

Crawley Borough Council

	Report No:LDS/3	B
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Report to General Purposes Committee

24 November 2008

Review of Democratic Structures

1. Key Points

- 1.1 This report addresses the recommendations resulting from a review of the Council's democratic decision making processes carried out on behalf of the Council by the IDeA.

2. Recommendations

- 2.1. That subject to the agreement of the Cabinet where appropriate, the Council be asked to agree the recommendations relating to the democratic structures of the Council set out in the Appendix to this report with effect from the date of the Annual Council (except where otherwise stated)

ANN MARIA BROWN
Head of Legal and Democratic Services

3. Background

- 3.1. At the meeting of the Budget Advisory Group held on 30 October 2007, consideration was given as to whether there was scope for savings to be achieved in the democratic services area. It was felt by the Budget Advisory Group at that time that members needed to make some fundamental choices about how they wished to operate and that if they chose to do things differently, savings could be achieved. It was, therefore, felt that a fundamental review should be put in train with a view to bringing back detailed proposals for implementation in 2009/10.
- 3.2. The Council, therefore, commissioned the IDeA to carry out a review on their behalf, identifying what improvements could be made and generating options for the Council to consider. As part of the review, interviews and focus groups took place involving key stakeholders, the Council's processes and the relevant acts relating to local government were reviewed and the Centre for Public Scrutiny was consulted. The report has generated debate amongst the party groups and between the party leaders. The decision making structure is highly regulated by Parliament but there is scope for local discretion. The principles underpinning the proposals are that the majority party should be able to exercise its democratic mandate, that there should be sufficient opportunities for opposition Members and, indeed all Members to scrutinise the administration and that the processes should be as effective as possible. This report makes recommendations arising from that review

4. Consideration of the proposals

- 4.1 Comments have been sought from the leaders of all three political groups on the main proposals set out in the IDeA report and these have been summarised in the appendix to this report together with recommendations based on the outcome of this consultation.
- 4.2. The Committee is asked to resolve that, subject to the agreement of the Cabinet where appropriate, the Council be asked to agree the recommendations relating to the democratic structures of the Council set out in the Appendix to this report with effect from the date of the Annual Council (except where otherwise stated).

5. Staffing and financial implications

- 5.1. The staffing and financial implications arising from these proposals are not expected to be significant.

6. Reasons for the Recommendation

- 6..1 The reasons for the recommendations are set out in the appendix to this report.

7. Background Papers

Final report on Review of Democratic Decision Making Processes produced
by the IDeA in 2008
Council's Constitution

Contact Officer:- Ann Maria Brown
Direct Line:- 01293 438292

Comments	Recommendations
<p>1. There is support for reducing the number of Policy Development Forums but not for incorporating the functions into overview and scrutiny which would be less inclusive.</p>	<p>(i) That the Cabinet be recommended to reduce the number of Policy Development Forums to two and align their functions to the themes of the Corporate Plan with effect from the beginning of the 2009/10 Council year (ii) That the Council be recommended to agree to the amendment of the Protocol for Policy Development Forums contained in the Constitution to reflect these changes with effect from the beginning of the 2009/10 Council year.</p>
<p>2. Proposals for getting the right subject matter into the scrutiny process are considered to be well intentioned. Any changes to the scoring and topic selection system need to reflect the future role and direction of Overview and Scrutiny.</p>	<p>That the Overview and Scrutiny Commission be recommended to revisit the scoring and topic selection system</p>
<p>3. Scrutiny Procedure Rule 3 makes provision for the Commission to appoint non-voting co-optees onto any of its panels.</p>	<p>It might be useful to reflect the Scrutiny Procedure Rule 3 provisions, in Article 6 of the Constitution which also relates to the Overview and Scrutiny Commission. It is, therefore, proposed that the following be added to the terms of reference set out in Article 6.01:- - Where appropriate, to recommend to the Council the appointment of non-voting co-optees to serve on the Overview and Scrutiny Commission - Where appropriate, to appoint non-voting co-optees to serve on scrutiny panels</p>
<p>4. Scrutiny Procedure Rule 7 provides that the Commission will appoint the chair of each scrutiny panel from the membership of the Commission.</p>	<p>It might be useful to reflect the Scrutiny Procedure Rule 7 provisions, in Article 6 of the Constitution which also relates to the Overview and Scrutiny Commission. It is, therefore, proposed that the following be added to the terms of reference set out in Article 6.01:- -the appointment of Chairs of scrutiny panels from the membership of the Overview and Scrutiny Commission.</p>
<p>5. The Performance Monitoring Scrutiny Panel is considered to be a useful vehicle for scrutiny to hold the administration to account</p>	<p>The Council is recommended that the following wording should be added to Scrutiny Procedure Rule 1:- <i>The Commission will also establish, on an annual basis, a Performance Monitoring Scrutiny Panel.</i></p>

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<p>6. The Constitution currently provides for the Overview and Scrutiny Commission to consider whether or not to scrutinise an issue raised by way of Councillor Call for Action and includes the procedure which must be undertaken by the Commission in making recommendations to the Council or the Cabinet, as appropriate, following scrutiny.</p> <p>Further guidance is expected relating to Councillor Calls for Action so the Committee may wish to wait before making major changes in this area. However, pending further guidance, it is suggested that provision should be made in the Constitution for the Commission to be able to refer a matter to a scrutiny panel for investigation and for the panel to report back to the Commission.</p>	<p>That the Council be recommended to add the following sentence to the first paragraph of Scrutiny Procedure Rule 8.01:-</p> <p><i>'As part of the discussion, the Commission will decide whether or not it would be appropriate to refer a matter the subject of the Councillor Call for Action to a scrutiny panel to carry out an in-depth investigation and report back to the Commission.'</i></p> <p><i>Also, paragraph (13) of Article 6.01 should be amended to read as follows:-</i> (13) To discuss any local government matter or local crime and disorder matter referred to the Commission by a Councillor, <i>where necessary referring the matter to a scrutiny panel to review or scrutinise and on receipt of the panel's report, to make reports or recommendations to the Council or the Cabinet where appropriate.</i></p>
<p>7. The Committee may feel that, in supporting the proposed recommendation to disband the Grants Working Group, there continues to be scope for representations to be made in support of grants applications.</p> <p>However, there is also member support for retaining the Grants Working Group on the basis of openness and transparency.</p> <p>There is opposition to the requirement that every grant application should be sponsored by at least one Member.</p>	<p>(i) That the Cabinet be recommended to disband the Grants Working Group and to delegate the following function to the Cabinet Member for Community Engagement:-</p> <p>To determine applications for grants by voluntary organisations in accordance with criteria previously agreed by the Cabinet</p> <p>(ii) That, subject to the Cabinet having no objection, the Council be recommended</p> <p>(a) to add the above delegation to Part 3 of the Constitution;</p> <p>(b) delete reference to the Grants Working Group under (e) Grants Appeals Panel in the Local Choice Functions on page 54 of the Constitution</p> <p>(c) delete reference to the Grants Working Group in the brackets following the membership of the Grants Appeals Panel on page 131 of the Constitution</p> <p>(d) delete reference to the Grants Working Group in the Council Structure on page 497 of the Constitution</p>

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<p>8. If the recommendations contained in 7 above are adopted, the formal decision on grants applications will be taken by the Cabinet Member for Community Engagement. Since the Constitution requires that in no case should an appeal decision be determined by anyone involved in making the original decision, it is proposed that the Grants Appeals Panel should be retained with a reduced membership.</p> <p>It has been suggested by some members that five councillors might be drawn from a larger pool to serve on this panel (which should be politically balanced as far as possible).</p>	<p>That the Council be recommended (i) that the membership of the Grants Appeals Panel be reduced from seven to five members and that Page 131 of the Constitution be amended to include the following wording:- ‘As far as possible the functions of the Grants Appeals Panel will be carried out by a politically balanced panel of five members drawn from the membership of that panel’ (ii) that the panel should be drawn from a larger pool of Members.</p>
<p>9. The Constitution currently provides that, as far as possible, the functions of the Appointments and Investigating Committee would be carried out by a politically balanced panel of between 3 and 5 members drawn from the membership of the Committee. However, there may be a case for greater participation depending on the level of the appointment. Members may wish to bear in mind that some flexibility in panel numbers would be helpful from an administrative point of view so that, if a Member is unable to attend a meeting at short notice, the meeting would still be quorate.</p>	<p>That the Council be recommended to amend the second sentence on page 118 of the Constitution to read as follows:- ‘As far as possible, the functions of the Appointments and Investigating Committee will be carried out by a politically balanced panel of between 3 and 7 members drawn from the membership of that committee. (Any panel making recommendations relating to the appointment of the Chief Executive should consist of seven members (with a quorum of five), whilst a panel appointing a Director should consist of six members (with a quorum of four). Head of Service appointments should be made by a panel of five (with a quorum of three).)</p>
<p>10. If arrangements were to be implemented to refer call-ins to scrutiny for validation, there would be scope for an administration to use its majority to block a call-in. If members are concerned about abuse of the call-in process they may wish to make this an officer decision.</p>	<p>That the Council be recommended that the following sentence be added to Scrutiny Procedure Rule 13 (b):- ‘If there should be any doubt about the validity of a call-in, the matter may be referred to the Head of Legal and Democratic Services for determination. Where it is decided by the Head of Legal and Democratic Services that a request for call-in is invalid, the Leader and the Member of the Council calling in the decision will be advised that the call-in provisions do not apply and that,</p>

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	therefore, the original decision will stand. The implementation of the decision will be reported to the Cabinet and to full Council' '
<p>11. The Council might wish to pilot a new format of Council agenda. In this case, it will be necessary to move a suspension of Council Procedure Rule 2 at the next Council meeting. This proposal is not favoured by all members.</p> <p>There were also some concerns about limiting speaking on some reserved items to three minutes. Therefore the recommendations provide for five minutes as at present.</p> <p><i>It should be noted that the recommendation currently does not make any provision for councillors' questions (either written questions or questions to Cabinet Members or Committee Chairs).</i></p> <p><i>The Committee will need to address the question of the inclusion of these items in the agenda.</i></p>	<p>That the Council be recommended to suspend Council Procedure Rule 2 for three ordinary Council meetings only and that during that period the following Rule shall apply:-</p> <p>Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting.</p> <p>Ordinary meetings will</p> <p>(i) elect a person other than a Member of the Cabinet to preside if the Mayor and Deputy Mayor are not present;</p> <p>(ii) receive notification of apologies for absence;</p> <p>(iii) receive any declarations of interest from members;</p> <p>(iv) receive communications brought forward by the Mayor, Leader, Members of the Cabinet or the Chief Executive, including any urgent petitions.</p> <p>(v) provide an opportunity for the Mayor to make presentations of awards as appropriate.</p> <p>(vi) make appointments or fill vacancies on committees, joint boards, joint committees or other bodies.</p> <p>(vii) receive questions from, and provide answers to, the public in accordance with Rule 9 in relation to matters which in the opinion of the person presiding at the meeting are relevant to the functions of the Council;</p> <p>(viii) approve the minutes of the last meeting;</p> <p>(ix) prior to receiving the reports of the Cabinet, Overview and Scrutiny Commission and the regulatory</p>

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	<p>committees, provide councillors with the opportunity to indicate</p> <p>(a) in respect of which previously resolved items they wish to reserve the right to make a statement;</p> <p>(b) which recommendations they wish to reserve for debate.</p> <p>(There shall be no debate on any item included in a report to the Cabinet, Overview and Scrutiny Commission, or of a regulatory committee, where the item in that report has been previously debated at an Extraordinary Meeting of the Council held earlier in the same committee cycle and where a decision has been made on that matter at the Extraordinary Meeting).</p> <p>(x) receive the reports of the Cabinet, Overview and Scrutiny Commission and of the regulatory committees, including any written report of the Mayor's announcements and any report by the Leader.</p> <p>(xi) On receipt of the reports of the Cabinet, Overview and Scrutiny Commission and the regulatory committees, deal with</p> <p>(a) any decision called in accordance with Scrutiny Procedure Rule 13</p> <p>(b) the reserved matters in the order set out in the Minute Book (subject to any ruling from the person presiding to the contrary)</p> <p>The reserved items will be voted upon as each debate ends</p> <p>A statement by a Member of the Council who has reserved the right to speak about a previously resolved item shall not exceed five minutes. There is no right of reply or debate, except that there is a right of reply if a personal attack is made or there are suggestions of illegality or impropriety.</p> <p>In the case of a recommendation to the Council which has been reserved for debate, the appropriate Portfolio Holder or Chair will speak first in the debate. He/she will be followed by the councillor who has reserved the item, who shall be</p>

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	<p>entitled to speak for five minutes. Normal debating rules will apply and the Portfolio Holder/Chair will then sum up at the end. All Cabinet recommendations shall be moved by the Leader.</p> <p>(The minutes of any meeting of the Cabinet, Overview and Scrutiny Commission or regulatory committee held more than nine clear working days before the meeting will be submitted, except in the case of recommendations to Council or call-in arising from meetings held within the nine day period. In all other circumstances, the reports of such meetings will be discussed at the next following meeting of the Council)</p> <p>(xii) approve ‘en bloc’ any unreserved items together with their specific recommendations. Items requiring individual consideration as required by law shall not be dealt with in this manner. The unreserved items shall be proposed for approval by the Deputy Mayor (or the Mayor’s nominee in the absence of the Deputy Mayor) and a seconder shall not be required for this motion.</p> <p>(xiii) consider motions of which notice has been given under Council Procedure Rule Number 11.</p> <p>The order of business will be agreed by the Leader, the Mayor and the Vice Chair of the Cabinet prior to the issue of the summons for the meeting and may be varied at the meeting.</p>
<p>12. The Council might wish to pilot the guillotine process. This proposal is not favoured by all members.</p> <p>The Committee are asked to consider the following three options:-</p> <p>(i) GUILLOTINE</p> <p>Interruption of the meeting</p> <p>If the business of the meeting has not been concluded by 10.00 p.m., a bell will be rung and the Member speaking must</p>	<p>That the Council be recommended to trial the preferred option at the next three Council meetings only.</p>

Comments	Recommendations
<p>immediately discontinue. The Mayor must interrupt the meeting and call for the vote immediately on the item under discussion. The vote will then be taken in the usual way without any further discussion.</p> <p>Motions and Recommendations not dealt with</p> <p>If there are any other motions or recommendations on the agenda that have not been dealt with within the two and half hours, they are deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote will be taken in the usual way.</p> <p>Recorded Vote</p> <p>If a recorded vote is called for during this process, it will be taken immediately.</p> <p>Motions which may be moved</p> <p>During the process set out above, the only other motions which may be moved are that a matter be withdrawn or referred to an appropriate body or individual for decision or report.</p> <p>Close of the meeting</p> <p>When all motions and recommendations have been dealt with, the Mayor may declare the meeting closed. An alternative to the guillotine is as follows:-</p> <p>(ii) 'MAJORITY VOTE TO CONTINUE</p> <p>Unless the majority of members present vote for the meeting to continue, any meeting that has lasted for two and a half hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting'</p>	

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<p>(iii) MAJORITY VOTE TO CONTINUE/ GUILLOTINE</p> <p>Interruption of the meeting</p> <p>If the business of the meeting has not been concluded within two and a half hours, unless the majority of Members present vote for the meeting to continue, the following procedure will be implemented</p> <p>Motions and Recommendations not dealt with</p> <p>If there are any other motions or recommendations on the agenda that have not been dealt with within the two and half hours, they are deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote will be taken in the usual way.</p> <p>Recorded Vote</p> <p>If a recorded vote is called for during this process, it will be taken immediately.</p> <p>Motions which may be moved</p> <p>During the process set out above, the only other motions which may be moved are that a matter be withdrawn or referred to an appropriate body or individual for decision or report.</p> <p>Close of the meeting</p> <p>When all motions and recommendations have been dealt with, the Mayor may declare the meeting closed.</p>	

Comments	Recommendation
<p>13. The Committee may wish to consider a proposal whereby the call-in of individual Cabinet decisions should go straight to Council.</p>	<p>That, subject to the Cabinet having no objection, the Council be recommended that Scrutiny Procedure Rule 13(h) be amended to read as follows:-</p> <p>'If the required support is given within the</p>

	<p>period specified, then the decision will continue to be treated as suspended and the matter will then be referred to the next Council meeting. Any decision taken by the Cabinet Member for Community Engagement relating to grants applications will not be subject to call-in since it would be subject to appeal to the Grants Appeals Panel.</p> <p>The remainder of Rule 13(h) should be deleted.</p>
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