

AMENDMENTS TO CONSTITUTION

LEAD OFFICER: Martin Jepson, Head of Legal and Democratic Services
REPORT AUTHOR: Tim Capper, Democratic Services Manager

Summary and Recommendation: This report proposes new procedures for Councillor Call for Action and references of Crime and Disorder matters to overview and scrutiny committees; minor changes to the terms of reference of overview and scrutiny committees and the Audit Committee; and other constitutional changes.

Recommendation: that the changes set out in paragraphs 2-5 and the Appendices be approved and implemented from this Council Meeting.

1. INTRODUCTION

- 1.1 This report sets out proposed changes to the Council's Constitution to reflect new statutory requirements on Councillor Call for Action and Crime and Disorder matters, minor changes to terms of reference of Audit Committee and Overview and Scrutiny Management Committee, and other changes to reflect changes in designation of Corporate Team and management posts.

2. COUNCILLOR CALL FOR ACTION

- 2.1 Section 119 of the Local Government and Public Involvement in Health Act 2007 requires a local authority operating executive arrangements to include a provision enabling a member of the authority to refer a local government matter to an overview and scrutiny committee where other avenues of redress have failed. This procedure is known as Councillor Call for Action. "Local government matters" are defined as matters which relate to the functions of the local authority, affect all or part of the member's ward and are not excluded. There are exclusions for matters which are subject to other appeal or complaints processes, vexatious or persistent complaints, and crime and disorder matters (see para 3 below).

- 2.2 The Councillor Call for Action Procedure attached at Appendix “A” reflects the legislative requirements and is recommended for adoption and inclusion in the Constitution. It should be noted that there will be a need for separate guidance for members of the Overview and Scrutiny Management Committee on how the tests for validity of CCfA should be applied.

3. CRIME AND DISORDER

- 3.1 Section 19 of the Police and Justice Act 2006 (brought into force on 30 April 2009) requires local authorities to appoint a Crime and Disorder Committee. The Council at the Annual Meeting on 15 May agreed to designate the Overview and Scrutiny Committee for Safer and Stronger Communities as the crime and disorder committee.
- 3.2 Sections 19 and 20 of the Act also require local authorities to have provisions in place enabling a member of the authority to refer a crime and disorder matter to the crime and disorder committee where other avenues of redress have failed. This procedure is intended to operate in parallel with Councillor Call for Action.

4 TERMS OF REFERENCE OF AUDIT COMMITTEE AND OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE

- 4.1 It is proposed to amend the terms of reference of Audit Committee and Overview and Scrutiny Management Committee as shown in Appendices “C” and “D”.

5 OTHER CHANGES

- 5.1 Council is also asked to agree the following changes:
- (i) Substitution of “Councillor Call for Action” for “Community Call for Action” throughout.
 - (ii) Substitution of “Sustainable Communities Strategy” for “Community Strategy” throughout
 - (iii) Article 8 and Scheme of Delegation – deletion of Member Training and Development Panel; addition of Searching for Best Value Panel (4 Members)
 - (iv) Substitution of existing Service Head designations for previous designations throughout.

List of Appendices

Appendix A Councillor Call for action Procedure
Appendix B Crime and Disorder Reference Procedure

Appendix C Terms of Reference of Audit Committee
Appendix D Terms of Reference of OSC Management Committee

List of Background Documents: None.

List of Consultees: Leader, Corporate Team

CHECKLIST FOR DEALING WITH KEY ISSUES

Please confirm against the issue if the key issues below have been addressed .
This can be by either a short narrative or quoting the paragraph number in the report in which it has been covered.

Impact on Crime and Disorder	No issues
Impact on Sustainability	No issues
Impact on Rural Proofing	No issues
Health and Safety Implications	No issues
Project and Risk Management	No issues
Impact on Equality and Diversity Issues	No issues
Children and Young Persons Implications	No issues
Human Rights Act Implications	No issues
Monitoring Officer Comments	None
S151 Officer Comments	None

COPELAND BOROUGH COUNCIL

COUNCILLOR CALL FOR ACTION PROCEDURE

Introduction

1. This procedure applies when any Member of the Council wishes to refer a local government matter to an Overview and Scrutiny Committee under the Councillor Call for Action Procedure (Section 119 of the Local Government and Public Involvement in Health Act 2007).

Initial Procedure on Receipt

2. A Member wishing to refer a matter to an Overview and Scrutiny Committee under Councillor Call for Action (CCfA) will use the appropriate pro forma, which should be sent when complete to Democratic Services. Receipt of the CCfA will be acknowledged within 5 working days.

Report to Overview and Scrutiny Management Committee

3. The CCfA will be reported to the first available meeting of the Overview and Scrutiny Management Committee.
4. The Management Committee will decide whether the CCfA is valid by reference to the following tests:
 - Does it relate to a local authority function?
 - Does it relate to all or part of the Councillor's ward or a person who lives or works in it?
 - Is the CCfA vexatious or persistent (as defined)?
 - Is the CCfA a matter which could be resolved by a formal complaints or appeals process?
 - Have all other channels for resolving the issue been explored?
 - Has there been a systemic failure of process that validates CCfA?

5. If the CCfA fails any one of the tests in 4 above, the CCfA will not be valid.
6. If the CCfA is valid, the Management Committee will appoint a Task and Finish Group to consider the CCfA, consisting of the Chair or Deputy Chair or other Member of the relevant Overview and Scrutiny Committee and two or more other overview and scrutiny members.

Duties of Task and Finish Group and Overview and Scrutiny Committee

7. The Task and Finish Group will meet not less than 5 working days after its appointment, and the Member invoking CCfA will be invited to make representations to the first meeting.
8. The Task and Finish Group will carry out a review of the CCfA and will report its findings and recommendations to the relevant Overview and Scrutiny Committee, normally within 2 months of the Task and Finish Group's appointment. The Committee will consider the recommendations and decide whether to endorse or reject them. The Member invoking CCfA and the appropriate body

(Council/Executive/outside organisation) will be informed of the Committee's recommendations within 5 days of the Committee's decision.

9. The appropriate body will be invited to respond to the recommendations within 2 months.

COPELAND BOROUGH COUNCIL

SCRUTINY OF CRIME AND DISORDER MATTERS

Introduction

1. This procedure applies when any Member of the Council is asked by a person living or working in his/her ward to consider a local crime and disorder matter (Section 19 of the Police and Justice Act 2006).

Initial Procedure

2. Where a Member is asked by a person living or working in his/her ward to consider a local crime and disorder matter, the Member shall:
 - (a) Consider the matter and respond to the person who asked him/her to consider it, indicating what action if any he/she proposes to take; and
 - (b) The Member may refer the matter to the Overview and Scrutiny Committee for Safer and Stronger Communities (Crime and Disorder Committee)
3. Where the member declines to refer the matter to the Crime and Disorder Committee, the person who referred it to him/her may refer the matter to the Executive. The Executive shall:
 - (a) Consider the matter and respond to the person referring the matter to the Executive, indicating what action if any the Executive proposes to take; and
 - (b) The Executive may refer the matter to the Overview and Scrutiny Committee for Safer and Stronger Communities (Crime and Disorder Committee)

Responsibility of Overview and Scrutiny Committee for Safer and Stronger Communities (Crime and Disorder Committee)

4. The Overview and Scrutiny Committee for Safer and Stronger Communities (Crime and Disorder Committee) shall consider any local crime and disorder matter referred to it by a Member or by the Executive and may make a report and recommendations on it to the Council, the Executive or the appropriate local authority.
5. Where the Overview and Scrutiny Committee for Safer and Stronger Communities (Crime and Disorder Committee) makes a report and/or recommendations under para 4 above, it shall provide copies to the Cumbria County Council and the Cumbria Constabulary and to such partner organisations as it considers appropriate.
6. Where the Executive receives a report and/or recommendation under para 5 above the Executive shall:
 - (a) Consider the report and/or recommendations
 - (b) Respond to the Overview and Scrutiny Committee for Safer and Stronger Communities (Crime and Disorder Committee) indicating what if any action it proposes to take; and

(c) Have regard to the report and recommendations in exercising its functions

Audit Committee

6.24 To monitor the adequacy and effectiveness of the Internal Audit service and internal control environment and to:

- (i) approve an annual internal audit plan from the Audit and Fraud Prevention Manager
- (ii) monitor progress against the plan through the receipt of periodic progress reports and an annual Internal Audit report and assess whether adequate skills and resources are available to provide an effective audit function;
- (iii) receive and consider major Internal Audit findings and recommendations;
- (iv) monitor the response to major findings and the implementation of key recommendations.

6.25 To monitor the adequacy of the Council's risk management, corporate governance and anti-fraud and anti-corruption arrangements.

6.26 To approve on behalf of the Council, the Annual Statement of Accounts, and the ~~Statement of Internal Control~~ *Annual Governance Statement*.

6.27 To monitor the adequacy and effectiveness of the External Audit service and respond to its findings and to:

- (i) discuss with the external auditor the nature and scope of the audit of the Council services and functions, and consider the external audit fee and terms of engagement;
- (ii) receive and consider external audit *and inspection* reports and ~~Management Letters~~ and advise the Council as appropriate;
- (iii) contribute to and monitor the Council's response to the external auditor's findings and the implementation of external audit recommendations

6.28 To monitor the effectiveness of working relationships between internal and external audit functions.

6.29 To refer to the appropriate overview and scrutiny committee any issues relating to the development or review of Council policy or the scrutiny of particular Executive or regulatory decisions.

TERMS OF REFERENCE OF OVERVIEW AND SCRUTINY COMMITTEES

The Overview and Scrutiny Committees will monitor the work and provide input to the following areas:

Overview and Scrutiny Management Committee

Working with the Local Strategic Partnership to develop our ~~Community Plan~~
Sustainable Communities Strategy

Performance Management

Monitoring services for customer-friendly practice

Our Comprehensive ~~Performance~~ Area Assessment (CAA)

Financial/human resources issues within the Council, including monitoring of the budgetary process.

IT & Communication issues including IEG

Electoral issues

Public relations issues

Reviewing executive decisions

Setting, co-ordinating and reviewing overview and scrutiny work plans

Cross Cutting scrutiny