 Overview & Scrutiny Committee and Finance & Audit Scrutiny Committee 25 May 2010		Agenda Item No. 11
Title	Councillor Call for Action	
For further information about this report please contact	Graham Leach, Senior Committee Services Officer, 01926 456114 or committee@warwickdc.gov.uk	
Service Area	Members' Services	
Wards of the District directly affected	N/A	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006	No	
Date and meeting when issue was last considered and relevant minute number	N/A	
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No

Officer/Councillor Approval		
With regard to officer approval all reports <i>must</i> be approved by the report authors relevant director, Finance, Legal Services and the relevant Portfolio Holder(s).		
Officer Approval	Date	Name
Relevant Deputy Chief Exec	15/4/2010 16/4/2010	Andrew Jones Bill Hunt
Chief Executive	15/4/2010	Chris Elliott
CMT		
Section 151 Officer		
Legal		
Finance	16/4/2010	Marcus Miskinis
Portfolio Holders	19/4/2010	Councillor Michael Doody
Consultation Undertaken		
Monitoring Officer & Head of Members' Services Chair of Finance & Audit Scrutiny Committee Chair of Overview & Scrutiny Committee		
Final Decision?	No	
Suggested next steps (if not final decision please set out below)		
One recommendation is recommendation to Council.		

1. **SUMMARY**

This report informs the Committee about the Government's Councillor Call for Action legislation (CCfA) which came into force on 1 April 2009, as part of the Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006.

2. **RECOMMENDATIONS**

- 2.1 That the report be noted;
- 2.2 That the guidance note on the Councillor Call for Action (Appendix 1) be adopted and included as an annex to the Constitution; and
- 2.3 That the Committee recommends to Council that Article 6 of the Constitution is amended to include reference to Councillor Call for Action and that the Overview & Scrutiny Committee procedure rules are amended to include CCFA within the order of business (as set out in the draft Constitution included in the Executive agenda for 25 May 2010).

3. **REASONS FOR THE RECOMMENDATION**

- 3.1 The Council is required to consider Councillor Calls for Action if submitted and therefore it is prudent to have a guidance note for members and make relevant provision within the Constitution to allow this to happen.

4. **ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 There are no alternative options available as this is a mandatory scheme.

5. **BUDGETARY FRAMEWORK**

- 5.1 At this stage it is not possible to predict the extent to which members will use the Councillor Call for Action mechanism and it is not possible to quantify the level of resource required to support those activities. But it is expected that the resources required to deliver the requirements of the legislation will be delivered from existing provision. Monitoring will need to take place to consider the impact on officers to resource these additional activities.

6. **POLICY FRAMEWORK**

- 6.1 The new powers for overview and scrutiny committees are relevant to all the Council's corporate values as it enables the Council to be more open and transparent and provides Councillors with more options to resolve issues.

7. **BACKGROUND**

- 7.1 The Councillor Call for Action is one of a number of recent changes in legislation that provide new powers for overview and scrutiny committees. In principle, the changes seek to empower communities and enable local people, through their councillors, to participate in decisions that affect their day to day lives.
- 7.2 In practice the introduction of the Councillor Call for Action will not significantly alter the powers that members of Warwick District Council already have. It

simply formalises an arrangement that has been followed for a number of years in so far as members have always been able to refer an item to overview and scrutiny committees for consideration.

- 7.3 The issue for debate is not the formal introduction of the Councillor Call for Action but the extent to which it is taken up and used and what implication it has regarding the expectations of residents.
- 7.4 Although the Local Government and Public Involvement in Health Act was published in December 2007 the regulations relating to overview and scrutiny and the introduction of the Councillor Call for Action, did not come into force until 1 April 2009.
- 7.5 The Councillor Call for Action (CCfA) provides all members of the Council with the opportunity to refer a local government matter to an overview and scrutiny committee for consideration. This is defined as a matter "which relates to the discharge of any function of the Authority, affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area, and is not an excluded matter". (See Constitution, Article 6 for a list of 'excluded matters'). The definition has been extended (under the Police and Justice Act 2006) to include crime and disorder matters in a Councillor Call for Action.
- 7.6 The main points of the Councillor Call for Action legislation are as follows:
- It will be up to individual councillors to determine which issues to take forward as a Councillor Call for Action – but it should represent genuine local community concern and apply only to a single ward;
 - there will be no requirement for councillors in multi-member wards to agree to the referral as this matter is for each individual Councillor;
 - Councillor Call for Action applies to any council or council partnership function;
 - If a councillor decides not to refer a matter, no further action is taken under a Councillor Call for Action;
 - It will be up to overview and scrutiny to determine whether or not to hold a scrutiny inquiry into the matter and to respond to the councillor accordingly;
 - There will be no right of appeal for a constituent via the Council's Executive or committee processes if a councillor or committee decides not to pursue an issue as a Councillor Call for Action;
 - Councillors should regard the Councillor Call for Action as a last resort for difficult and intractable problems, and they will have to demonstrate that they have exhausted all other steps formally and informally to resolve the issue in their ward.
- 7.7 Whilst 'a local government matter' could be interpreted narrowly, to mean only those issues under the direct control of the authority, the guidance suggests that to give full effect to the Councillor Call for Action the interpretation of 'local government matter' needs to be broader. This includes issues relating to the council's partners, in line with the area focus of the Comprehensive Area Assessment and the fact that an authority's duties increasingly impact on other organisations and involve partners within and outside the Local Strategic Partnership.

- 7.8 The legislation is not prescriptive as to the manner in which Councils are required to put the Councillor Call for Action into operation. However, the guidance does stress the importance of ensuring that the Councillor Call for Action is a responsive and un-bureaucratic process which delivers tangible outcomes on short timescales.
- 7.9 The Constitution already allows that 'any member of the Council may give written notice to the Chief Executive that they wish a local matter relating to the work of the authority to be considered for inclusion in the overview and scrutiny work programme' and this has long been the practice at Warwick District Council
- 7.10 Accordingly, there does not appear to be a case for the creation of a separate Councillor Call for Action protocol or documentation at this time, although it may be necessary to revisit this decision in the future, in the light of practical experience of a Councillor Call for Action request.
- 7.11 In the meantime, members may find it helpful to refer to the attached guidance note which provides a general illustration of how the Councillor Call for Action might operate (Appendix 1).

Councillor Call for Action

Guidance for Members of Warwick District Council

With the implementation of the Local Government Public Involvement in Health Act, 2007, a councillor may now formally request a relevant scrutiny committee to consider an issue – formally known as a 'Local Government matter' – in their ward for further investigation through a 'Councillor Call for Action' (CCfA).

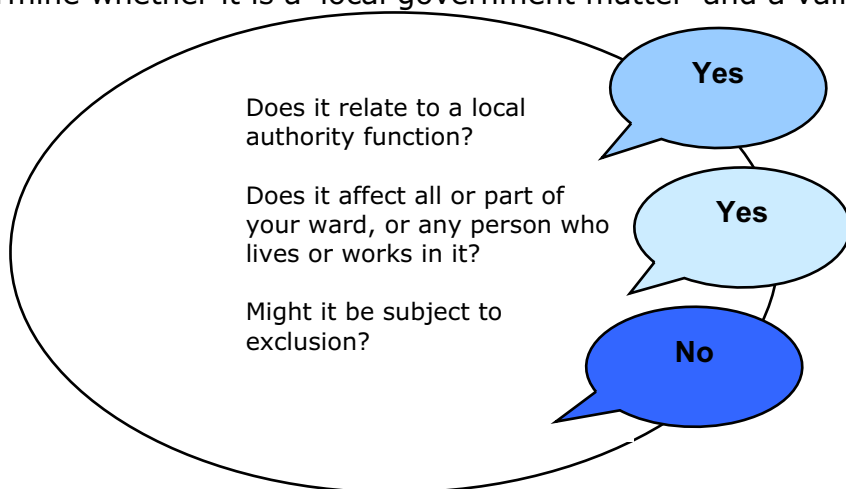
Many authorities, including Warwick, already have in place mechanisms for members to raise an issue with scrutiny within their own authority.

However, the legislation now extends the rights of members to refer a local government matter not just to the committees of their own Authority, but in the case of two-tier areas such as Warwickshire, to the committees of the relevant District or County scrutiny committee, irrespective of whether they are a member of that authority.

This guidance is to help councillors decide whether they have a valid Call for Action, and provides details of how to lodge a Call for Action in Warwick.

What is a valid Councillor Call for Action?

In very simple terms, you must be able to answer yes, yes and no to the following questions to determine whether it is a 'local government matter' and a valid Councillor Call for action:



The powers that a local authority has for the 'well-being' of its area might mean in effect that there are quite broad interpretations of a local authority function as is demonstrated by the examples given later in this guidance.

There are exclusions in statutory guidance for the Councillor Call for Action. The exclusions include:

- Vexatious or persistent requests
- Requests which could be dealt with by formal complaints or appeals' processes (unless systematic failure can be demonstrated)

Before submitting a Councillor Call for Action, it would be expected that you will have tried to resolve the issue using existing channels open to you, such as discussions with staff and other members; formal letters and motions at Council. The intention behind the legislation is that the Councillor Call for Action should be used as a last resort, where all other avenues have failed.

Some examples of ways to try to resolve an issue that are commonly used are set out below:

- Informal and formal discussions with Portfolio Holders and Heads of Service
- Communication with members in other authorities
- Communication with local MPs
- Raising the issue at an appropriate local group or partnership body
- Formal letters written on behalf of constituents
- Where appropriate organising local meetings or holding a public meeting
- Providing advice about or helping with petitions
- Questions at Committee, Executive or Council
- Submitting a motion or petition to Council
- Requesting that a topic for review is included in the scrutiny work programme
- Assisting with a formal complaint
- Giving advice about a Freedom of Information (FoI) request
- Web or e-mail based campaigns

How do I submit my Councillor Call for Action?

You should make a written or email submission to the Chief Executive (copied to committee@warwickdc.gov.uk) setting out the basis of your Councillor Call for Action. You should aim to include the following information:

- Your contact details
- The Authority and Ward that you represent
- Title of your Councillor Call for Action
- Brief synopsis of the Councillor Call for Action issue
- What evidence you have to support your Councillor Call for Action
- Which areas or community groups are affected by your Councillor Call for Action
- How you have tried to resolve the issue
- Any deadlines associated with the Councillor Call for Action
- What outcomes you hope to achieve through this Councillor Call for Action

If it is agreed that it is a valid local government matter, you will then be informed of the date and time of the scrutiny committee which will consider your Councillor Call for Action, and whether the Committee wishes to hear any further representations from you or other parties.

If the Committee decides to not to take the 'matter' further, it must explain the reasons, and if it does take the matter up, it must make sure that you have a copy of any reports or recommendations that it makes.

The following examples may be helpful:

Example 1: Councillor Green is a member of a District Council. At her ward surgeries, and when out and about, she receives regular comments about fly tipping in the area. A number of individual complaints have been put to the authority, but there has been no discernable improvement. Councillor Green wonders whether she can refer this matter to the relevant overview and scrutiny committee, so asks herself the following questions:	
1. Does it relate to the discharge of any function of the Local Authority?	Yes. Dealing with fly tipping is a local government function, and in Warwickshire, is the responsibility of District Councils.
2. Does it affect all or part of her ward, or anyone living or working in it?	Yes
3. Have other avenues failed to resolve the issue?	Yes. There have been several complaints which have failed to resolve the issue, which could be considered as a systematic failure to resolve the issue.

Example 2: Councillor Brown is a member of a County Council. He has been approached by a group of residents regarding the poor response of the local water company in responding to burst mains pipes, causing flooding in a local street. This issue has also received wide coverage in the local press. Councillor Brown is considering a Councillor Call for Action as a means to getting a promise of action from the water company. He asks himself the three qualifying questions.	
1. Does it relate to the discharge of any function of the Local Authority?	It depends. The provision and management of utility services such as water is not a function of local authorities. So initially the answer is no. However, there are other areas of local government responsibility which might be affected, for example the power to promote or improve the economic, social and environmental well-being of their area, introduced by the Local Government Act 2000. So a scrutiny committee may judge that this is a valid Call for Action, although they will not have any power to 'require' co-operation from the water company.
2. Does it affect all or part of his ward, or anyone living or working in it?	Yes
3. Have other avenues failed to resolve the issue?	Possibly. It may require further research to establish what residents have done so far to resolve the issue, and whether there are a number of areas suffering from similar levels of perceived poor service.

