

CONSTITUTION - PART 5 - CODES AND PROTOCOLS

(last revised August 2014)

Councillor Call for Action

1. Introduction

- 1.1 This protocol has been devised to deal with issues relating to Councillor Call For Action as set out in the Local Government and Public Involvement in Health Act 2007, Centre for Public Scrutiny Best Practice Guidance and the recommendations of the Council's General Purposes Committee at its meeting on 12 March 2009.
- 1.2 From 1 April 2009 the Council's Constitution must provide procedures that will:-
 - (a) enable any member of an Overview and Scrutiny Commission of the authority to refer to the Commission any matter which is relevant to the functions of the Commission;
 - (b) enable any member of a Sub-Committee of such a Committee to refer to the Sub-Committee any matter which is relevant to the functions of the Sub-Committee.
 - (c) enable any member of the authority to refer to the Overview and Scrutiny Commission of the authority of which he is not a member any local government matter which is relevant to the functions of the Commission.

Other provisions in Part 5 of the Local Government and Public Involvement in Health Act 2007 also came into effect on 1 April 2009. These relate to Scrutiny's powers to request information from named partners and for those responsible partners responding to scrutiny recommendations. This therefore means that Overview and Scrutiny can potentially resolve CCFA's involving other organisations and for them to act on any recommendations. The list of named partners is set out in Section 104 of the 2007 Act and is extensive, covering most public bodies with functions in the district.

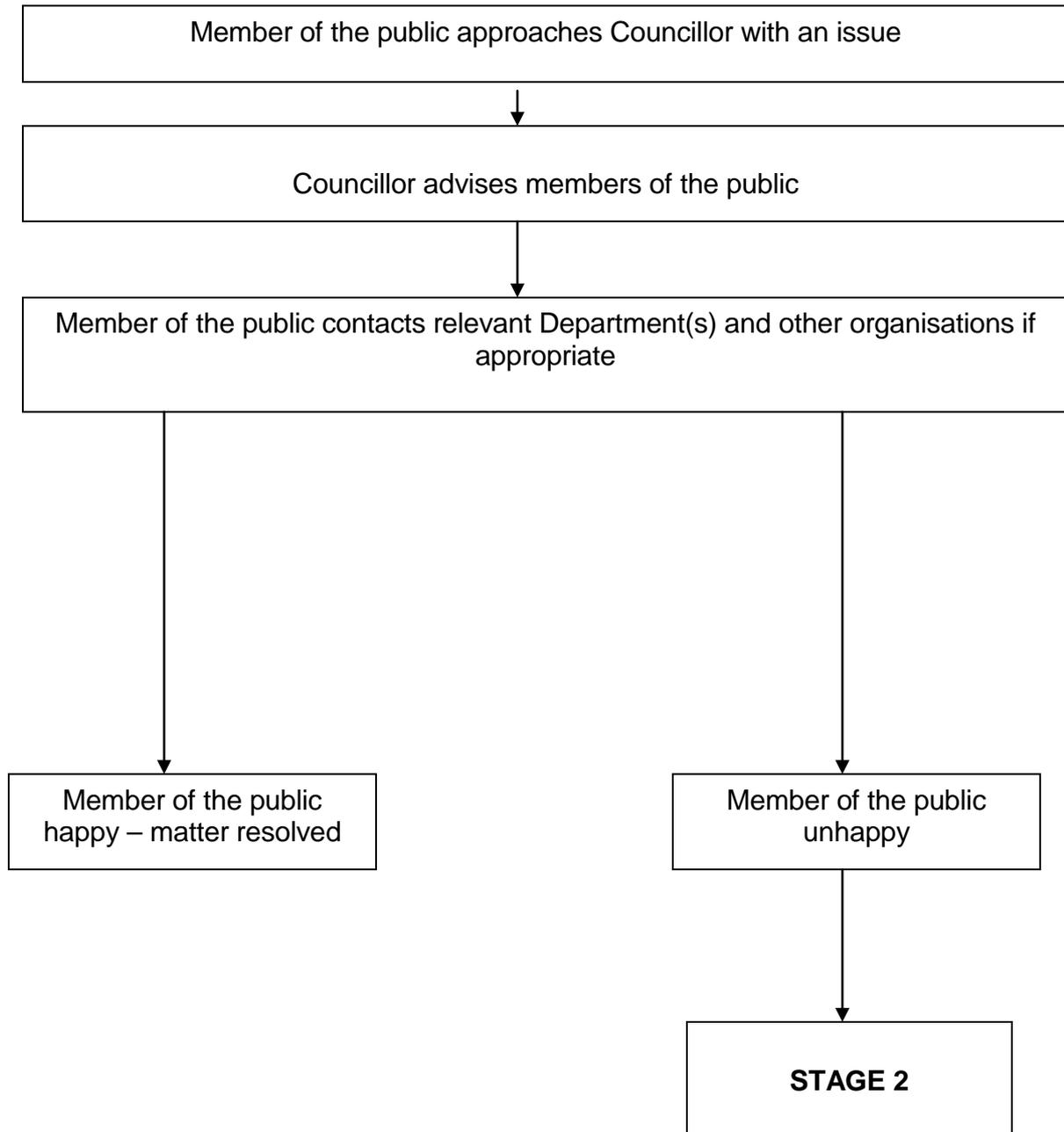
- 1.3 For these purposes, the Council has constituted a Scrutiny Panel to deal with all matters arising from Councillor Calls For Action and its terms of reference are to be found in the Overview and Scrutiny Procedure Rules at Part 4 of this Constitution. Meetings of the Councillor Call for Action (CCFA) Panel will be called at the request of the Overview and Scrutiny Commission to consider Councillor Calls for Action. It will operate in accordance with the following procedures.

2. Procedure

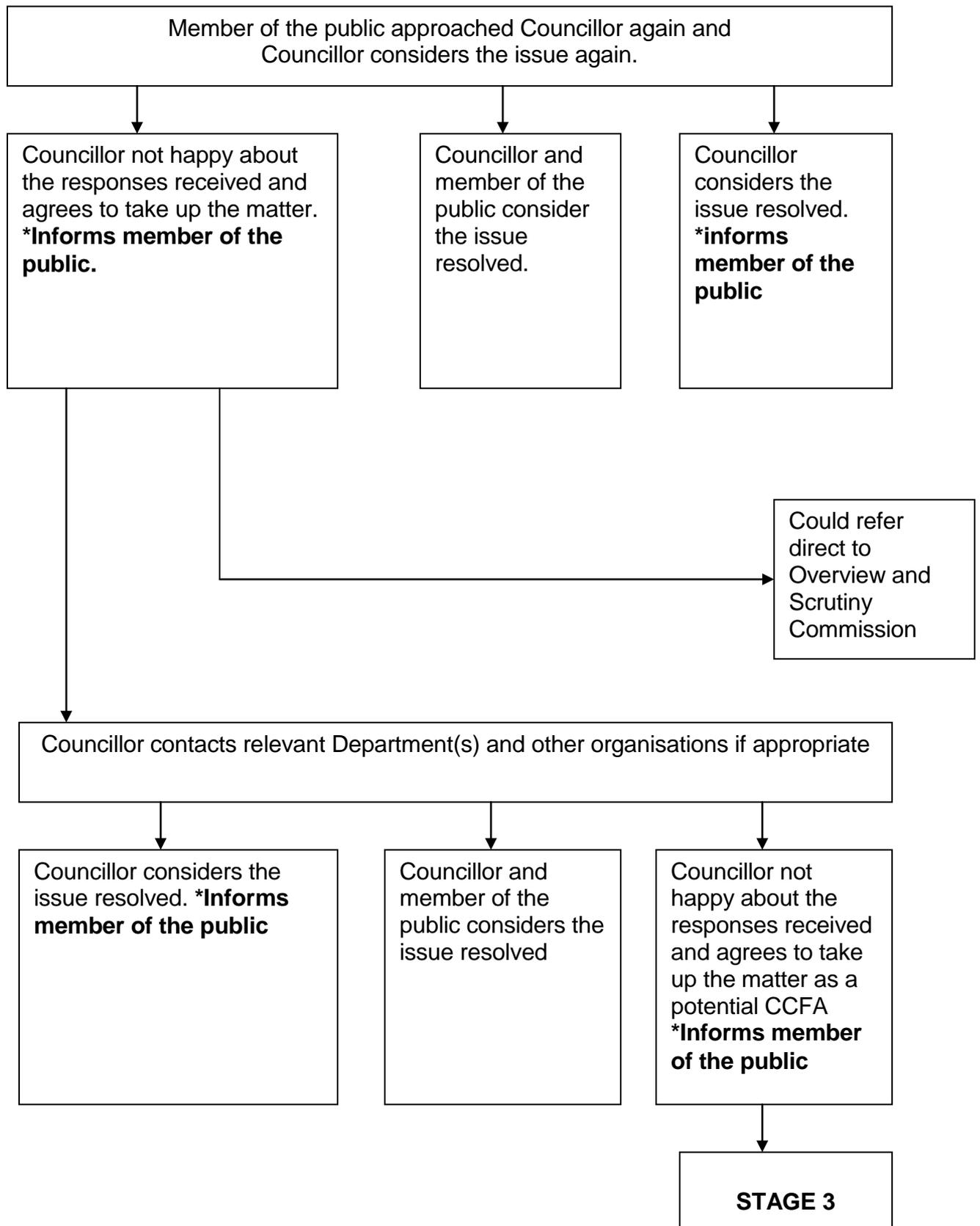
- 2.1 The underlying assumption of the Councillor Call For Action process is that the focus should be on the resolution of the issue of concern. It is to provide Members with the opportunity for discussions on issues where local problems have arisen and where other methods of resolution have been exhausted. It follows that such a resolution should be sought at the earliest practicable stage in the process and that Members will need support and advice to help them to achieve this aim.
- 2.2 Whilst it is unlikely that individual complaints would or should result in a Councillor Call For Action (and particular care should be exercised in respect of those restricted matters set out in Rule 8.3 of the Overview and Scrutiny Rules referred to above), it may be that circumstances arise in which a series of complaints could be subject to this procedure since they might indicate a wider systematic failure in the service or activity.
- 2.3 Appendix I to this protocol sets out a four stage procedure. The first stage is closely allied to normal constituency casework, although Officer assistance through the Customer Services Unit in researching the frequency of customer contacts on a particular matter within a local area and Democratic Services in terms of contacts with partners or more general advice and assistance will be made available on request.
- 2.4 If the Member is dissatisfied with the response or the issue persists and cannot be resolved at that stage, he or she might decide that this is a potential CCFA matter. In these circumstances, the Member and Democratic Services staff will help review the matter to establish whether any other action could be undertaken prior to a reference to the Overview and Scrutiny Commission
- 2.5 Once the Councillor has decided that the issue should be progressed as a formal CCFA he should contact the Scrutiny Officer. The proposed CCFA will then be considered by the Chairman of the Commission and appropriate arrangements made with Officers and other organisations as necessary. As part of this process other ways of achieving resolution may be identified that could be pursued by the ward Member prior to the matter being considered by the Commission. Alternatively, additional information could also be received from officers/partner organisations that may resolve the issue prior to it being considered. After this process the CCFA will be considered at a Commission meeting and could be referred to the CCFA Panel together with any comments/concerns or advice from the Commission.
- 2.6 All existing Member rights to request meetings with Executive Members, Committee Chairs (this latter category is expected to be relatively rare given the prohibition on individual quasi and judicial decisions) and Senior Officers will remain unchanged.

- 2.7 For the present it is suggested that no additional time limits are imposed on the CCFA process since the nature of the issues is likely to be varied and complex and if partner organisations are involved, timescales will be outside the Borough Council's direct control. Nevertheless, undue delay could, of course, constitute maladministration and be of interest to the Local Government Ombudsman, although on balance, it is considered that targets on timeliness would be an unnecessary complicating factor, though this matter will be kept under review.
- 2.8 In addition to the areas already excluded by law, the Overview and Scrutiny Commission, when considering whether to further investigate or otherwise act upon a CCFA, should decline to do so in the following circumstances:
1. The matter is outside the jurisdiction of any of the bodies subject to scrutiny;
 2. It is already subject to investigation by external authorities or proceedings under a separate statutory authorisation (for example Employment Tribunal proceedings).
 3. Where a matter has already been considered by Scrutiny on substantially the same facts the commission may decline to give the issue further consideration.
 4. Where the Commission views the CCFA as vexatious or discriminatory.
 5. Where the issue has been subject to an investigation by another Scrutiny function such as a Committee at North Yorkshire County Council or a joint Committee between the County and other District Councils.
- 2.9 If the Overview and Scrutiny Commission decides that the matter is suitable for consideration by the CCFA panel, it should be referred to the Panel which will have full power to act.
- 2.10 The attendance of such Members and Officers under Rule 14 of the Overview and Scrutiny Procedure Rules in the Constitution applies to meetings of the CCFA Panel.

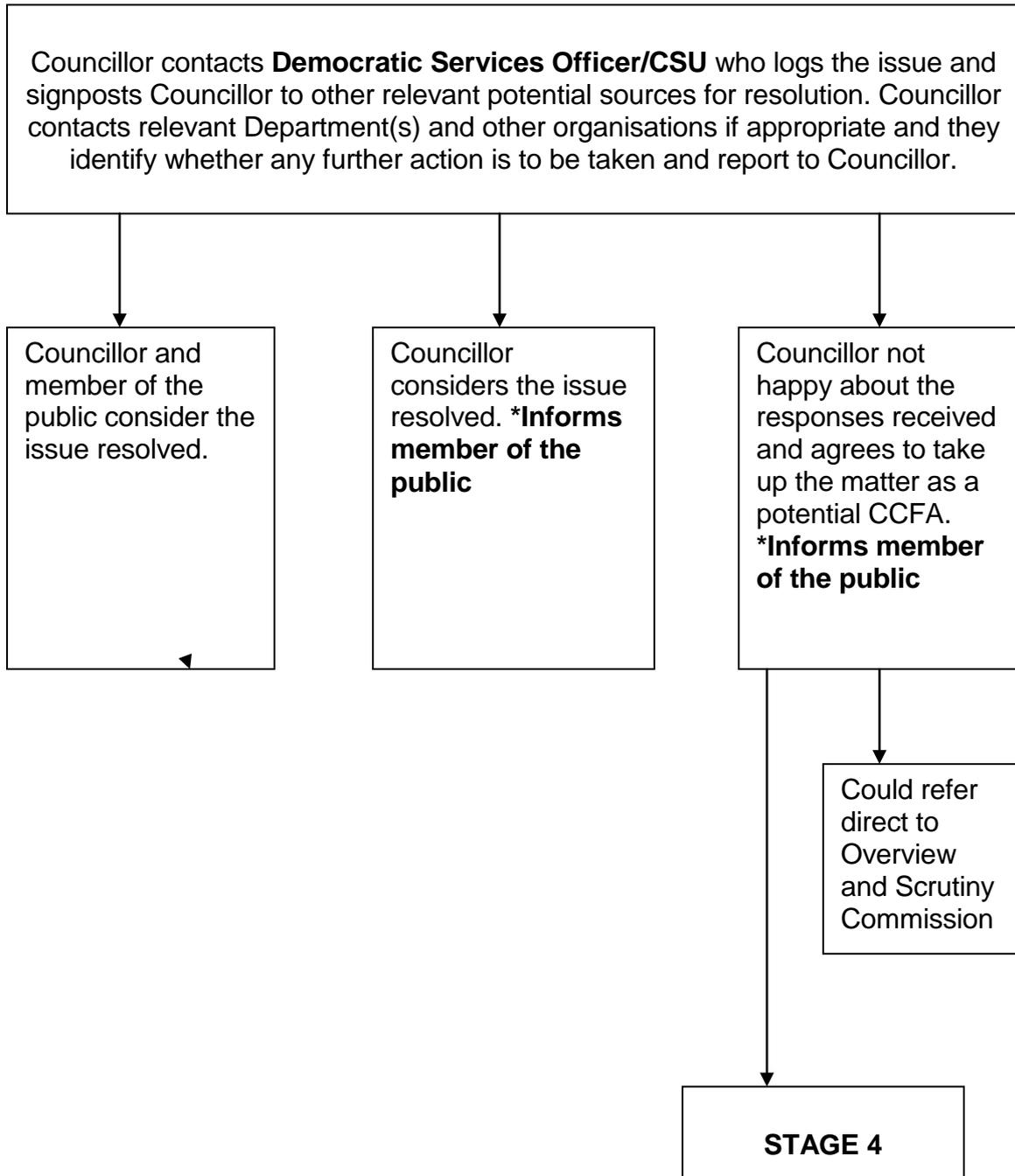
Appendix 1 - Councillor Call for Action Process - STAGE – 1



Councillor Call for Action Process - STAGE – 2



Councillor Call for Action Process - STAGE – 3 (Potential Councillor Call for Action)



Councillor Call for Action Process - STAGE – 4 (Councillor Call for Action Stage)

