

Crawley Borough Council

Minutes of General Purposes Committee

28 June 2010 at 7.30 p.m.

Present:

Councillor	R D Burrett (Chair)
Councillor	C R Eade (Vice-Chair)
Councillors	M L Ayling, ALI Burke, A C W Crane, D G Crow, R A Lanzer, P K Lamb and L A Walker

Officers Present:

Ann-Maria Brown	Head of Legal and Democratic Services
Steve Lappage	Democratic Services Manager

1. Minutes

The minutes of the meeting of the Committee held on 15 March 2010 were approved as a correct record and signed by the Chair.

2. Apologies for Absence

Upon being notified by the Chair that Mez Matthews, who usually administered their meetings, would be off work for a week following a car accident, Members of the Committee asked that their best wishes for a speedy recovery be conveyed to Mez.

3. Members' Disclosure of Interests

The following disclosures of interests were made by Members:-

Member	Minute Number	Subject	Nature of Disclosure
Councillor R D Burrett	Minute 4	Joint Scrutiny Arrangements in West Sussex	Personal and non-prejudicial interest as a Member of West Sussex County Council
Councillor D G Crow	Minute 4	Joint Scrutiny Arrangements in West Sussex	Personal and non-prejudicial interest as a Member of West Sussex County Council and as Chair of the Joint Scrutiny Arrangements in West Sussex Task and Finish Group

4. Joint Scrutiny Arrangements in West Sussex

The Committee considered report LDS/23 of the Head of Legal and Democratic Services on the development of proposals for joint scrutiny arrangements in West Sussex following the introduction of powers under the Local Government and Public Involvement in Health Act 2007.

The report included details of the work of the Joint Scrutiny Arrangements in West Sussex Task and Finish Group (JSATFG) which had comprised three County Councillors and three Councillors from the District and Borough Councils. The proposals included recommendations developed at a stakeholder event in February 2010, attended by Councillors Bob Burgess (as the Chair of the Overview and Scrutiny Commission at that time), Geraint Thomas (as an Opposition Representative) and Bob Lanzer (as Leader). In March the Overview and Scrutiny Commission sent a response on draft proposals which had been distributed to over 100 consultees. WSSC's Policy and Resources Select Committee (PRSC) had endorsed the JSATFG's final proposals at its meeting on 30 April 2010 and requested that each of the Borough and District Councils be sent a copy for their consideration.

The Overview and Scrutiny Commission (OSC) had agreed not to support the proposals for joint scrutiny arrangements when it considered them at its meeting on 14 June. The Committee discussed the Commission's comments, outlined in the report, which expressed concerns at the proposals. Councillor Duncan Crow was invited to comment, as Chair of the JSATFG, to ascertain whether any of the concerns could be allayed.

To help clarify matters and allay some of the Commission's concerns, Members commented that:

- i) Substitute Members would help to ensure input from all district councils on the Steering Group.
- ii) Changes of Scrutiny Chairs would happen regardless of whether an authority held all-out elections or elections by thirds, but that was not a reason to reject the proposals.
- iii) Whereas it was unfortunate that there would be no Labour Group representation on the Steering Group, this was simply because no Labour Members had been appointed as Scrutiny Chairs in any of the eight authorities within West Sussex – a position which could change. However, there would be Crawley representation (and other opposition groups represented) on the Steering Group and it was suggested that any views expressed by individual Members could also be fed in via the OSC Chair or through the West Sussex Scrutiny Officers Network (WSSON). It was likely that Labour Group Members would sit on some of the Task and Finish Groups which would be undertaking the actual scrutiny work rather than the Steering Group itself.
- iv) Although the processes had yet to be finalised, the resourcing of officer support through the WSSON was not expected to present a problem and neither were the additional meeting pressures on Members of the Steering Group.
- v) CBC Members would be able to suggest topics through the OSC, as with our current arrangements, and, subject to the OSC's support, the OSC Chair would put them forward to the Steering Group for approval. Additional meetings of the Steering Group could be arranged to enable it to consider any issues more urgently. The absence of joint scrutiny was more likely to hamper the timely scrutiny of important issues.

- vi) Joint scrutiny was essentially an enabling facility and would not be used to stop district and borough councils from scrutinising subjects where WSCC might need to be involved.
- vii) Membership of the Task and Finish Groups, and venues for their meetings, would be selected depending on the topics selected and the interest of each of the Councils, which were expected to be principally guided by their OSCs.

Although some Members were reassured by the above comments, other Members suggested the proposals should not be supported as there would be some duplication and Officer and Member resources could be better used. Furthermore, whilst they understood the need for joint scrutiny, they considered the timing was premature in view of the uncertainties over the new Government's proposals for the future of scrutiny, Local Area Agreements and Performance Indicators, particularly with regard to localism and in view of the cessation of Comprehensive Area Assessment. It was suggested that the Council should not commit itself at this stage – instead it should observe and wait to reach a more informed and timely decision.

In response to those comments and also in further support of the proposals for joint scrutiny, other Members of the Committee commented that:

- i) As indicated in the report, the proposals had followed the key principles of avoiding duplication of existing processes, using existing resources and adding value.
- ii) Only a relatively few issues were expected to be scrutinised through the joint arrangements - most scrutiny would continue to be undertaken at a local level.
- iii) Local Area Agreements were still likely to exist in one form or another.
- iv) No mechanism currently existed in West Sussex for joint scrutiny, unlike many other parts of the country, and that it was a positive step and long overdue.
- v) The proposals were to be evaluated, by the participating authorities, after a trial period of approximately 12-18 months which would help to establish what improvements would be required or even whether to disband them – the Council needed to be involved to help shape the future direction of the arrangements.

The Committee voted on the recommendation and agreed, by 6 votes to 3, to support the proposals from West Sussex County Council to form Joint Scrutiny Arrangements.

It was noted that the consequent amendments to the Constitution would only be made once West Sussex County Council had taken the decision to proceed with the Joint Scrutiny Arrangements for West Sussex.

RESOLVED

That Full Council be recommended:

- (i) that the proposals from West Sussex County Council to form Joint Scrutiny Arrangements be supported;
- (ii) that the changes to the Constitution, as set out in Appendix 1 to these minutes, be agreed.

5. Changes to the Constitution

The Committee considered proposed changes to the Constitution, most of which were required as a result of the proposed new Petitions Scheme and to reflect new or amended legislation and regulations. Reasons for the amendments to the Constitution were set out in the paper.

The Committee agreed that the proposed changes to Function 50(b) of the Licensing Committee should be amended further as the legislation referred to on the employment of young persons had been repealed.

The Chair drew the Committee's attention to changes to the General Conditions (Paragraph 8) of the Scheme of Delegation to ensure that it also referred to any amendments or subordinate legislation to ensure that officers continued to act legally when acting under delegated authority and when updated legislation was issued.

Upon request, the Committee received clarification on the delegation of new Local Choice Functions to the Head of Planning and Environmental Services under new powers to serve Notices and take various actions detailed in Parts 1, 2, 3 and 4 of The Environmental Damage (Prevention and Remediation) Regulations 2009.

Following a suggestion from a Member, the Head of Legal and Democratic Services explained that it would be very unusual to delegate decisions on the issuing of formal cautions in respect of offences under the Taxi and Private Hire provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 to the Licensing Committee. The Committee agreed that these should be delegated to the Head of Legal and Democratic Services in consultation with the Head of Planning and Environmental Services and the Chair of the Licensing Committee.

The Committee noted that the designated Petitions Officer (i.e. the Head of Legal and Democratic Services) would be required to review the operation of the Petitions Scheme annually and report to the General Purposes Committee. It was expected that as part of this review, the time allowed for discussion of petitions at Council meetings might need to be reconsidered.

RESOLVED

That the Full Council be recommended that, subject to any comments received from the Cabinet with regard to its functions, the amendments to the Constitution proposed in Appendix 2 to these minutes be agreed.

6. Closure of Meeting

With the business of the Committee concluded, the Chair declared the meeting closed at 8.26 p.m.

R D BURRETT
Chair

Appendix 1 to minutes of General Purp

SCRUTINY – AMENDMENTS TO THE CONSTITU

Function	Proposed amendment	
Article 6 – Overview and Scrutiny Commission – Page 21	<p>Include the following wording under Paragraph 6.1 (Terms of Reference):</p> <p>“18. To ensure that any reports by the Joint Scrutiny Task and Finish Groups be reported to the appropriate decision maker the Commission, and that the appropriate decision maker responds accordingly to the West Sussex Joint Scrutiny Steering Group.”</p>	
Article 6 – Overview and Scrutiny Commission – Page 22	<p>Insert the following wording under paragraph 6.2 (General Matters):</p> <p>“3. <u>West Sussex Joint Scrutiny Task and Finish Groups</u></p> <p>The West Sussex Joint Scrutiny Steering Group may establish time-limited Task and Finish Groups. The Task and Finish Groups will investigate issues of common concern affecting either the whole county or the areas of more than one District/Borough Council. Any joint scrutiny will be outcome focused (i.e. where it's felt that improvements can be achieved for the community), and will scrutinise performance as opposed to processes. Whilst issues under joint scrutiny may relate to work of organisations with a wider remit than local authorities (e.g. quangos, utilities, Environment Agency etc.), any scrutiny will not be of the organisations themselves, but rather of relevant issues relating to their work/role.</p>	

Function	Proposed amendment	
	<p>Any joint scrutiny will be carried out by non-Cabinet members of county, district and borough councils. Non-Cabinet County Council Members who are Cabinet Members on District or Borough Councils (or vice-versa) will not carry out any joint scrutiny activities that relate to their portfolio area.</p> <p>Any Task and Finish Groups will generally consist of a number of members determined by the Steering Group according to the topic. Membership of Task and Finish Groups will be non-political and geographically balanced (as appropriate). The Steering Group may wish to recommend co-opted members from relevant authorities, but ultimately this should be the decision of the Task and Finish Group."</p>	
Article 6 – Overview and Scrutiny Commission – Page 24	<p>Include the following addition to paragraph 6.4 (role of the Chair of the Overview and Scrutiny Commission):</p> <p>"To represent the Overview and Scrutiny Commission on the West Sussex Joint Scrutiny Steering Group."</p>	

The amendments to the Constitution above will only be made once West Sussex County Council has taken Joint Scrutiny Arrangements for West Sussex.

NB – the Joint Scrutiny Arrangements will be for an initial trial period of 12 to 18 months. At the end of that period they will be reviewed by the participating authorities.

Appendix 2 to minutes of General Pur

AMENDMENTS TO THE CONSTITUTION

Function	Proposed amendment	
Front Page	Add the following words to the bottom of the page: "Any queries in relation to this document should be directed to Mez Matthews, Democratic Services Officer, on 01293 438"	
Part 1 – Summary and Explanation - Page 5	Amend bullet point 6 relating to Citizens' Rights to read as follows: "petition to request a community governance review."	
Part 1 – Summary and Explanation - Page 5	Add the following citizens' right: "Citizens have the right to: <ul style="list-style-type: none"> • submit a petition under the Crawley Borough Council Petitions Scheme." 	
Article 2 – Members of the Council – Page 11	Amend the second sentence of paragraph 2.1(a) to read as follows: "Two, or in some cases three, councillors will be elected by voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State."	

Function	Proposed amendment	
Article 3 – Citizens and the Council - Page 14	<p>Amend paragraph 3.1(a) to read as follows:</p> <p><u>Voting and Petitions</u></p> <p>Anyone who lives, works or studies in the Borough of Crawley including under 18s may sign, organise and submit a petition under the Crawley Borough Council Petitions Scheme.</p> <p>Citizens on the electoral roll for the area have the right to vote and sign a petition to request a community governance review referendum for an elected Mayor form of Constitution.”</p>	
Article 4 – The full Council – Page 18	<p>Add the following function of the full Council:</p> <p>“To consider relevant petitions submitted under the Crawley Borough Council Petitions Scheme.”</p>	
Article 6 – Overview and Scrutiny Commission – Page 21	<p>Add the following to the Terms of Reference of the Overview Scrutiny Commission:</p> <ul style="list-style-type: none"> • “To hear evidence by a senior council officer under the Crawley Borough Council Petitions Scheme. • To review the steps that the Council has taken in response to a petition. • To consider a petition referred to the Commission by the Cabinet, Council or a Committee or Sub-Committee of the Council.” 	

Function	Proposed amendment	
Part 3 – Terms of Reference – Page 51	Amend paragraph 8 to read as follows: “Reference to a statutory provision includes any amendme re-enactment or subordinate legislation thereof.”	
* Local Choice Functions – Page 57	Add the following delegation to the end of function 3: <u>Local Choice Function</u> (3) Any function relating to contaminated land <u>Decision Making Body</u> Cabinet <u>Membership</u> See 1(c) above <u>Delegation of functions</u> <i>The following function is delegated to the Head of Plan and Environmental Services</i> (m) Power to serve Notices and take various actions detailed in Parts 1, 2, 3 and 4 of The Environmental Damage (Prevention and Remediation) Regulations 2009, which relate to damage caused to land and the environment.”	

Function	Proposed amendment	
* Local Choice Functions – Page 60	Amend paragraph (h) (v) to read as follows: <u>“The following functions are delegated to the Head of Planr and Environmental Services</u> (h) Formal cautioning, as an alternative to prosecution, in respect of offences under: (v) Environmental Permitting (England and Wales) Regulations 2010 .”	
* Local Choice Functions – Page 61	Amend paragraph (i) to read as follows: <u>“The following functions are delegated to the Head of Planr and Environmental Services</u> (i) The authorisation of inspectors under Section 108 of the Environment Act 1995 for the purposes of carrying out t duties of the Environmental Protection Act 1990, Parts I IIA and the Environmental Permitting (England and Wal Regulations 2010 .”	
* Local Choice Functions – Page 61	Amend paragraph (j) to read as follows: <u>“The following functions are delegated to the Head of Planr and Environmental Services</u> (j) (i) Determination of permits under the Environmental Permitting (England and Wales) Regulations 2010 . (ii) Permitting of installations, issue of notices of the follo	

Function	Proposed amendment	
* Local Choice Functions – Page 61 (continued...)	<p>types: requiring information, enforcement, variation, revocation and suspension of permit under the Environmental Permitting (England and Wales) Regulations 2010.</p> <p>(iii) Prosecution for offences under the Environmental Permitting (England and Wales) Regulations 2010."</p>	
Functions of the Licensing Committee – Page 91	<p>Amend function (4) to read as follows:</p> <p>"Power to license drivers of hackney carriages and private hire vehicles (including the power to issue permits for the operation of mini buses)</p> <p><u>The following functions are delegated to the Head of Planning and Environmental Services</u></p> <p>(a) Determination of all applications for private hire drivers' licences and to exercise the Council's powers in relation to hackney carriage drivers' licences, including the suspension, revocation of such licences.</p> <p>(b) Formal cautioning as an alternative to prosecution in respect of offences arising under the Taxi and Private Hire provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847.</p> <p>(c) Appointment of authorised officers to act under the Disability Discrimination Act 1995 (as amended)</p>	

Function	Proposed amendment	
Functions of the Licensing Committee – Page 91 (continued...)	<p><u>The following function is delegated to the Head of Legal and Democratic Services in consultation with the Head of Planning and Environmental Services and the Chair of the Licensing Committee</u></p> <p>(d) Determination as to whether a formal caution is the appropriate course of action in respect of offences under the Taxi and Private Hire provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847.”</p>	
Functions of the Licensing Committee – Page 95	<p>Amend function 20 to read as follows:</p> <p>“Power to license scrap yards and power to appoint authorised officers to act under the Vehicles (Crime) Act 2001.</p> <p><u>The following functions are delegated to the Head of Planning and Environmental Services:</u></p> <p>a) Registration of premises under legislation relating to scrap metal dealers;</p> <p>b) Appointment of authorised officers to act under the Vehicles (Crime) Act 2001.”</p>	

Function	Proposed amendment	
Functions of the Licensing Committee – Page 96	<p>Amend function 24(b) to read as follows:</p> <p>“Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business (including the power to license guard dogs)</p> <p><u>The following functions are delegated to the Head of Planning and Environmental Services</u></p> <p>(b) Determination of applications for licences under the Road Traffic (Vehicles) (Licensing) Regulations 1996 (as amended).”</p>	
Functions of the Licensing Committee – Page 100	<p>Amend function 43 to read as follows:</p> <p><u>“The following function is delegated to the Head of Planning and Environmental Services</u></p> <p>Appointment of authorised officers under the Food Safety Act 1990; Regulation (EC) no. 178/2002; Regulation (EC) no. 852/2004; Regulation (EC) no. 853/2004; Regulation (EC) no. 854/2004 and the General Food Regulations 2004.”</p>	
Functions of the Licensing Committee – Page 101	<p>Amend function 50(b) to read as follows:</p> <p><u>“The following function is delegated to the Head of Planning and Environmental Services</u></p> <p>(b) Service of all statutory notices and exercise of the Council’s regulatory functions relating to the employment of Young Persons.”</p>	

Function	Proposed amendment	
Functions of the General Purposes Committee – Page 143	Add the following function: “To consider matters referred to the Committee in relation to petitions submitted under the Crawley Borough Council Pet Scheme.”	
Functions of the Audit and Governance Committee – Page 145	Add the following function: “To consider matters referred to the Committee in relation to petitions submitted under the Crawley Borough Council Pet Scheme.”	
Functions of the Overview and Scrutiny Commission – Page 149	Add the following functions: <ul style="list-style-type: none"> • “To hear evidence by a senior council officer under the Crawley Borough Council Petitions Scheme. • To review the steps that the Council has taken in response to a petition. • To consider a petition referred to the Commission by the Cabinet, Council or a Committee or Sub-Committee of the Council.” 	

Function	Proposed amendment	
* Environmental functions delegated to Cabinet Members and Officers – Page 163	<p>Add the following delegation:</p> <p><u>“The following function is delegated to the Head of Planning Environmental Services in consultation with the Chair of the Licensing Committee</u></p> <p>Power to extend a time limit provided for in the Licensing Act 2003 (Hearings) Regulations 2005 in accordance with Regulation 11, where the Head of Planning and Environmental Services considers it to be in the public interest to do so.”</p>	
Council Procedure Rules – Contents – Page 211	<p>Add the following new rule 11 and re-number accordingly:</p> <p>“11. Presentation of Petitions.”</p>	
Council Procedure Rules – Page 213	<p>Add the following paragraph in relation to Annual Meetings Council:</p> <p>“1.4 Petitions will not be considered at the Annual Meeting of the Council.”</p>	
Council Procedure Rules – Page 213	<p>Add the following bullet point under paragraph 2.1 (vii) and number accordingly:</p> <p>“Consider relevant petitions submitted under the Crawley Borough Council Petitions Scheme (see page <cite relevant page>).”</p>	

Function	Proposed amendment	
Council Procedure Rules – Page 232	<p>Replace paragraph 23.10 with the following wording:</p> <p>"All petitions will be dealt with under the Crawley Borough Council Petitions Scheme (see page <cite relevant page>).</p> <p>Ordinary Petitions</p> <p>(1) The Petitions Officer will arrange for each ordinary petition to be reported to the next convenient meeting of the Council, or a Committee / Sub Committee of the Council which has the power to take decisions on the matter.</p> <p>(2) Petitions which do not relate to an ordinary item of business will be considered before the normal business of the meeting, and will be considered in the order in which they were received, unless the Chair at the meeting determines otherwise.</p> <p>(3) A maximum of 30 minutes will be allowed at each meeting for considering all such petitions and consideration of the contents of any petitions not reached in the time allowed be referred to the relevant Cabinet Member for consideration or deferred until the next meeting.</p> <p>(4) The Chair of the meeting may invite a relevant officer to set out the background to the issue before inviting the petition organiser to address the Committee for up to 3 minutes. The Chair may ask questions of the petition organiser, will then invite any relevant Ward Councillors present to address the Committee on the matter for up to 3 minutes (each). The Chair will then invite the relevant officer(s) to advise the meeting, after which the matter will be open</p>	

Function	Proposed amendment	
Scrutiny Procedure Rules – Page 286 (continued...)	<p>Review of the Council's Response to a Petition</p> <p>9.4 A petition organiser may request that the Overview and Scrutiny Commission review the steps the Council has taken in response to a petition. Any request for a review must be made in accordance with the Crawley Borough Council Petitions Scheme (see page <cite relevant page>).</p> <p>9.5 The Commission will endeavour to consider any request at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.</p> <p>9.6 The petition organiser will be invited to attend the meeting and address the Commission for up to 3 minutes only if they consider that the Council's decision on the petition is inadequate.</p> <p>9.7 Should the Commission determine that the Council has not dealt with the petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council's Cabinet and arranging for the matter to be considered at a meeting of the full Council.</p> <p>Matters referred to the Commission</p> <p>9.8 The Commission may consider a petition referred to it by the Cabinet, Council or a Committee or Sub-Committee of the Council."</p>	

Annex to Appendix 2

Members' Allowances

Office Holder	Special Responsibility
	£
Basic allowance (all councillors)	5949
Leader of the Council	14281
Cabinet Portfolio Holders	7138
Overview and Scrutiny Commission Chair	6389
Vice Chair of Scrutiny Commission	1166
Chair of Performance Monitoring Scrutiny Panel	1133
Payment to Chair of any other Scrutiny Panel	1133
(note: Members would be entitled to only one Scrutiny Panel £1133 allowance per year, including that relating to the Performance Monitoring Scrutiny Panel even if they chose to undertake a second review)	
Chair of Development Control Committee	5949
Vice Chair of Development Control Committee	2380
Chair of Licensing Committee	5949
Vice Chair of Licensing Committee	1166
Chair of Standards Committee	2380
Chair of General Purposes Committee	2380
Chair of Audit and Governance Committee	2380
Chair of Budget Advisory Group (payable provided the post holder is not a Cabinet Member)	2380
Leader(s) of minority group(s) (<i>differential rates depending on number of members in that Group</i>);	
• basic allowance	2200
• additional payment per group member	274