

PART 5.7

Councillor Call for Action and Local Crime and Disorder Referrals

Guidance for Councillors

1 Introduction

1.1 The implementation of sections 19 and 20 of the Police and Justice Act 2006 in Wales has given local councillors the power to refer local crime and disorder issues to the Communities, Homes and Regeneration Scrutiny Committee. These new powers strengthen the ability of the Committee to scrutinise key partners in relation to community safety, as from 1st October 2009. This is known as a Local Crime and Disorder Referral (referred to as a **LCDR** in the remainder of this guidance).

1.2 The subsequent implementation of section 63 of the Local Government (Wales) Measure 2011 gives local councillors the power to refer any local matter which relates to the discharge of functions of the Council to a relevant Scrutiny Committee, as from 1st April 2012. This is known as a Councillor Call for Action (referred to as a **CCfA** in the remainder of this guidance).

1.3 As part of their community leadership role, councillors have always attempted to resolve issues on behalf of their local residents. The CCfA and LCDR process provides an additional avenue for councillors to follow if the normal ways of resolving an issue have not been successful and the issue meets the criteria for a referral. It should be noted that a referral under this process should be seen as a last resort after all other avenues have been exhausted.

2 How should I normally attempt to resolve a crime and disorder issue or other issue in my area?

2.1 Local issues can be resolved in a number of ways by councillors on behalf of their residents, including:

- Informal discussions with officers or other councillors
- Informal discussions with partner representatives
- Referral of matters to other “scrutiny bodies” such as Community Health Councils or internal audit committees
- Approach the relevant Neighbourhood Policing Team or monthly local Partnerships and Communities Together (PACT) meeting
- Local Anti-Social-Behaviour Groups
- Formal discussions with officers and councillors

- Write a formal letter to the Cabinet Member on behalf of constituents
- Ask a question at Full Council
- Submit a motion to Full Council
- Public meeting
- Petition
- Complaint
- Freedom of Information request
- Communication with local MPs or AMs
- Web or email based campaigns

2.2 This is not an exhaustive list and councillors may choose different routes for specific issues. If an issue has not been resolved after exhausting all possible alternative routes, then a local councillor can refer it to the relevant Scrutiny Committee.

3 What is a Local Crime and Disorder Referral?

3.1 In order for the Committee to accept a CCfA or a LCDR as an agenda item for discussion at one of their meetings:

- **a LCDR must** concern crime and disorder and may include anti-social behaviour or other behaviour adversely affecting the local environment, such as the misuse of drugs, alcohol or other substances,
- **a CCfA must** be a local government matter which falls within the remit of a scrutiny committee,
- **and**, in both cases, **must** affect either all or part of a councillor's electoral area or it must affect someone who lives or works in that area.

3.2 A councillor does not however need a referral from a constituent in order to start the process. It is important to recognise that a CCfA or LCDR is not guaranteed to solve a given problem, though it can provide a method for discussing such problems and, through discussion, attempt to overcome them.

3.3 A councillor may wish to use this process, for example, where multi-agency discussion and work has taken place in relation to a particular issue but the action taken is not seen to be working. Despite complaints to the appropriate agencies, problems continue to occur in the area.

4 How and When should I make a CCfA or a LCDR?

4.1 A flowchart showing the process is provided at **Appendix 1**. A councillor may initiate the process by completing the form at **Appendix 2**. Further copies are available from the Democratic Services Unit. It is important that the local councillor specifies what outcome is expected from the referral. After completion the form should be returned to the Democratic Services Unit, which will log each request to track its progress and forward a copy of the form to the Head of Administration and Law (The Proper Officer) and the relevant scrutiny officer.

4.2 The Proper Officer will confirm whether or not the referral satisfies the requirements outlined in section 3 above to enable it to be placed on the agenda for discussion at a meeting of the Committee. Nevertheless, the Proper Officer reserves the right to exclude from the agenda any matter which is vexatious, discriminatory or otherwise potentially unlawful.

4.3 Assuming that the referral meets the requirements in section 3 above, the member should still be careful to ensure that the timing of the referral is not premature and that all other potential remedies outlined in section 2 above have been exhausted, before a referral is made to the Committee. Members should be aware that if a premature referral is made, the Committee is likely to refuse to deal with the issue, based on the criteria outlined in section 5 below. If the Proper Officer believes that the referral is premature, he/she will advise the member accordingly.

5 What happens when my CCfA or LCDR comes before the Committee?

5.1 It is up to the members of the Committee to decide whether, and in what form, to take the matter further. The Committee will use the following criteria to decide whether or not the referral is appropriate to be considered by Committee:

- Is the Committee satisfied that all reasonable attempts have been made to resolve the issue by the local councillor? Do the responses received by the referring councillor demonstrate that the matter is not being progressed?
- Has the Committee considered a similar issue recently – if so, 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 or LCDR hearing. Relevant time pressures on resolving the CCfA or LCDR 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)?
- Is this an issue currently being looked at by another form of local scrutiny?
- And, as with all scrutiny, does the matter have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the member’s ward?

5.2 If the Committee decides not to accept the CCfA or LCDR it must inform the councillor of the decision and the reasons for it.

5.3 If the Committee decides to accept the CCfA or LCDR, it must decide how it intends to take the matter forward and include the CCfA or LCDR in its work programme. This could include:

Before holding a formal hearing:

- Asking the Cabinet or relevant responsible authorities to respond to the CCfA or LCDR
- Setting up a research or task and finish group to undertake a more in-depth review.

At a formal hearing:-

- Asking for further evidence and/or witnesses to be brought to a future meeting. The Committee also has the power to invite representatives from partner authorities on the Community Safety Partnership to attend, where relevant for a LCDR, and to request information.

5.4 Any discussion in Committee would be based on how to achieve the outcomes that the councillor bringing the referral had specified. The discussion would explore potential solutions, and the item may end with the Committee recommending that certain action be taken by the relevant responsible authorities. It should be pointed out that discussions at committee will not necessarily resolve the issue immediately. However, the process can act as a spur for councillors and responsible authorities to work together to jointly develop policies to overcome the problem.

6 Potential outcomes from a CCfA or LCDR

6.1 Following a formal hearing, there are a number of potential outcomes from the Committee meeting:

- The Committee could determine not to make a report
- The Committee could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue
- The Committee could write a report and make recommendations on the CCfA or LCDR to the Cabinet or relevant responsible authority.

6.2 Once the Committee has completed its work, the councillor who made the 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, in which case the report will not be made public).

7 Timescales for dealing with a CCfA or LCDR

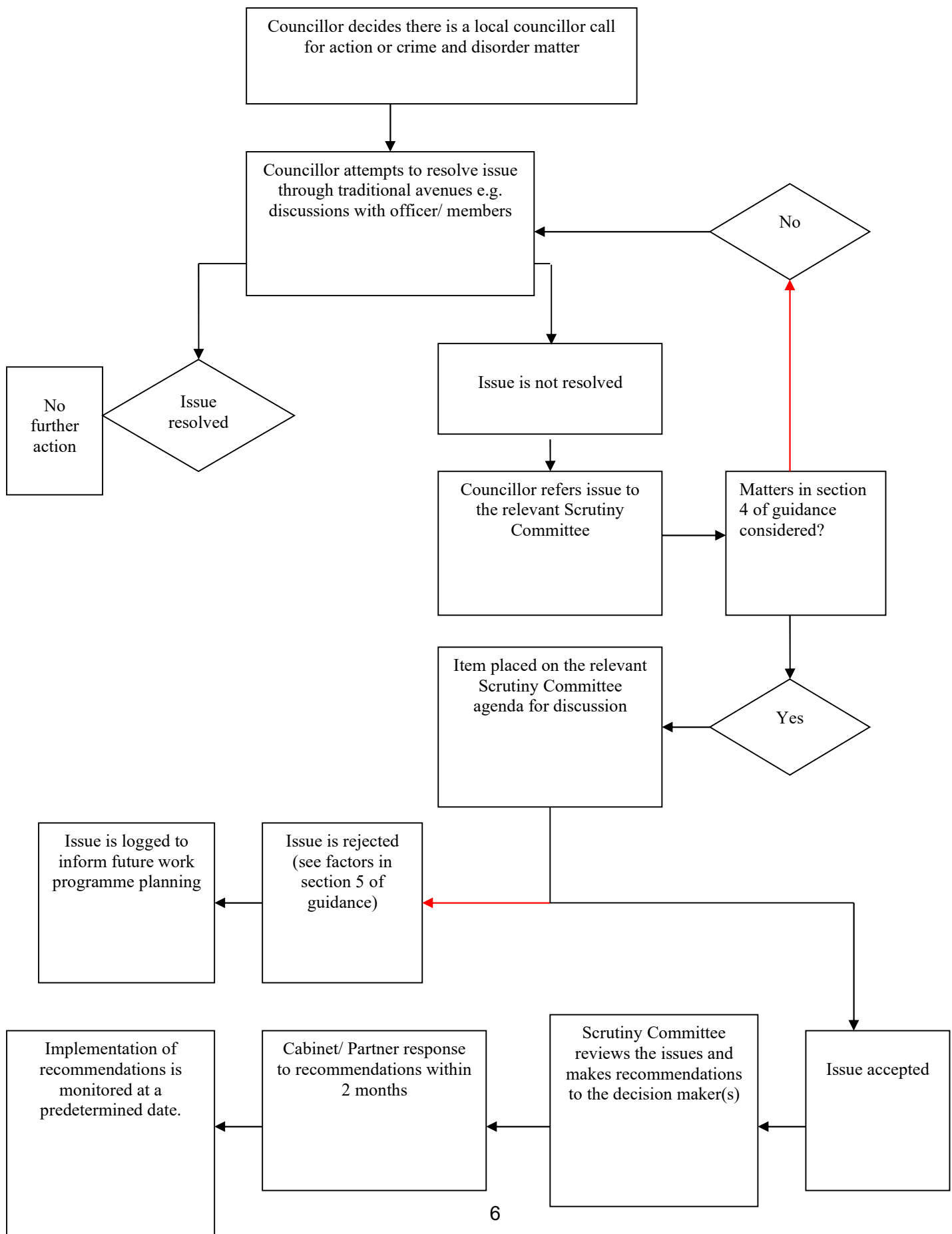
7.1 Once a CCfA or LCDR has been assessed as meeting the requirements outlined in section 3.1, the item will be included on the next available Committee agenda, unless the councillor agrees to postpone or withdraw the referral on the basis that it is premature.

7.2 In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened. Should a CCfA or LCDR hearing result in recommendations to the Cabinet or responsible authorities, they will be requested to make a response to the recommendations within 28 days and 2 months respectively.

7.3 The Committee will monitor implementation of any recommendations on a regular basis as part of its forward work programme.

8 Review of this Guidance

8.2 This guidance is based on a model prepared and approved by the Association of County Secretaries and Solicitors (ACSeS) in October 2009, amended in light of section 63 of the Local Government (Wales) Measure 2011. ACSeS will review their model guidance in light of experience of the use of these procedures by local authorities in Wales, and this guidance may therefore be modified accordingly.

Flow Chart for Councillor Call for Action or Crime and Disorder Referral

COUNCILLOR CALL FOR ACTION OR LOCAL CRIME AND DISORDER REFERRAL

This form should be used by any county councillor who would like a scrutiny committee to consider a Call for Action or Crime and Disorder Referral in their electoral ward area.

For the attention of the Head of Law, Governance and Civil Services

From: Councillor _____

Ward: _____

Contact details:

Telephone: _____

E-mail: _____

| | |
|--|---|
| SUBJECT | |
| Details: Please briefly explain what the issue is and how it affects your ward | |
| Action taken to date: Please explain what steps have been taken, with whom, to try to resolve the issue (please tick the actions you have taken to date) | <div style="display: flex;"> <div style="flex: 1;"> <input type="checkbox"/> Informal discussions with officers or other councillors <input type="checkbox"/> Informal discussions with partner representatives <input type="checkbox"/> Referral of matters to other “scrutiny bodies” such as Community Health Councils or internal audit committees <input type="checkbox"/> Approach the relevant Neighbourhood Policing Team or monthly local Partnerships and Communities Together (PACT) meeting <input type="checkbox"/> Approach Local Anti-Social-Behaviour Groups <input type="checkbox"/> Formal discussions with officers and councillors <input type="checkbox"/> Write a formal letter to the Cabinet Member on behalf of constituents <input type="checkbox"/> Ask a question at Full Council <input type="checkbox"/> Submit a motion to Full Council <input type="checkbox"/> Public meeting <input type="checkbox"/> Petition <input type="checkbox"/> Complaint <input type="checkbox"/> Freedom of Information request <input type="checkbox"/> Communication with local MPs or AMs <input type="checkbox"/> Web or email based campaigns </div> <div style="flex: 1;"> Additional actions and further detail: </div> </div> |
| Timescales Are there any deadlines associated with the issue which | Yes / No (please delete as applicable) If yes, please give details |

| | |
|--|--|
| <p>the scrutiny committee needs to be aware of?</p> | |
| <p>Expected Outcome Please describe the outcome you hope to gain via this referral</p> | |
| <p>Papers attached: Please list documents attached which should evidence the impact of the issue, the steps taken and any responses received.</p> | |

The following criteria will be taken into consideration when the Committee decide whether to progress with your CCfA or LCDR:

- ◆ Have all reasonable attempts have been made to resolve the issue? Do the responses received by you demonstrate that the matter is not being progressed?
- ◆ Has the committee 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 or LCDR hearing. Relevant time pressures on resolving the CCfA or LCDR 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 have you 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 a personal agenda (an issue of genuine local concern should have an impact on the local community)?
- ◆ Is this an issue currently being looked at by another form of local scrutiny?
- ◆ And, as with all scrutiny, 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 your ward?

Please consider whether your referral might be considered premature by the Committee. Consider whether other potential remedies have been exhausted, before a referral is made. Members should be aware that if a premature referral is made, the Committee is likely to refuse to deal with the issue, based on the criteria outlined above. If the Proper Officer believes that the referral is premature, he/she will advise you accordingly.

Please return your completed form to the Democratic Services Unit, Carmarthenshire County Council, County Hall, Carmarthen SA31 1JP