluded from referral as a CCfA

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

- a. Individual complaints concerning personal grievances or commercial issues.
- b. 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
 - Issues currently under dispute in a court of law
- c. 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.²

In addition, the Council has determined that the following matters be also excluded from CCfA:

- (i) CCfA should not seek to ask the Council to determine: -
 - personal or commercial issues
 - specific or individual employee relations
 - Disciplinary or grievance matters
 - Matters which are subject to formal or statutory appeal processes or are sub-justice;
 - Individual appeal cases, for example, Planning, Licensing, Housing or Education applications or appeals;
 - Decisions of the Standards and Audit Committees or Regulatory Committees.
- (ii) CCfA should not contain:
 - offensive, intemperate, inflammatory, sarcastic or provocative language or language to which those reading could reasonably take offence
 - false or defamatory statements
 - information which is protected by an interdict or court order
 - commercially sensitive or confidential material
 - the names of individuals, or information whereby
 - they may be easily identified, in relation to criminal accusations.

Overview and Scrutiny Procedure Rules

- (iii) CCfA should be submitted in good faith and be decent, honest and respectful.
- (iv) CCfA will be rejected if defamatory, frivolous or offensive.
- (v) During politically sensitive periods, such as before an election, politically controversial material will be restricted.
- (vi) CCfA which do not follow these guidelines will be considered inadmissible, in which case signatories will be informed in writing of the reasons why.
- (vii) CCfA which are the same or substantially similar and which are lodged by or on behalf of the same person or organisation will be considered inadmissible unless more than a year has passed since the original CCfA was considered by the relevant Committee. Advice on admissibility can be obtained from the Democratic Services Section whose contact details are provided on the Website. In cases of dispute, the relevant Committee shall decide whether a CCfA is admissible.

A referral, provided it is not an excluded matter (see above) will ensure that the matter is included on the agenda of the relevant Committee. It is then up to the Committee to decide whether or not to take the matter further. A referral made to the relevant Committee is seen as being at the end of the CCfA process (**the last resort**) and not the first step.

22.4 Steps to be taken, prior to making a Councillor Call for Action referral

Prior to a Councillor referring a matter as a CCfA to the relevant 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 Wolverhampton Safer 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 letters written on behalf of constituents, discussion at public meetings, petitions or communication with local MPs.
- Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with employees and/or Councillors.
- 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.

22.5 How to make a Councillor Call for Action referral

If the issue/problem is still not resolved, a Councillor can refer it to the relevant Committee as a “Councillor Call for Action”. To do this the Councillor should:

- Complete a CCfA Request Form by hand or electronically, outlining what the issue is and what steps have been taken towards a resolution. The request for a CCfA should include:
 - The name of the Councillor and Ward they represent.
 - Title of the CCfA
 - Why they think the issue should be looked at by the relevant Committee.
 - A brief synopsis of what the main areas of concern are.
 - What evidence they have in support of the CCfA?
 - Which areas or community groups are affected by the CCfA?
 - What prior action has been undertaken to try and resolve the issue prior to requesting a CCfA?
 - Is the CCfA currently the subject of legal action by any party (to their knowledge) or is being examined by a formal complaints’ process?
 - Are there any deadlines associated with the CCfA of which the relevant Committee needs to be aware?
- The Democratic Services Section will receive the referral form either by post or electronically, log it to track its progress and assess the issue to ensure that it is not a matter excluded from referral to scrutiny.
- The Democratic Services Section will inform the Chair of the relevant Committee that the item will be included on the next Committee agenda.
- The Councillor submitting the CCfA will be invited to attend the meeting of the relevant Committee to speak in connection with the issue.

A successful referral will ensure that the CCfA will be placed on the next agenda of the appropriate Scrutiny Panel. The Panel will then decide whether or not to take the matter further.

22.6 Decision of the relevant Scrutiny Panel whether to take the matter further

In deciding whether or not to take the matter further, the Scrutiny Panel 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 by preparing a report setting out their views. Any reports prepared by Councillors would be circulated along

Overview and Scrutiny Procedure Rules

with the agenda and other reports for the meeting). This information will need to take account of the disclosures of exempt information as prescribed in Part 1 of Schedule 12A of the Local Government Act 1972.

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

Is the Scrutiny Panel 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 Scrutiny Panel considered a similar issue recently – if yes, had the circumstances or evidence changed?
- Is there a similar or related issue which is the subject of a review on the current work programme? 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 corporate 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)?
- 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?

In considering the CCfA, the Scrutiny Panel may invite the Head of Paid Service, Directors, Heads of Service or external organisation to discuss the issue with the Panel and answer any questions, if the Panel considers this relevant.

If the Scrutiny Panel decides not to accept the CCfA referral it must inform the Councillor and provide reasons.

If the Scrutiny Panel decides to accept the CCfA referral, it will decide how it intends to take the matter forward and include the CCfA in its work programme. This could include:

Before holding a formal hearing:

- Asking the service area(s)/partner organisation(s) to respond to the CCfA.

Overview and Scrutiny Procedure Rules

- Establishing a Review Group to undertake a more in depth review.

At the formal hearing:

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

22.7 Potential outcomes

Following a formal hearing, there are a number of potential outcomes from the Scrutiny Panel meeting:

- The Scrutiny Panel could determine not to make a report (perhaps because it is not considered the right time to consider a particular issue), with the Ward Councillor notified in writing;
- The Scrutiny Panel could determine it is a complex issue that requires further investigation and commission a scrutiny review of the issue;
- The Scrutiny Panel could write a report and make recommendations on the CCfA to the relevant Cabinet Panel or partner organisation.

Once the Scrutiny Panel 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 reply will also be printed on the Council's website (unless there are reasons why the Committee treats the matter as an exempt item and as a result the report will not be made public).

22.8 Timescales

Once a CCfA has been assessed as not being a matter which is excluded from referring to scrutiny, the item will be included on the next available relevant Committee agenda.

If the relevant Committee agrees to take the matter forward, the matter will usually be placed 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, a response to the recommendations, setting out any action it intends to take, within 28 days of the recommendations being placed on an agenda.

Should a CCfA hearing result in recommendations to partner organisations, such organisations will also be requested to make a response to the recommendations, although it must be recognised 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 wishes to consider a Councillor Call for Action in their Ward.

Your contact details: Name (print):
Address:
Contact number:
Email address:

The Ward you represent:

Title of your Councillor Call for Action:
--

Date of Submission:

Would you like the opportunity to speak to the relevant Committee? Yes <input type="checkbox"/> No <input type="checkbox"/>
Have you approached the relevant Committee on the same issue in the past six months? Yes <input type="checkbox"/> No <input type="checkbox"/>
Would you like your response by: Email <input type="checkbox"/> Letter <input type="checkbox"/>

Overview and Scrutiny Procedure Rules

Why you think the issue should be looked at by the relevant Committee:

Please give a brief synopsis of the main areas of concern are:

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 :

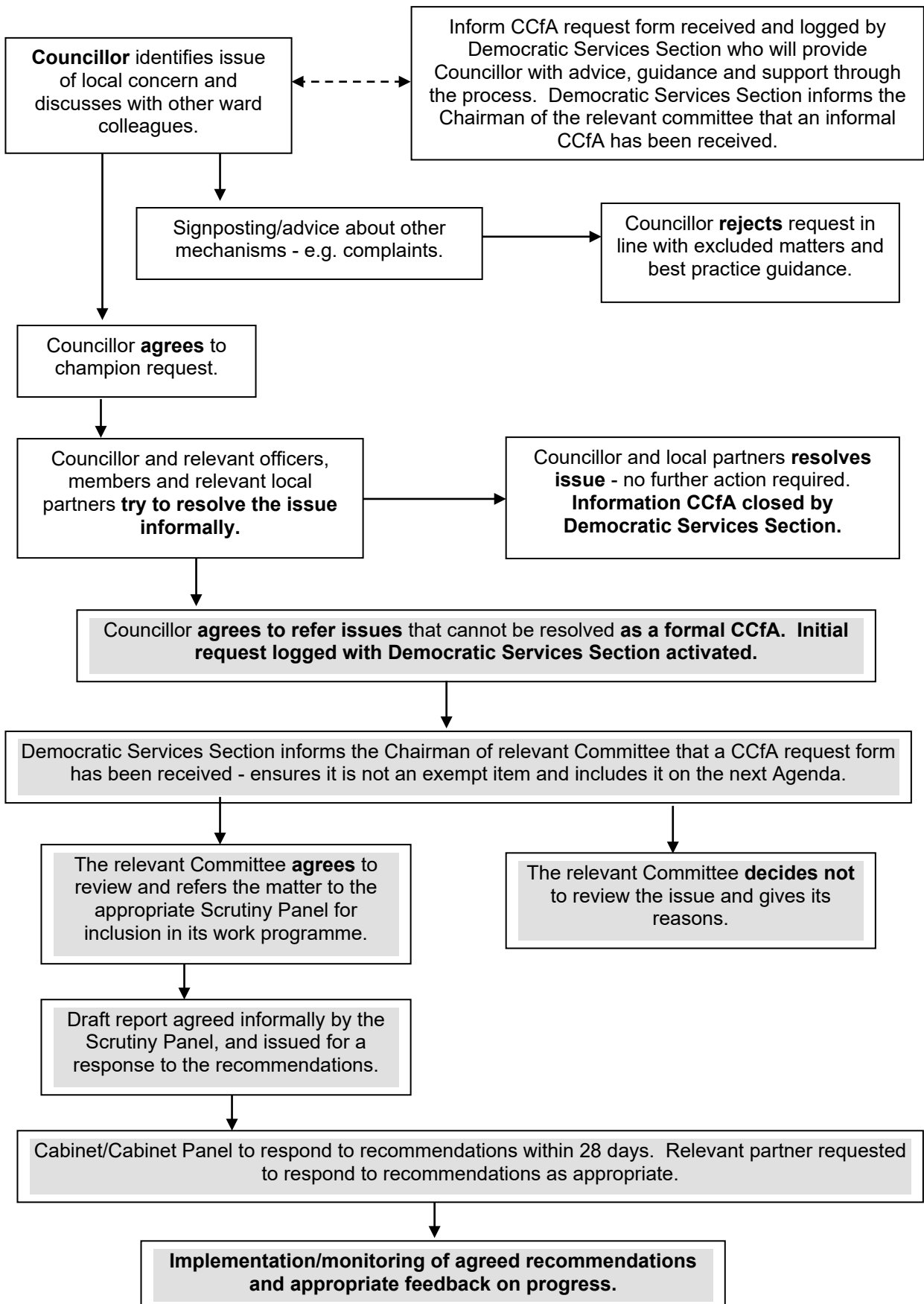
Is the CCfA currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints' process?

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

Please complete and return the form to:

Democratic Services
Governance Directorate
Civic Centre
Wolverhampton
WV1 1SH

Appendix 2



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 Act a local government matter, in relation to a Councillor 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 Councillor 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.

Local crime and disorder matter A local crime and disorder matter, in relation to a Councillor 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 Councillor, 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 Scrutiny Board 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. Similarly, a request which some Councillors may regard as vexatious, for political reasons, may actually be entirely reasonable.

Overview and Scrutiny Procedure Rules

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.

3. Structure of the CCfA hearing

A CCfA hearing will be based on the current structure for dealing with call-in hearings.