

**BRECKLAND COUNCIL**

**At a Meeting of the**

**OVERVIEW AND SCRUTINY COMMISSION**

**Held on Thursday, 30 April 2009 at 2.15 pm in the  
Level 8, Breckland House, St Nicholas Street, Thetford IP24 1BT**

**PRESENT**

Mr S.G. Bambridge	Mr A.P. Joel
Mr A.J. Byrne	Mr R.G. Kybird
Mr J.P. Cowen (Chairman)	Mr K. Martin
Mr K.S. Gilbert	Mr B. Rose
Mr R.F. Goreham (Vice-Chairman)	Mr A.C. Stasiak
Mrs D.K.R. Irving	

**Also Present**

Mr P.D. Claussen

**In Attendance**

Mark Broughton	- Member Development and Scrutiny Officer
Steve Knights	- Strategic Manager
Alistair Rusholme	- Environmental Services Contracts Manager
Elaine Wilkes	- Senior Member Services Officer

**35/09 MINUTES**

The minutes of the meeting held on 26 March 2009 were confirmed as a correct record and signed by the Chairman.

**36/09 APOLOGIES**

Apologies for absence were received from Mrs. S. Matthews and Messrs. J. Gretton, M. Kiddle-Morris, J. Rogers and W.H.C. Smith.

**37/09 URGENT BUSINESS (AGENDA ITEM 3)**

The Chairman announced one item of urgent business, as follows, in order to meet the required deadline for a response to be made:

- (a) Consultation Response to "The End of an EERA: What Future for Regional Local Government Arrangements in the East of England?"

The report of the Task and Finish Group (copy as appended) was tabled at the meeting and presented by Mr. S.G. Bambridge. (Previous minute 32/09 refers.)

The Group had met on 23 April 2009 to consider the consultation paper from the East of England Regional Assembly's Sub-National Review Members Task Group. The deadline for the submission of responses was 8 May 2009.

Mr. Bambridge explained that the Task and Finish Group had some concerns about the proposals and had answered the questions as best it could, albeit reluctantly in some cases recognising that they might not be the answer to the whole problem.

**Action By**

**Action By**

In particular, Mr. Bambridge felt that, in regard to Question 9, the elected Members of the Board should have their own advisory structure, drawn either from the existing staff provision or an independent body, so that Members should not be dependent on EERA.

Members were also concerned about District Council representation on the Board of EERA, bearing in mind that there were 52 separate Councils in the Eastern Region with only 12 Members on the Board (Question 3). It was felt District Councils should be more fully represented and the Group's response to this supported the model proposed by King's Lynn & West Norfolk District Council that the Leaders Board should be elected from the ranks of the t2 local authorities represented. It was also felt that ex officio Leaders on the Board should not have voting rights.

Members of the Commission supported the need to ensure a fair representation of the Councils in the region to avoid any bias towards one area over another. It was felt that up to now there had been a bias towards the south-eastern area of the region to the detriment of others.

The Commission equally supported the need for a separate advisory structure for Member Councils.

**RESOLVED** that the Task & Finish Group's draft response be agreed for submission, subject to incorporating the Commission's views as follows:

Mark  
Broughton

- (1) that the new governance body should ensure equitable distribution across the region, i.e. to reflect the different natures of the rural and urban parts of the region, and to avoid any bias towards one area over another; and
- (2) that the elected Board should have a separate advisory structure available to them, either through the staff side or through an external provider.

**38/09 DECLARATION OF INTEREST**

The following declarations were made:

- Mr. S.G. Bambridge – Personal interest in regard to any LDF matters by virtue of his profession.
- Mr. P.D. Claussen – Personal interest as a member of the ARP.
- Mr. P. Cowen – Personal interest in matters in relation to the LDF as an Architect in practice.

**39/09 NON-MEMBERS WISHING TO ADDRESS THE MEETING**

The following were in attendance for item 7:

- Mr. P.D. Claussen, Executive Member for Economic & Housing.

- Mr. S.K. Knights, ARP Strategic Manager

**Action By**

**40/09 EXECUTIVE MEMBER PORTFOLIO UPDATE (AGENDA ITEM 6)**

The Chairman announced that this item was deferred as Mr. W.H.C. Smith had been required to deputise for the Leader at another event at short notice on behalf of the Council.

This item would, therefore, be re-submitted to the next meeting on 18 June 2009.

**41/09 PARTNERSHIP SCRUTINY - ANGLIA REVENUES PARTNERSHIP (AGENDA ITEM 7)**

The Chairman introduced this item, explaining that the Commission had highlighted two issues at its last meeting relating to complaints, particularly in regard to bailiff actions, and to a report in the press which appeared to indicate a drop-off in ARP performance. In highlighting these issues, members had had regard to the impact from the current recession on the District and on businesses in the area, and in relation to Council Tax collection and benefits payments.

The ARP Strategic Manager explained that so far as the issue of complaints was concerned, there were a number of factors involved. However, to put the issue in context, of 55,000 bills issued, with as many again issued during the year as people moved or circumstances changed, there were only 21 complaints made.

It was a similar situation regarding bailiff actions. Out of 1806 bailiff actions in the last year, there were only five complaints made and, of those complaints, the majority of them were based on the fact that the people did not want to pay.

However, it was stressed that each complaint was investigated individually and the processes were looked at to make sure matters had been handled correctly and to consider where any improvements might be needed.

Of the five complaints relating to bailiff actions, only one related to the process and new procedures had been drawn up to cover the issue raised. There had been no further complaints regarding bailiff actions in recent weeks.

The Strategic Manager went on to outline the processes involved in the billing and bailiff functions and it was noted that there would be six contacts between the ARP and the customer from the time bills were first issued and before any bailiff action for non-payment was commenced.

It also had to be remembered that an important part of the function of Council Tax was to maintain collection.

There was a very comprehensive code of practice which aimed to ensure every person was treated fairly and equitably and with respect and this was strongly emphasised to the bailiffs employed by the service.

**Action By**

The Strategic Manager answered a number of questions ranging from how genuine cases of inability to pay were dealt with to how performance issues were managed and targets improved.

So far as the process for recording complaints was concerned, it was confirmed that all complaints relating to the ARP were received through the Contact Centre as first point of contact.

In answer to a question, it was explained that the form of the Council Tax bill was a prescribed document and it was not possible to include additional information on the form to give people the point of contact for making a complaint. The Strategic Manager felt that the possibility of providing this information in separate literature at billing time could be looked at. Complaints forms were available for people to use, however, and the Strategic Manager was not aware of any people not going through that process.

Details of the bailiffs used were given, together with details of the management arrangements and complaints handling.

In reply to another question, it was explained that the facility for bills to be paid through Post Offices still existed through the use of the bar code system. While the campaign to promote the direct debit payments system had successfully increased this use to 70%, people with existing bar code arrangements could still use them. If they had been mislaid, new ones could be issued on request.

On a positive note, a member highlighted that the constituents in his Ward had been very complimentary of the way ARP staff handled cases of bereavement.

The Executive Member felt it important to note that the Joint Committee of the ARP formed a consensus of opinion across the three partner authorities. The Joint Committee had taken some encouragement about collection rates following the Christmas/New Year dip and the fall in the economy. The Joint Committee had supported the tougher policy on non-payments and the use of bailiffs.

In relation to the issue of performance as raised through the recent press article, the article related to the high performance of South Norfolk District Council and not directly to any fall in performance of ARP. The Strategic Manager explained that ARP still provided the highest level of performance for the three authorities and it was pleasing to see that other Norfolk authorities were also performing to the same high level.

To illustrate the matter, charts showing performance figures covering the years 2001-02 (the year before the partnership was formed), 2005-06 (the year Beacon status was obtained) and the last year 2008-09 were circulated. The charts showed performance figures remained in top quartile. Comparative information on Council Tax collection performance for 2008-09 covering local authorities in Norfolk, Suffolk, Cambridgeshire and Hertfordshire was also circulated.

The Strategic Manager highlighted the significant budget savings being achieved by the partnership that offered not only performance but also value for money.

**Action By**

A member drew attention to problems he had experienced in making contact with the ARP through the telephone number given on the Council Tax bill and it was explained that all calls to the service were routed through the Contact Centre and any queries relating to that should be directed to the Head of Customer Services. However, the situation was improving and a major project was being commenced to move ARP contacts to the front for handling in the Contact Centre which it was felt should address this issue.

In the light of this information, it was suggested the Commission might have a report on the future proposals for improving the system.

Looking at trends in the current economic climate, the rise in unemployment and businesses failing appeared to have peaked for the moment. However, the increase in unemployment had a significant impact on the benefits service. This had been recognised by the Government, which had provided additional financial support to authorities to help them deal with the situation and to increase resources.

So far as NDR performance was concerned, the impact was the greater where a company stopped paying NDR but continued trading. Also of note was the issue of NDR transitional relief changes where the impact would be felt most next year.

The Chairman thanked Mr. Claussen and Mr. Knights for their report, which he felt had been very useful. It was suggested it would be helpful to have a further update on economic trends and their impact both on the service and generally at the next meeting as part of the overall Executive Member update.

**RESOLVED** that

- (1) an item be included in the Commission's future work programme to receive a report on the future proposals for the Contact Centre; and
- (2) a further update on economic trends affecting the service be given as part of the Executive Member update scheduled for the Commission's next meeting.

**42/09 CONTRACT MONITORING: ENVIRONMENTAL & SECURITY SERVICES CONTRACT (AGENDA ITEM 8)**

The Environmental Services Contracts Manager presented the report which covered the three month period from October to December 2008.

The figures for residual household waste per household in Appendix A were corrected to read: Quarter 3 2008/09 – 127kg, and Target – 125.

The target figure for household waste recycled and composted was expected to be reached by year end (target 40%, current rate 43%).

In Appendix B, it was noted that the cost of waste collection was per household.

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Adam  
Colby

**Action By**

In answer to a question, it was stated that the recycling figures included glass banks, although it was not sure at the meeting whether this included private facilities, for example at supermarkets. *Following the meeting, it has been clarified that the recycling figure includes the tonnages from all the recycling banks that are available for public use throughout the district, including those situated in supermarket car parks.*

A further question concerned whether the five Town Clerks were included in the customer satisfaction survey. It was explained that regular meetings were held with the Town Clerks on a monthly basis, which offered a very good point of contact and opportunity to obtain feedback and tailor the service to needs.

The problems experienced over the advertising of the Easter collection arrangements were noted. The Contracts Manager advised that a meeting was to be held the following week with Serco to look in detail at what had gone wrong or well and to learn from the situation.

The Chairman thanked the Contracts Manager for his report and it was

**RESOLVED** that the report be noted.

**43/09 PARTNERSHIP SCRUTINY - CITIZENS' ADVICE BUREAU (AGENDA ITEM 9)**

Cynthia Schears, Bureau Manager of the Diss, Thetford & District Citizens' Advice Bureau (CAB) was in attendance for this item and spoke to members about the work of the CAB, details of which were contained in the report and Partnership Questionnaire as circulated with the agenda.

After a difficult previous year, the recent relocation of the Bureau's offices from Earls Street to Breckland House was a very positive move for the Bureau and the new location provided additional interview rooms, enhancing their work.

Last year the Bureau experienced a funding shortfall with the loss of lottery funding of £60-£70,000 per annum and the loss of funding from Sure Start due to cutbacks, and the ending of a contract with Keystone Development Trust.

As a result, the Bureau had had to restructure with the consequence that some posts were made redundant.

Since then, the Bureau had secured some new funding through a new national scheme funded by the Government, which was enabling the Thetford office to open for an extra day a week from 3 days to 4 days.

In addition, Norfolk County Council had granted extra funding to meet increased client demand for some specialist advice work on half a day a week.

The economic downturn had increased the numbers of people using the CAB service and to cope with demand, the service was introducing a "gateway" assessment model where callers were given an initial diagnostic interview to identify needs and follow up interview by

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appointment or other action as appropriate. Emergency cases could still be dealt with the same day.

The Bureau was extremely grateful for the financial support given by Breckland. While Breckland's financial contribution was lower than that of the other District Councils in the areas served, it was noted that mid-Suffolk's contribution had been reduced to £8,000 for 2009-10.

A member congratulated the Bureau for all its excellent work, particularly regarding debt and other money management advice and he felt it was sad that there was still no secure funding provision for the CAB. He considered that there should be more Government funding provided.

Mrs. Schears responded that the financial situation could change if national proposals to move to a commissioning-based structure went ahead in the future. Some Bureaux had tried to generate income and Mrs. Schears said she was keen to pursue this potential through a separate charity arm.

Asked whether she found there were any advantages or problems from working across county borders, Mrs. Schears replied that the two counties were very different and different services were offered but there were advantages.

A member asked whether there were any specific client issues that could be referred to their elected member. Mrs. Schears explained that the main issues being raised related to benefits, debts and unemployment. Other areas dealt with concerned education, financial products, health, housing and immigration. There had been an increase in the latter item in Thetford over the past year.

CAB Advisors were being encouraged to signpost clients to appropriate services and the CAB worked closely with the Council. The new gateway system was expected to speed up the process and through signposting, free up Advisors to work with those most in need. Since the loss of its specialist advice workers, closer working was being done with other agencies, such as Shelter, and arrangements were made for partners to attend at the CAB's offices for outreach services.

Translation services were quite a large expense for the organisation. It was hoped the introduction of the gateway system would help as clients could be asked to attend for another interview with a friend or other person who could act as interpreter for them. It might also be possible to attract more volunteers who could offer another language, e.g. Portuguese or Polish.

Discussion ended with the Chairman thanking Mrs. Schears for attending and for her very informative report.

Action By

**44/09 TASK AND FINISH GROUPS (AGENDA ITEM 10)**

(a) LDF Task & Finish Group - 1 April 2009

(i) Terms of Reference (Minute 4/09)

**RESOLVED** that the Terms of Reference for the LDF Task and Finish Group be as follows:

“To critically examine all aspects of the Local Development Framework, including in-depth appraisal of specific policies within the Framework as required.”

(ii) Use of Submission Development Control Policies (Minute 5/09)

The need to ensure all members of the Council received guidance on this matter was highlighted. It was also suggested that information should be provided to others through the Agents' Forum and that there should be a special training day for Members.

One member voiced concern about the process, as he felt it was too selective but it was noted that the process was in line with Government guidance and that authorities were required to follow that guidance.

Another member felt that planning application forms needed to incorporate advice on this and a suggestion was made that the information pack issued to applicants should highlight what policies will affect them before they submitted their applications.

**RECOMMEND** to the Development Control Committee to note the report and to take account of the matters raised above and that a guidance note be issued to ensure all members, Parish Councils and other stakeholders are made aware of the weight that can be attributed to some of the submitted policies (as set out in the report) of the Core Strategy and Development Control Policies document in the determination of planning applications.

(iii) LDF Work Programme (Minute 6/09)

**RESOLVED** that the report be noted.

(iv) Task & Finish Group Work Programme (Minute 7/09)

Members noted that the Task & Finish Group was unlikely to meet again before the end of August, to allow for the Public Examination process, unless the Inspector rejected a policy.

**45/09 COUNCILLOR CALL FOR ACTION (AGENDA ITEM 11)**

The Member Development and Scrutiny Officer presented the report and explained that the Councillor Call for Action was a new prescribed function and the suggested protocol, based on guidance, had been produced and had involved collaborative working through the Norfolk Scrutiny Network.

**Action By**

Consequent amendments would be necessary to the Constitution of the Council to take account of the new function and these were set out in paragraph 3.7 of the report.

The Chairman reported that the Executive Member for Governance had raised the following additional views on the matter:

- There may be a need for training for members
- There could be confusion in the two-tier system of local government as to the responsibilities of county councillors
- Members can and should filter out vexatious complaints and also continuing to ensure the needs and views of the most vulnerable or exploited sectors of the community are represented
- The need for awareness that some issues submitted to OSC may be at variance to the Council's manifesto
- Further legislation around the issue of the submission of petitions to public bodies was expected in September.
- Regulations regarding the issue of Councillor-owned budgets were expected but were not yet in force.

**RECOMMEND TO COUNCIL** that

- (1) the draft Protocol on Councillor Call for Action (CCfA) be adopted (copy as appended to these minutes);
- (2) the Council's Constitution be amended as follows:

**Part D1 – Delegations to Overview and Scrutiny Commission (including call-in procedures)**

Add:

*“6. To consider any matter referred under the Councillor Call for Action provisions of section 119 of the Local Government and Involvement in Public Health Act 2007, in accordance with the Protocol adopted by the Council.”*

*“7. To make recommendations to Cabinet and outside organisations, where appropriate, in accordance with the Protocol on Councillor Call for Action.”*

**Part C3 – Delegations to Cabinet**

Add:

*“20. To consider and respond to recommendations made by an Overview and Scrutiny Commission hearing on a Councillor Call for Action, in accordance with the protocol adopted by the Council.”*

**Part 5 – Codes and Protocols**

Insert: *“E. Protocol on Councillor Call for Action”*

(Note: This recommendation will stand deferred until the next ordinary meeting of the Council.)

**Action By**

**46/09 SCRUTINY CALL-INS (STANDING ITEM)**

There were no items to report.

**47/09 WORK PROGRAMME**

The Chairman drew attention to work presently being done through the County Council's Joint LSP Scrutiny Board on the impact of the recession in Norfolk and what steps were being taken to help businesses and employees. The Chairman felt there was a similar piece of work needed by this Commission, having regard to the issues raised through the preceding Partnership review items on the ARP and CAB. He asked members to think about the issues which would be pertinent to the Executive Member's report at the next meeting.

The following amendments to the work programme were confirmed:

<b><u>Meeting Date</u></b>	<b><u>Topic</u></b>	<b><u>By</u></b>
18 June 2009	Capita	W.H.C. Smith – Executive Member Report
23 July 2009	Contact Centre – first contact proposals for ARP	Business Improvement Team - Adam Colby

Mark  
Broughton

**48/09 NEXT MEETING**

The arrangements for the next meeting on 18 June, to be held at Attleborough Town Hall, were noted.

The meeting closed at 4.55 pm

CHAIRMAN

## Overview & Scrutiny Commission

### Task & Finish Group: Consultation Response to “The End of an EERA: What Future for Regional Local Government Arrangements in the East of England

#### Introduction

Proposals under the Local Democracy, Economic Development and Construction Bill will see the abolition of regional assemblies including EERA with effect from April 2010. In their place an alternative model of regional governance has been proposed which would see the establishment of a Leaders Board to jointly develop a Single Regional Strategy bringing together both the Regional Spatial Strategy and the Regional Economic Strategy. The Bill also advocates the establishment of Regional Parliamentary Committees

EERA’s Sub National Review Members Task Group had devised the present consultation document which set out 13 questions. The deadline for receipt of responses is 8 May 2009.

At its meeting on 26 March 2009, the Overview & Scrutiny Commission agreed to set up a Task and Finish group to consider and formulate a response to the consultation document [Minute 32/09 (6) refers]. The Task and Finish Group consisted of Councillors Gordon Bambridge, Keith Martin and Pauline Quadling (the latter in place of Keith Gilbert who was unable to attend due to ill health), assisted by Mark Broughton, Member Development & Scrutiny Officer.

The Group attended a presentation from Jonathan Skinner, Executive Support Officer at East of England Regional Assembly (EERA), on 23 April 2009 entitled “Regional Local Government Arrangements – Now and in the Future”. Following the presentation the group met to discuss and consider a response to the consultation paper.

#### Consultation Response

Q1. Do you have any comments or observations about the SNR “offer” for responsibility for the new Single Regional Strategy to be a joint duty between the Regional Development Agency (EEDA) and a new Local Authorities Leaders Board?

A. Within the context of what could otherwise be a very complex arrangement, the suggested model shown by “Annex A” of the consultation document is broadly supportable as a way forward in recognising the harmonised working relationship between democratically elected leaders and EEDA stakeholders in delivering the new SRS. We also consider that it is essential that political balance in respect of the Leaders Board should be based on local, as opposed to national, circumstances.

Q2. Do you support the approach being proposed to use the SNR changes as an opportunity to undertake a review of all regional functions and services currently provided by EERA?

A. Broadly yes, however our view is that all regional functions provided by EERA should be retained (see response to Q.12).

Q3. Do you support the proposed composition of the statutorily prescribed Leaders' Board as set out in Annex A? Are there any different approaches for local authority representation or configuration you wish to be considered further for implementation? Does the model pay sufficient heed to the numbers and statutory functions of district councils, and are there any changes to the model, or alternative approaches you wish to put forward?

A. We feel that the proposed composition of the Leaders Board does not ensure fair and balanced representation from the district council level. In our opinion the Leaders Board should be elected from the ranks of the 52 local authorities represented, recognising also that the elections should be balanced to ensure that each area and tier (based on county/unitary lines) is granted fair representation. Given that district councils are the planning authority it is our view that the proposed distribution of seats covering the district level places too little merit and significance in the district tier and its statutory functions. The unfairness of the proposed model is exacerbated given the absence of unitary councils throughout the eastern region as a whole.

Q4. The Government's SNR model is somewhat unclear about the precise nature of the joint working arrangements between the Leaders' Board and EEDA when working as the "regional responsible authority", and where final decisions should be taken. Do you have a view on this important issue?

A. Elected representatives should have the prime role in decision making, recognising the legitimacy of public accountability.

Q5. Do you support the complementary concepts of (a) a statutorily prescribed Leaders' Board and (b) a discretionary wider regional grouping of all the principal councils in the East of England ("East of England Councils") as they have been presented in the model in Annex A? Is your council prepared to continue to pay a subscription to East of England Councils as a discretionary regional grouping of all of the local authorities in the region, on the same broad subscription scheme which local authorities currently pay to EERA for local government services?

A. In principle we support the model suggested in Annex A on this point. Our view, as a task and finish group, is that the Council should in principle continue to pay a subscription to East of England Councils continuing the present practice, however we would naturally defer to Cabinet for a decision in this matter.

Q6. Do you support the concept that the wider regional grouping of local authorities (“East of England Councils”) should recognise “top up” members from under represented political groups to ensure a more balanced representation than would be achieved by just including council leaders, and if so what top up percentage of members would you suggest?

A. This is a very difficult question to answer but on balance our view is that the concept of “top up” is not supported as the political balance and the electoral system is the single most important arbiter of local political representation.

Q7. Do you agree with the suggested approach that recognised regional political group leaders would have an ex –officio place on the Leaders’ Board, provided they are also council leaders?

A. Yes, on the assumption that they would possess no voting powers.

Q8. Do you have a view about whether stakeholder interests and key regional agencies should participate directly in the work of any SRS Joint Board and, if they do, whether they should be part of any formal decision making processes on the content of the SRS?

A. Our view is that such stakeholder interests and key regional agencies should be encouraged to participate in debate (e.g. as expert witnesses) but that the board alone (comprised 10 members drawn equally from the EEDA Board and Leaders’ Board) should actually have decision-making powers.

Q9. Do you have a view about the nature of any executive support/staffing arrangements to support the work of the Leaders’ Board/East of England Councils, and particularly when the Leaders Board is working with EEDA on the Single Regional Strategy as the regional responsible authority? How important is it for the Leaders’ Board/East of England Councils to have its own separate and independent advisory structures, and how should these best be organised?

A. We note the staff structures suggested in Annex A and are broadly supportive of this arrangement. Thus we support a regional staff broadly similar in terms of numbers as are employed at present in supporting the work of the new regional organisation.

Q10. Taking everything into account do you support the model referred to in Annex A as a reasonable way forward for local authorities in the East of England? Do you have any alternative “SNR compliant” model you wish to be considered further for implementation?

A. Except where indicated to the contrary above, Annex A represents a solution which is broadly acceptable but fails to recognise pertinent concerns e.g. over safeguarding commensurate representation from district councils.

Q11. Are you content that decisions on setting up future regional local government arrangements can be taken within EERA's existing processes, recognising EERA's current role as the Regional LGA? If not, what alternative processes would you suggest?

A. Yes we recognise and concur with the view that existing processes used by EERA work well and should be transferred over to the new regional governance arrangements.

Q12. Do you value/support the continued provision of these (individual) services and functions at regional level? Should provision for these services and functions be made within any new regional governance arrangements for local authorities being set up to respond to SNR changes? If not, what alternative arrangements would you suggest?

A. We support the retention of all these services and functions as presently provided within the regional framework.

Q13. Do you have any further observations on matters raised in this consultation document that you wish to make?

A. We are concerned that the proposed changes, whilst representing a positive attempt to effect a worthy successor organisation to EERA, will in fact potentially erode the democratic mandate for regional government in the East of England. At the same time we recognise the importance of there being widespread buy-in from councils throughout the East of England in a workable replacement model and thus in effect Annex A represents a reasonable compromise approach.

Cllr G Bambridge  
Cllr K Martin  
Cllr P Quadling

24 April 2009

**Breckland Council**

**Councillor Call for Action (CCfA) Protocol**

**1. Introduction**

- 1.1 The “Councillor Call for Action” (CCfA) was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007, and came into force on 1 April 2009.
- 1.2 The Act enables any member of the Council to refer to the Overview and Scrutiny Commission (OSC) any local government matter or any crime and disorder matter which affects their ward/division.<sup>1</sup>
- 1.3 The power to refer a matter is available only where the matter is of direct concern to the ward or division which the councillor represents. A councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for councillors in multi-member wards to agree – any of them can refer a matter.

**2. Limitations**

- 2.1 It is important to recognise that CCfA is not guaranteed to solve a given problem. CCfA can provide a method for discussing such problems and, through discussion, trying to overcome them.

**3. Issues excluded from referral as a CCfA**

- 3.1 The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:
- Individual complaints concerning personal grievances or commercial issues.
  - Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example:

Planning and licensing applications and appeals  
Council Tax/Housing Benefits complaints and queries  
Issues currently under dispute in a court of law.

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<sup>1</sup> For definitions of a local government matter and a local crime and disorder matter please see explanatory notes pages at Appendix 3.

- Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Commission.<sup>2</sup>
- 3.2 A referral, provided it is not an excluded matter (see above), will ensure that the matter is included on the agenda of the Overview and Scrutiny Commission. It is then up to the members of the Commission to decide whether or not to take the matter further.
- 3.3 A referral made to the Overview and Scrutiny Commission is seen as being the end of the CCfA process (**the last resort**) and not the first step.

#### **4. Steps to be taken prior to making a Councillor Call for Action referral**

4.1 Prior to a councillor referring a matter as a CCfA to the OSC, a councillor **must** have tried to resolve the issue/problem themselves using all mechanisms and resources available to them at ward level. Councillors should:

- If a local crime and disorder matter, raise the issue through the Crime and Disorder Reduction Partnership to find a way to resolve the issue.
- Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve it, for example through formal letters written on behalf of constituents, discussion at public meetings, petitions, communication with local MPs and councillors in other authorities etc.
- Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with officers and/or members, questions at committees, motions on the agenda at full Council etc.
- Ensure that this is not an issue that is currently being or should be pursued via the Council's complaints procedure.
- Ascertain whether or not any other form of local scrutiny is investigating the issue, e.g. Norfolk County Council (for health scrutiny matters etc).

#### **5. How to make a Councillor Call for Action referral**

5.1 If the issue/problem is still not resolved the councillor can refer it to the Overview and Scrutiny Commission as a "Councillor Call for Action". To do this the councillor should complete and submit to the Member Development & Scrutiny Officer a CCfA Request Form outlining what the issue is and what steps have been taken towards a resolution. The request form is available on the Council's website, or from the Member Development & Scrutiny Officer. The request form for a CCfA includes:

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<sup>2</sup> For definitions of vexatious, discriminatory and not reasonable please see explanatory notes pages at Appendix 3.

- The name of the councillor and ward they represent
- Title of the CCfA and date of submission
- Why you think the issue should be looked at by the Overview and Scrutiny Commission
- A brief synopsis of what the main areas of concern are
- What evidence you have in support of your CCfA
- Which areas or community groups are affected by the CCfA
- What you have done to try and resolve the issue prior to requesting a CCfA
- Whether the CCfA is currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints process
- Whether there are any deadlines associated with the CCfA of which the Overview and Scrutiny Commission needs to be aware.

5.2 The Member Development & Scrutiny Officer will receive the referral form, log it to track its progress, and, with the advice of the Deputy Chief Executive or Head of Legal Services, will assess the issue to ensure that it is not a matter excluded from referral to Overview and Scrutiny Commission.

5.3 The Member Development & Scrutiny Officer will inform the Chairman of the Overview and Scrutiny Commission that the item will be included on the next OSC agenda. The councillor will be informed whether or not their referral has been successful.

5.4 A successful referral will ensure that the CCfA will be placed on the next agenda of the Overview and Scrutiny Commission. It is then up to the members of the Commission to decide whether or not to take the matter further.

## **6. Decision of the Commission whether to take the matter further**

6.1 In deciding whether or not to take the matter further the Commission will consider:

- Anything that the councillor has done in relation to this matter; and
- Representations made by the councillor as to why the Commission should take the matter up. (Councillors have the option of either presenting their CCfA form without supporting papers, or of preparing a report setting out their views. Any reports prepared by councillors will be circulated with the agenda alongside the CCfA referral form).

6.2 The criteria the Commission will use to decide whether or not to take the matter further include:

- Is the OSC satisfied that all reasonable attempts have been made to resolve the issue by the ward councillor? And do the responses received by the referring councillor demonstrate that the matter is not being progressed?
- Has the OSC considered a similar issue recently – if yes, have 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 hearing. Relevant time pressures on resolving the CCfA 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, e.g. Norfolk County Council?
- 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 the referring member's ward?

6.3 In considering the CCfA, the Overview and Scrutiny Commission may invite the relevant Portfolio Holder, Chief Executive, Director, Head of Service or external organisation to discuss the issue with the Commission and answer any questions.

6.4 If the Commission decides not to accept the CCfA referral it must inform the councillor and provide specific reasons.

6.5 If the Commission decides to accept the CCfA referral, it must decide how it intends to take the matter forward and include the CCfA in its work programme. This could include:

**Before holding a formal hearing:**

- Asking the service area(s)/partner organisation(s) to respond to the CCfA
- Setting up a research group to undertake a more in-depth review.

**At formal hearing**

- Asking for further evidence and/or witnesses to be brought to a future meeting then making recommendations to the Cabinet/partner organisation.

**7. Potential outcomes**

7.1 Following a formal hearing, there are a number of potential outcomes from the Commission meeting:

- The Commission could determine not to make a report or recommendations (perhaps because it is not considered the right time to consider a particular issue), with the ward councillor notified in writing;

- The Commission could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue e.g. through a Task and Finish Group;
- The Commission could write a report and make recommendations on the CCfA to the Cabinet and/or relevant partners.

7.2 Once the Commission has completed its work on the CCfA referral the member who made the CCfA referral will receive a copy of any report or recommendations made. The report will also be made available on the Council's website, unless the matter is an exempt item, in which case the report cannot be made public.

## **8. Timescales**

8.1 Once a CCfA has been assessed as not being a matter which is excluded from referral to Overview and Scrutiny Commission, the item will be included on the next OSC agenda.

8.2 If the Commission agrees to take the matter forward, the hearing will usually be held as an item on the next available agenda. In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened.

8.3 Should a CCfA hearing result in recommendations to Cabinet being made, the Cabinet will usually respond to the recommendations, setting out any action it intends to take, within 28 days of the date of the Cabinet agenda on which the recommendations are placed.

8.4 Should a CCfA hearing result in recommendations to partner organisations, such organisations will also be requested to make a response to the recommendations. Although they are under no legal obligation to do so, they are obliged to "take it into consideration".

## Appendix 1 - Councillor Call for Action Request Form

This form should be used by any Councillor who would like the Overview and Scrutiny Committee to consider a Councillor Call for Action in their ward.

<b>Councillor</b>
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<b>The ward you represent:</b>
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<b>Title of your Councillor Call for Action:</b>
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<b>Date of Submission:</b>
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Have you approached the Overview and Scrutiny Commission on the same issue in the past six months?
Yes <input type="checkbox"/> No <input type="checkbox"/>

Would you like your response by:
Email <input type="checkbox"/> Letter <input type="checkbox"/>

<b>Why you think the issue should be looked at by the Overview and Scrutiny Commission:</b>
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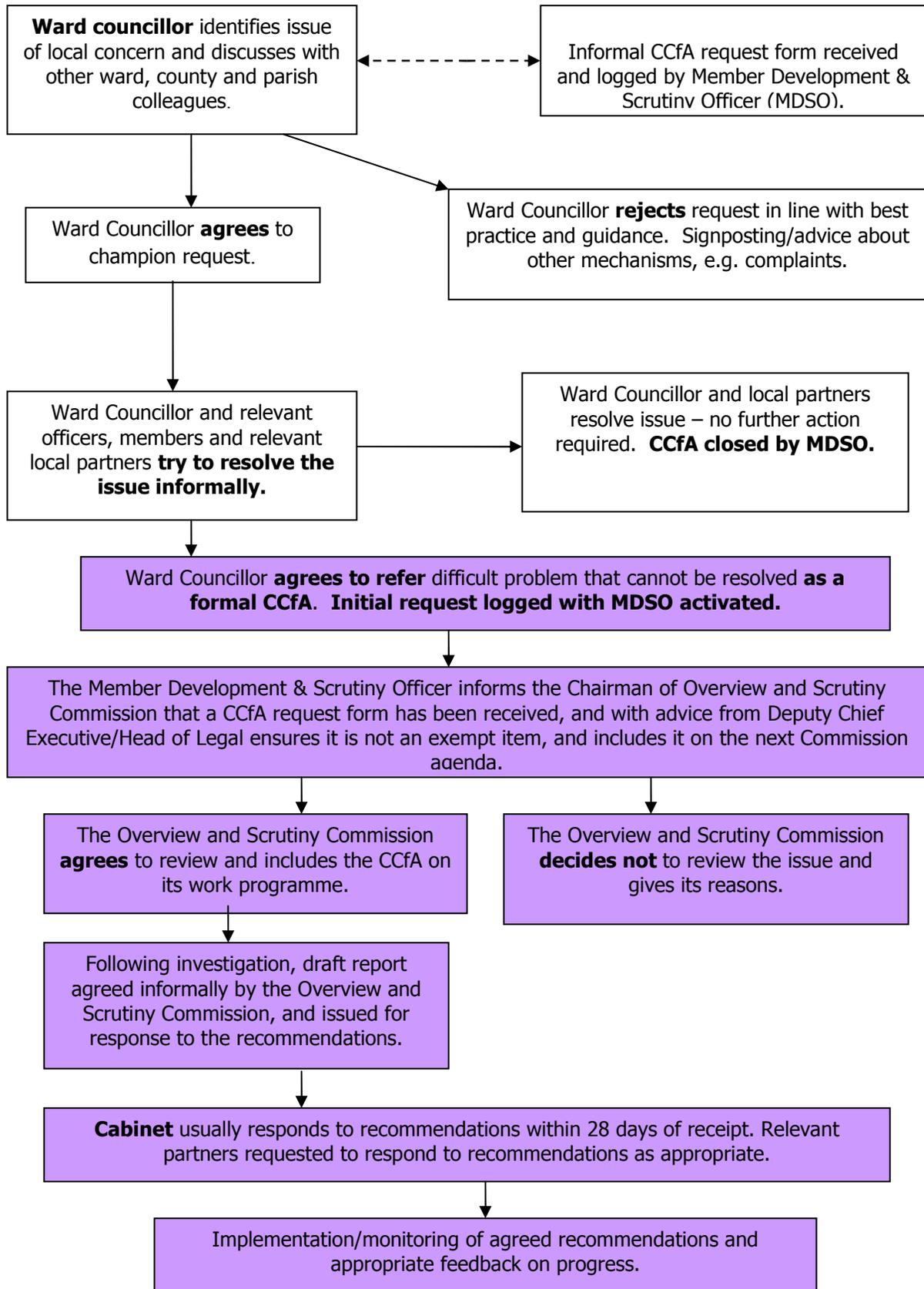
<b>Please give a brief synopsis of the main areas of concern:</b>
---

<p><b>What evidence do you have in support of your CCfA:</b></p>
<p><b>Which areas or community groups are affected by the CCfA:</b></p>
<p><b>How have you tried to resolve the issue :</b></p>
<p><b>Is the CCfA currently the subject of legal action by any party (to your knowledge) or being examined by a formal complaints process?</b></p>
<p><b>Are there any deadlines associated with the CCfA of which the Overview and Scrutiny Commission needs to be aware:</b></p>

**Please complete and return the form to:**

Member Development & Scrutiny Officer  
 Breckland Council  
 Elizabeth House  
 Walpole Loke  
 Dereham  
 Norfolk  
 NR19 1EE

## Appendix 2 – Summary of CCfA Mechanism



## Appendix 3 - Explanatory Notes

### 1. Definition of a local government matter and a local crime and disorder matter

#### Local government matter

For the purpose of the Act a local government matter, in relation to a member of a local authority is one which:

- relates to the discharge of any function of the authority;
- affects all or part of the electoral area for which the referring member is elected or any person who lives or works in the area (ie it must be specific to a particular locality); and
- is not an excluded matter.

However, the guidance produced by the Centre for Public Scrutiny and Improvement and Development Agency advises that, to give full effect to CCfA, 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 Comprehensive Area Assessment (CAA), and the fact that an authority’s duties increasingly impact on other organisations, and involve partners within and outside the Local Strategic Partnership (LSP).

#### Local crime and disorder matter

A local crime and disorder matter, in relation to a member of a local authority, has been defined to mean a matter concerning:

- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- (b) the misuse of drugs, alcohol and other substances that affects the electoral area represented by the member, or the people who live or work in that area.

### 2. Definitions of “vexatious”, “persistent”, “discriminatory” and “not reasonable”

Statutory regulations deal with matters that can be excluded from CCfA, stating that “any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee is to be excluded”.

#### Vexatious/Persistent

Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.

Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid – it may relate to a systematic problem that has not been effectively resolved.

CCfAs need to be looked at on their merits, rather than on the basis of who is bringing them, or whether somebody thinks there is an ulterior motive for them being brought.

Where a request for a CCfA is clearly vexatious, detailed reasons for coming to this decision will be given to the councillor concerned. There could, however, be instances where changes to the scope of the CCfA, or its focus, could make it more acceptable while still meeting the councillor's requirements.

#### Discriminatory

A modern interpretation of the word "discrimination" is provided at Section 45 of the Equality Act 2006, in relation to religion and belief, as follows:

*A person (A) discriminates against another (B) if on the grounds of the religion or belief of B or of any other person except A, A treats B less favourably than he treats others.* This definition can easily be amended to deal with other forms of discrimination, such as discrimination for reasons of sex and/or race. So a discriminatory CCfA might be one which implies or states that a group of people or an area receives better, or worse, services on account of that group's predominant religion, race, sex or other characteristic, as covered by discrimination legislation.

#### Not reasonable

It is suggested that, in the interests of transparency, authorities do not interpret "not reasonable" as being the same as the legal word "unreasonable". It is best to consider it as a qualifier to the word "vexatious", as a vexatious request is likely not to be reasonable and a request that is not reasonable is likely to be vexatious.

### **3. Structure of the CCfA hearing**

A CCfA hearing will be based on the Overview and Scrutiny Commission's protocol.

The following protocol is intended to formalise the conduct of CCfA hearings and the preparation work carried out in the run-up to such a hearing. It should be noted, however, that the protocol may be varied by the Chairman of the Overview and Scrutiny Commission to meet the requirements of any particular circumstances.

#### **Prior to the hearing**

1. The CCfA Request Form and any additional papers provided by the referring councillor will be published with the agenda for the meeting.
2. The referring councillor and relevant Portfolio Holder(s), officers and partners will be invited to the meeting.
3. Any other relevant external witnesses will be invited to the meeting.
4. Seven days' notice of a request to attend the meeting will be given to all participants. If a question plan is to be produced, seven days' notice of the questions planned will also be given to participants.

5. Prior to the meeting any member who may have a conflict of interest will be given relevant advice by the Monitoring Officer.

### **The hearing**

1. The CCfA hearing will normally be the first item of business on the agenda, in order that participants and other witnesses are not kept waiting unnecessarily.
2. Participants and witnesses will be placed around the table with the Commission if space permits, but if there is a large number of witnesses or other attendees at the meeting, they may be required to wait in a separate seating area or the public gallery.
3. The referring councillor will be invited to make a presentation outlining his or her main reasons for referring the matter as a CCfA. A question and answer session will follow.
4. Any other parties relevant to the hearing, for example Portfolio Holders, officers or partners, will be invited to make presentations outlining their response to the CCfA. Question and answer sessions will follow.
5. Any other relevant external witnesses will be invited to make a presentation to the Commission without interruption, following which there will be a question and answer session.
6. Witnesses will be given the opportunity to add any points of clarification before any resolution or recommendation is moved.
7. The referring councillor will be given the opportunity to add any points of clarification before any resolution or recommendation is moved.