

APPENDIX C

WAVERLEY BOROUGH COUNCIL

COMMUNITY OVERVIEW AND SCRUTINY COMMITTEE – 15 JUNE 2009
ENVIRONMENT & LEISURE OVERVIEW AND SCRUTINY COMMITTEE

– 16 JUNE 2009

CORPORATE OVERVIEW AND SCRUTINY COMMITTEE – 22 JUNE 2009
EXECUTIVE – 7 JULY 2009

Title:

**NEW POWERS FOR OVERVIEW AND SCRUTINY COMMITTEES –
INTRODUCTION OF A PROTOCOL FOR DEALING WITH A COUNCILLOR CALL
FOR ACTION AND OTHER DEVELOPMENTS**

**[Portfolio Holder: All]
[Wards Affected: All]**

Summary and purpose:

At its last meeting the Committee received a report on recent changes in legislation that provide new powers for overview and scrutiny committees. This report, which was considered by each of the three Overview and Scrutiny Committees – puts forward proposals for the implementation of one of these new powers known as a ‘Councillor Call for Action’ (CCfA). The proposed protocol is based largely on a protocol developed by officers in another Surrey authority who have agreed to share their proposals with other Surrey districts and boroughs in order to reduce duplication of effort and to encourage a co-ordinated approach to the implementation of the new powers across the County. The report also updates Members on other developments that will impact on the work of the Council’s overview and scrutiny Committees.

How this report relates to the Council’s Corporate Priorities:

The CCfA and the other new powers for overview and scrutiny committees are relevant to all the Council’s corporate priorities.

Equality and Diversity Implications:

The new powers will enable overview and scrutiny committees to provide a forum for community debate and to champion the interests of local people from all backgrounds across a range of social issues.

Resource/Value for Money implications:

There are no resource implications associated with this report other than the officer time involved in preparing for the adoption of the new powers, including the development of a protocol for dealing with CCfAs. It is possible however that action

taken in response to a Councillor Call for Action may have financial implications which will need to be considered at the appropriate time.

Legal Implications

The introduction of a protocol for dealing with CCfAs will require a further change to the interim amendment to the Council's Constitution agreed by the Executive at its last meeting. This is explained later in the report.

Councillor Call for Action – how will this new power work?

1. Section 119 of the Local Government and Public Involvement in Health Act 2007 and Sections 19(3) – 19(6) of the Police and Justice Act 2006 introduce a new power for Ward Councillors to submit a 'Councillor Call for Action'. This new power came into force on 1 April 2009. Any member of an authority can bring a CCfA on any issue they choose, and regardless of which organisation is responsible for that issue, subject to certain exceptions (for example if a CCfA is vexatious, where it deals with an individual complaint or if it concerns an individual licensing or planning matter). This power is limited to issues affecting single wards and its purpose is to help Ward Members tackle local problems on behalf of their constituents when all other options have failed to resolve the matter.
2. The process is not designed to provide an immediate solution but to allow a high profile public discussion of the issue.
3. When considering whether to make a Councillor Call for Action about a particular problem, Members will wish to bear in mind the other existing mechanisms that are already available to them – and will continue to be available – to resolve problems. These are:
 - Requesting that an item be placed on the agenda of an appropriate committee
 - Calling in decisions of the Executive for review;
 - Bringing petitions to the Council;
 - Speaking on an item on a committee agenda;
 - Submitting questions for Council meetings;
 - Submitting motions for proposals to take action.
4. On 31 March 2009 the Executive approved an interim amendment to the Council's Constitution to take account of the new legislation. This amendment provided for Councillor Calls for Action to be treated in the same way as Councillors' requests for an item to be placed on the agenda of an appropriate committee. However, recent guidance published by the Centre for Public Scrutiny makes clear that the procedure for dealing with CCfAs should run in parallel to existing powers, and attached as Annexe 1 is a further proposal for an amendment to the Council's Constitution.
5. Attached as Annexe 2 is a proposed protocol for dealing with CCfAs. This comprises seven steps, the first of which sets out the questions that a Ward

Councillor needs to consider when deciding whether to make a CCfA. Also included in the proposed protocol is a request form to be completed at step 2. It is proposed that this protocol, if approved by Members, should be added to the Procedure Rules for each of the Council's Overview and Scrutiny Committees.

Requirement for Partners to respond

6. The CCfA is being introduced alongside other new powers for scrutiny in the 2007 Act, which include the ability to scrutinise a wide range of national, regional and local bodies not previously subject to local authority challenge, which include existing partners. The CCfA process places a requirement on partners to respond to requests for information from Overview and Scrutiny Committees, and it is proposed to present a report on CCfA to the Waverley Area Strategic Partnership to raise their awareness of the process.

Other developments affecting Overview and Scrutiny Committees

Scrutiny of Crime and Disorder Issues

7. Section 19 of the Police and Justice Act 2006 requires every local authority to have a crime and disorder committee with the power to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of the crime and disorder functions. All local authorities will therefore need to create, or designate, an overview and scrutiny committee to deal with crime and disorder scrutiny. It is up to each authority – along with its partners – to decide on the best way to put procedures in place, and it is suggested that in the case of Waverley, responsibility for the scrutiny of crime and disorder issues is added to the terms of reference of the Community Overview and Scrutiny Committee. A further report putting forward proposals for the implementation of this new power will be presented to the next meeting of the Community Overview and Scrutiny Committee.

Scrutiny of Local Area Agreements

8. The new powers for the scrutiny of LAAs (Clauses 121 to 124 of the Local Government and Public Involvement in Health Act 2007) commenced on 1 April 2009. The Act provides for the Secretary of State to issue regulations on access to information, two tier arrangements and district council powers. However, the regulations on access to information and district council powers will not be completed until mid July and the regulations for joint two-tier committees will be completed some time later.
9. In advance of the regulations, there is no legal provision for joint county/district scrutiny committees, although county councils can use their co-option powers to involve district councillors in county scrutiny committees. In Surrey the County Council's CAA Panel is looking at the Scrutiny of LAAs and possible joint scrutiny, and the Panel will be meeting with the Surrey Overview and Scrutiny Officers Group on 1 July 2009 to discuss how the new powers

will work in practice. Members will receive a report on these discussions at their next meeting in September.

Scrutiny of Health Issues

10. The statutory responsibility for the scrutiny of health lies with the County Council and therefore the NHS regards the County as the lead scrutiny body for health matters. The County now has a dedicated Health Advisor and it is hoped that more information on the scrutiny of health issues at County level will be available over the coming months. There are no specific arrangements for the scrutiny of health matters at district and borough level, but there is nothing to stop districts from scrutinising health, and many have been doing this for some years.

Community Overview and Scrutiny Committee

11. The Community Overview and Scrutiny Committee considered the proposals for the introduction of a protocol for CCfAs and noted the information provided on other developments in respect of the introduction of new powers for overview and scrutiny committees.
12. The Committee engaged in considerable discussion on the proposed protocol for operating a CCfA, including the process for initiating a Call for Action in the event an issue covered more than one ward. Members were advised that the new powers were limited to issues affecting single wards but members of adjacent wards affected by the same issue could both initiate the same Call for Action.
13. In considering Step 3 of the proposed protocol, the Committee agreed to propose that both the Chairman and Vice-Chairman of the relevant committee should undertake the consideration of the Call for Action form unless they had a personal interest in the issue raised.
14. The Committee agreed that their observations be passed to the Executive for their consideration.

Environment and Leisure Overview and Scrutiny Committee

15. The Committee supports the proposals for the introduction of a protocol for CCfA and notes the information provided on other developments in respect of the introduction of new powers for overview and scrutiny committees
16. The Committee feel that "single wards" is an unfortunate restriction to CCfA and should be amended to "local issues".
17. A number of issues still needed clarification, such as if there were any proposals to work with County Overview and Scrutiny processes, and all Overview and Scrutiny Committees should have the opportunity to look at this again when more information and guidance was provided.

18. The Committee would like the opportunity to consider arrangements further, when guidance was received, for access to information and district powers for scrutiny of LAA
19. In considering Step 3 of the proposed protocol, the Committee agreed to propose that both the Chairman and Vice-Chairman of the relevant committee should undertake the consideration of the Call for Action form.

Corporate Overview and Scrutiny Committee

20. The Committee considered the proposals for the introduction of a protocol for CCfAs and noted the information provided on other developments in respect of the introduction of new powers for overview and scrutiny committees.
21. The Committee endorsed the recommendation from the Community O&S Committee and ELOS, that both the Chairman and Vice-Chairman of the relevant committee should undertake the consideration of the Call for Action form unless they had a personal interest in the issue raised.
22. The Committee noted the new powers relating to scrutiny of partnership arrangements, in particular the Crime & Disorder Reduction Partnership and the Local Area Agreement. The Committee noted that the LAA involved Surrey County Council as well as all eleven Surrey districts, and felt that it would be more efficient and effective if the scrutiny scheme for the LAA was led by SCC, perhaps modelled on the Health Scrutiny Committee, which could draw members from all the Surrey districts. Similarly, given the organisational structure of Surrey Police, the scrutiny scheme for the CDRP would also have to be carefully considered, including the possibility of joint working between Surrey districts in the same Surrey Police division.

Recommendation

The Executive is recommended:

1. To endorse the comments of the Overview and Scrutiny committees about a pragmatic interpretation of the Guidance on issues which may affect more than one ward, but are not Borough wide issues, and to agree that both Chairman and Vice-Chairman should make decisions where appropriate; and
2. To recommend the Council to amend the Overview and Scrutiny Procedure Rules in the Constitution, as set out in Annexes 1 and 2.

Background Papers (CEX)

Councillor Call for Action – Best Practice Guidance published by the Centre for Public Scrutiny

Local Government and Public Involvement in Health Act 2007
Police and Justice Act 2006

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