

## **PART 4 (SECTION E)**

# **OVERVIEW AND SCRUTINY PROCEDURE RULES**

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## **1. Constitution of the Overview and Scrutiny Committees**

- 1.1 The Council will appoint the Overview and Scrutiny Committees set out in Article 6 of Part 2 of this Constitution.
- 1.2 Such Committees may appoint sub-committees and may appoint advisory panels. Such sub-committees and panels may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

## **2. Who may sit on Overview and Scrutiny Committees?**

- 2.1 All Councillors (except Members of the Cabinet) may be Members of an Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

## **3. Co-optees**

- 3.1 Each Overview and Scrutiny Committee or sub-committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

## **4. Meetings of the Overview and Scrutiny Committees**

- 4.1 The Council shall determine at the Annual Meeting the timetable of meetings of the Overview and Scrutiny Committees and there shall be at least 4 ordinary meetings of each Overview and Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman of the relevant Overview and Scrutiny Committee, by any 5 Members of the Committee or by the Proper Officer if he/she considers it necessary or appropriate.

## **5. Quorum**

- 5.1 The quorum for an Overview and Scrutiny Committee meeting shall be five Members of the Committee.

## **6. Who Chairs Overview and Scrutiny Committee Meetings?**

- 6.1 Chairmen and Vice-Chairmen of Overview and Scrutiny Committees will be drawn from among the Councillors sitting on the Committee, and subject to this requirement the Council will appoint such persons as it considers appropriate as Chairman and Vice-Chairman of each Committee. Sub-committees and working parties may appoint a Councillor to chair their meetings.

## **7. Work Programme**

- 7.1 The Overview and Scrutiny Committees will be responsible for setting their own work programmes and in doing so they shall take into account recommendations from the Council and the Cabinet.

## **8. Agenda Items**

- 8.1 Any Member of an Overview and Scrutiny Committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.
- 8.2 The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report within six weeks of receiving it.

## **9. Policy Review and Development**

- 9.1 (a) The role of the Overview and Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules (see Section 3, Part 4).
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny Committees or sub-committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## **10. Reports from Overview and Scrutiny Committees**

- 10.1 (a) Once it has formed recommendations on proposals for policy development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the

recommendation would require a departure from or a change to the agreed budget and policy framework.)

- (b) If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

## **11. Making sure that Overview and Scrutiny reports are considered by the Cabinet**

- 11.1 (a) The agenda for Cabinet meetings shall include an item entitled 'Issues arising from Overview and Scrutiny'. The reports of Overview and Scrutiny Committees referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet deliberations on a substantive item on the agenda) within six weeks of the Overview and Scrutiny Committee completing its report/recommendations.
- (b) Once an Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Proper Officer who will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Proper Officer refers the matter to Council, he/she will also serve a copy on the Leader – with notice that the matter is to be referred to Council. The Cabinet will have up to 6 weeks in which to respond to the Overview and Scrutiny Committee report and the Council shall not consider it within that period. When the Council does meet to consider any referral from an Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the proposals.
- (c) Where an Overview and Scrutiny Committee (or sub-committee) prepares a report for consideration by the Cabinet in relation to a matter where the Leader or Council has delegated decision making power to another Member of the Cabinet, then the Overview and Scrutiny Committee will submit a copy of their report to that individual for consideration. At the time of doing so, they shall serve a copy on the Proper Officer and the Leader. If the Member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Cabinet Member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within 4 weeks of receiving it. A copy of his/her written response to it shall be sent to the Proper Officer and he/she will attend a future meeting to respond.

- (d) Overview and Scrutiny Committees will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an Overview and Scrutiny Committee following consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet consultation process in relation to any key decision.

## **12. The Rights of Overview and Scrutiny Committee Members to documents**

- 12.1 (a) In addition to their rights as Councillors, Members of Overview and 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 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.

## **13. Members and Officers giving account**

- 13.1 Any Overview and Scrutiny Committee (or sub-committee) 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 the Leader, any Member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - i) any particular decision 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 so required.

## **14. Attendance by others**

- 14.1 An Overview and Scrutiny Committee may invite people other than those people referred to in paragraphs 2 & 3 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend.

## **15. Call-in of Executive Decisions**

- 15.1 (a) When a decision is made by the Cabinet, an individual Member of the Cabinet or a committee of the Cabinet, or a key decision is made by an officer with delegated authority from 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 2 working days of being made.

Members of all Overview and Scrutiny Committees will be sent copies of the published decision within the same timescales, by the person responsible for publishing the decision.

- (b) The notice of the decision 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 5 clear working days after the publication of the decision, unless it is “called-in” under these rules.
- (c) During the period in (b), any four non-executive Members may sign and give written notice (a “call-in notice”) to the Proper Officer, specifying the grounds and requesting a meeting of the relevant Scrutiny Committee to review the decision.
- (d) The grounds for call-in may be any one or more of the following:
  - (i) Inadequate consultation prior to the decision being made;
  - (ii) Absence of evidence for the decision;
  - (iii) The decision is contrary to the Council’s policy framework; or
  - (iv) The decision is contrary to or not wholly in accordance with the Council’s budget.
- (e) On receipt of a properly completed call-in notice the Proper Officer shall summon a meeting of the relevant Overview and Scrutiny Committee on the date provisionally scheduled in the Council programme of meetings for call-in. Where, in exceptional circumstances, the relevant Cabinet Member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the Member or officer arrange an alternative date for attendance to take place within 10 working days of the receipt of the call-in notice. The Proper Officer shall notify the signatories to the call-in notice and the decision-taker(s) of the date, time and place of the meeting, which is to consider the called-in decision.
- (f) The Members who signed the call-in notice shall have the right to attend the meeting of the Overview and Scrutiny Committee and to explain their reasons for giving the notice. The decision-taker(s) shall have the right to attend the same meeting to explain the decision and respond to the call-in notice. Where appropriate, officers may be invited to advise the Committee.
- (g) The Overview and Scrutiny Committee, in considering whether to call-in a decision, may:-

- (i) determine that the decision should not be called-in, in which event the decision of the Cabinet will take effect; or
  - (ii) refer the matter back to Cabinet for further reconsideration setting out in writing the nature of its concerns; or
  - (iii) refer the matter to Full Council for debate.
- (h) If the decision-taker(s) has/have been requested to reconsider the called-in decision, they shall, within ten working days, then take into account the concerns expressed and shall reconsider the called-in decision. The Chairman of the relevant Overview and Scrutiny Committee or his/her representative shall be entitled to attend that meeting of the Cabinet to explain the views of the Committee on that decision. If the original decision is to be confirmed the decision-taker(s) shall adopt it as a final decision. Such final decisions may not be subject to this call-in procedure and may be implemented.
- (i) If, having considered the referred called-in decision, the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object it has no locus to make decisions in respect of a Cabinet decision unless it 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 any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a committee of it, a meeting will be convened to reconsider within ten working days of the Council's request. Where the decision is made by an individual, the individual will reconsider within 10 working days of the Council's request.
- (j) The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the interests of either the Council or the public. 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 Mayor 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 Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the Head of Paid Service and his/her nominee's consent shall be required.



- (k) An urgent decision is one which, were there be a delay, would result in some form of loss, hardship or detriment to the Council or a person or body outside the Council.
- (l) Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

### **Review**

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.

## **16. Councillor Call for Action (CCfA)**

- 16.1 Any Member of the Council can refer to the appropriate Overview and Scrutiny Committee any 'local government matter' which is relevant to the functions of that Committee.
- 16.2 "Local government matter" means - any matter relating to the functions of the authority which affect the Member's area or any individual who lives or works in that area which is not an excluded matter"
- 16.3 If a Member wishes to refer a Councillor Call for Action to an Overview and Scrutiny Committee they must complete the approved Councillor Call for Action pro-forma and submit this to Democratic Services.
- 16.4 The Lead Officer in conjunction with the Chairman of the Overview and Scrutiny Committee will assess whether the Councillor has completed the necessary checklist and if so will place the request on the agenda for the next meeting. Where approval for inclusion on the agenda is unlikely because the criteria have not been met, the Chairman will liaise with the Member raising the Call for Action. If there is disagreement the Call for Action will be submitted to Committee for determination.
- 16.5 Prior to considering the request, Members of the Overview and Scrutiny Committee will first confirm that the call for action is valid and meets the criteria in the checklist.
- 16.6 The Member raising the call for action will then be asked to present in person the issue before the Committee. Should the Member be unable to attend then they may request another Councillor from their ward to present on their behalf. If no ward Councillor is able to be present the Committee will defer the item to a future meeting. The presentation should include an indication of what they would see as a satisfactory resolution
- 16.7 Members will then consider the call for action and agree what they will do to resolve the issue. This may include calling witnesses (including portfolio holders, officers or external representatives).
- 16.8 Having considered and resolved the call for action as agreed the Committee will report the outcome to the Member raising the call for action.
- 16.9 The matter should not be being separately considered by another local authority.

## 16.10 Guidance for Members on CCfA

Councils must make arrangements for the CCfA in order to comply with the requirements of the Local Government and Public Involvement in Health Act 2007, and the Police and Justice Act 2006.

The Councillor Call for Action (CCfA) is a mechanism whereby individual ward Councillors can bring forward issues of local concern relating to 'a local government matter' for consideration by overview and scrutiny. Section 21(10) b of the Act says that a local government matter is a matter which 'affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area'. Under the Representation of the People Act an "electoral area" is, in this context at least, a ward. So it does actually need to be the Councillor's own ward.

However, the Councillor Call for Action is seen as a last resort, and the Councillor bringing forward the action should have exhausted all other possibilities to resolve the issue, prior to bringing it to scrutiny.

At Boston Borough Council CCfAs will be considered by either of the Overview and Scrutiny Committees. Any Boston Borough Council elected Member can bring a call for action, but must first complete a checklist to be submitted to Democratic Services. A copy of the checklist is attached at Appendix 1, and flow chart detailing the procedure is attached at Appendix 2.

When completing the checklist Members should take into account the following points:

1. Excluded matters:
  - (a) Planning appeals, licensing appeals and all other areas where a person has an alternative avenue to resolve an issue, through the Council's complaints process.
  - (b) Any matter that is vexatious, that is likely to cause distress, disruption or irritation, without any proper or justified cause. If a CCfA is considered vexatious clear reasons as to why this is the case will be provided to the ward Councillor.
  - (c) Matters that are discriminatory, that is something that specifically excluded a particular sector the community on the grounds of age, race, gender, sexual orientation, disability, religion or belief.
  - (d) Any matter which it is not reasonable for discussion at an Overview and Scrutiny Committee. This is likely to also be vexatious.
2. No CCfAs will be considered during the election period.
3. A CCfA will not be accepted if it is already on the work programme for another Scrutiny Committee.
4. You will need to provide full details of what you have done already to try to resolve the issue, to demonstrate that you have exhausted all other avenues. Examples of this might be that they have engaged in discussions in the community, contacted other agencies, and discussed the matter with officers.

5. You will need to suggest how you would anticipate the matter has reached resolution. For example it may be that resolution is seen as the Scrutiny Committee referring the matter to the Cabinet for consideration, holding the portfolio holder to account, or requesting an officer report.
6. The matter must be of genuine local concern within your ward.

## **17. The Party Whip**

- 17.1 (a) The DETR Guidance views whipping as incompatible with Overview and Scrutiny.
- (b) When considering any matter in respect of which a Member of an Overview and Scrutiny Committee is subject to a party whip the Member must declare the existence of the whip and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

*A Party whip is "Any instruction given by or on behalf of a political group to any Councillor who is a Member of that group as to how that Councillor shall speak or vote on any matter before the council or any Committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote in any particular manner."*

## **18. Procedure at Overview and Scrutiny Committee meetings**

- 18.1 (a) Overview and Scrutiny Committees and sub-committees shall consider the following business:
- i) minutes of the last meeting;
  - ii) declarations of interest (including whipping declarations);
  - 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 (e.g. with a view to policy development), 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
  - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee (or 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. Matters within the remit of more than one Overview and Scrutiny Committee**

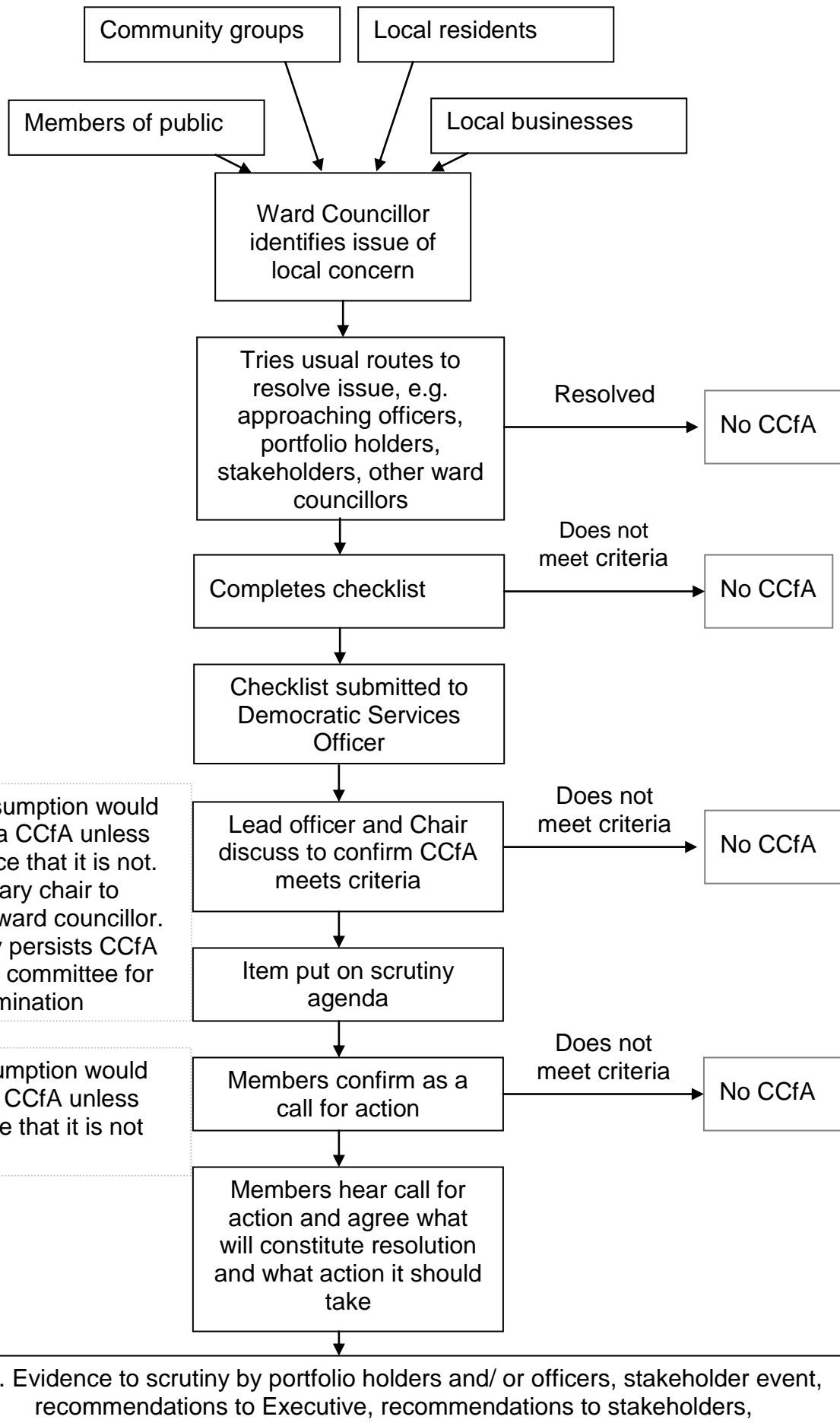
- 19.1 (a) Where a matter for consideration by an Overview and Scrutiny Committee also falls within the remit of the other Overview and Scrutiny Committee, the decision as to which Overview and Scrutiny Committee will consider it will be resolved by the Chief Executive. Where appropriate, joint meetings of the Committees may be convened.
- (b) Where the Overview and Scrutiny Committee conducts a policy review which also falls within part of the remit of the other Overview and Scrutiny Committee, before submitting its findings to the Cabinet or Council for consideration, the report of the reviewing Overview and Scrutiny Committee shall be considered by the other Overview and Scrutiny Committees for comment. Those comments shall be incorporated into the report, which is then sent to the decision-making body for consideration.

## CHECKLIST

This form is to be completed by all councillors bringing forward a Councillor Call for Action

<b>ISSUE (Subject of Call for Action):</b>	Yes / No
<b>PART 1: Is the issue eligible as a CCfA?</b>	
Does the matter refer to an individual?	
Is it a quasi-judicial matter (e.g. planning or licensing)?	
Is the issue of genuine local concern (please provide details)?	
Does it refer to a matter within your electoral area	
Is the matter vexatious or discriminatory (ie is it likely to cause distress, disruption or irritation without proper or justified cause?)	
Additional information in support of answers:	
<b>PART 2: What have you/others already done to resolve the issue?</b>	
Has the issue been discussed at ward level with all ward councillors?	
Has the ward councillor discussed the issue with the Portfolio Holder, officers, or relevant partners?	
Has the matter previously been discussed at another meeting of council Members, or the LSP?	
Is the matter already on a scrutiny committee work programme or full council agenda for debate?	
Has the matter already been the subject of recent debate ( <i>within the last six months</i> ) at a scrutiny committee or full council	
Have significant new evidence/concerns been identified since the last debate if within last six months?	
Please provide details to support your answers:	
<b>PART 3: What do you want to get out of the CCfA/what would you consider as a resolution to the issue?</b>	
Profile raised through debate at scrutiny following evidence from officers or portfolio holder	
Scrutiny debate involving external stakeholders	
Recommendations made to Executive	
Other (please give details)	

**FLOW CHART FOR COUNCILLOR CALL FOR ACTION**



General presumption would be that it is a CCfA unless clear evidence that it is not. If necessary chair to discuss with ward councillor. If uncertainty persists CCfA submitted to committee for determination

General presumption would be that it is a CCfA unless clear evidence that it is not

e.g. Evidence to scrutiny by portfolio holders and/ or officers, stakeholder event, recommendations to Executive, recommendations to stakeholders,