

Crawley Borough Council

Minutes of Governance Committee

22 June 2015 at 7.00pm

Present:

Councillor	J Stanley (Chair)
Councillor	R D Burrett (Vice-Chair)
Councillors	M L Ayling, D G Crow, C R Eade, M G Jones, P K Lamb, R A Lanzer, T Lunnon, K McCarthy and A C Skudder

Officers Present:

Ann-Maria Brown	Head of Legal and Democratic Services
Heather Girling	Democratic Services Officer
Andrew Oakley	Electoral Services Manager
Mez Matthews	Democratic Services Officer

1. Welcome to New Members of the Committee

The Chair welcomed Councillors McCarthy and Skudder who had been recently elected, and Councillor Jones who was also new to the Committee. The Chair hoped that they would enjoy undertaking the work of the Committee.

2. Members' Disclosure of Interests

No disclosures of interests were made by Members.

3. Minutes

The minutes of the meeting of the Committee held on 9 March 2015 were approved as a correct record and signed by the Chair.

4. Individual Electoral Registration: Update

The Committee considered report LDS/105 of the Head of Legal and Democratic Services which updated the Committee on electoral registration for the elections on 7 May 2015 and the first annual household canvass under Individual Electoral Registration in advance of the publication of the new register on 1 December 2015.

The Committee was informed that the number of unverified electors on the register was comparable with the national average, and that this number was expected to decrease following the annual canvass. The Electoral Services Manager anticipated

that the Borough would have 80,000 electors on the register by 1 December 2015. The Government Minister would shortly decide whether unverified names on the register would be removed from registers in December 2015. The Electoral Commission had recommended that those electors should remain on the register until December 2016.

The Committee noted that, although the number of electors on the register had dropped when the annual register had been published on 1 December 2014, the number had recovered by the general election. The Electoral Services Manager drew the Committee's attention to the table set out in paragraph 4.3 of the report and confirmed that the figures identified as 'moved' referred to moves within the Borough or Ward and corresponded with where the elector had moved from, and 'changed' figures related to a change in name, circumstance or verification status.

The Electoral Services Manager confirmed that, where a response to the annual canvass was not received, households would receive multiple personal visits, and individual electors would receive one personal visit. The reminders would also be personally addressed.

It was agreed that a further update be brought to the November Committee meeting following the annual canvass, to ascertain whether the new Household Enquiry Form had affected the level of response.

RESOLVED

1. The Committee noted the progress made in the transition to Individual Electoral Registration and the steps taken to maximise registration.
2. That a further update on Individual Electoral Registration be brought to the 23 November 2015 Governance Committee.

5. Revised Operations for the Overview and Scrutiny Commission and the Future of Performance Monitoring Scrutiny Panel

The Committee considered report LDS/100 of the Head of Legal and Democratic Services which proposed amendments to the Performance Monitoring Scrutiny Panel (PMSP), the Terms of Reference and Scrutiny Procedure Rules which would result in a more valuable role for Members and could provide more effective outcomes for both Council services and customers. The Committee also considered report OSC/238 of the Acting Chair of the Overview and Scrutiny Commission which detailed the comments and recommendations made by the Overview and Scrutiny Commission (OSC) on 8 June 2015 on the matter. The Commission had agreed to cancel PMSP meetings and use OSC as set out in recommendations 2.1(b) of the report. The Governance Committee was asked to consider the changes to the Constitution as a consequence of the OSC's decision.

The Committee thanked the report author and the Overview and Scrutiny Commission for the work they had undertaken and for a thorough report. The Committee noted that the Head of Legal and Democratic Services would investigate and review the Access to Information Procedure Rules (Part 4 of the Constitution) as the Rules did not currently cover the Members' Information Bulletin.

The Committee was in support of the disbandment of PMSP and noted that a review of working groups, advisory groups, policy development forums and seminars was a separate issue which was due to be considered at the 8 July 2015 meeting of the Cabinet.

The Committee considered the OSC's suggestion that paragraph 6.1(10) of Article 6 be amended as set out in report OSC/238, but the Committee was of the opinion that the revised wording proposed did not add value and therefore did not support the additional amendment.

It was questioned whether Paragraph 16 (The Party Whip) of the Scrutiny Procedure Rules was necessary as no member of the OSC had made a whipping declaration since 2004. It was debated whether there was a legal requirement that such declarations be made. It was agreed that the Head of Legal and Democratic Services would investigate the issue and inform Committee members whether there was a legal requirement for OSC members to declare the existence of a whip prior to the Commission's or panel's consideration of a matter.

It was suggested that paragraph 7 of the Scrutiny Procedure Rules be amended to prescribe that the Chair and Vice Chair of the Overview and Scrutiny Commission be members of different political groups. The Committee considered the proposal, but upon being put to the Committee, the amendment was LOST. It was agreed that a report be brought back to a future meeting of the Committee regarding the Chair and Vice Chair membership options for OSC based on the recommendations of the Centre for Public Scrutiny.

RESOLVED

1. That a report regarding the Chair and Vice Chair membership options for OSC based on the recommendations of the Centre for Public Scrutiny be considered by a future meeting of the Committee.
2. That Full Council be recommended to approve the revised Terms of Reference and Scrutiny Procedure Rules for the Overview and Scrutiny Commission as set out in Appendix A to these minutes.

6. Disciplinary Arrangements for Statutory Officers

The Committee considered report LDS/104 of the Head of Legal and Democratic Services and the Head of People and Technology which updated the Committee on the changes that were being made to Disciplinary Arrangements for Statutory Officers and sought a view from the Committee on the proposals for the establishment of an Independent Panel.

The Committee noted that the legislation currently lacked detail, and the Head of Legal and Democratic Services was awaiting further information regarding how the process would work in practice before detailed changes to the Constitution were proposed.

The Head of Legal and Democratic Services informed the Committee that the current Designated Independent Person (DIP) process in its application in practice had been complex, expensive and cumbersome and in some local authorities had taken over 15 months to reach completion.. The proposed new arrangements would be less bureaucratic, more streamlined and would attempted to retain an independent check

within the system. It was noted that it might be necessary to amend the Terms and Conditions of employment for the Statutory Officers to accord with the new legislation.

The Committee was of the opinion that, to remain completely independent, any Panel appointed to consider a disciplinary matter involving a Statutory Officer should not include Councillors. It was noted that an appeal against a decision to dismiss a Statutory Officer would not be considered by the Independent Panel.

RESOLVED

That the arrangements outlined in Paragraph 6 of report LDS/104 be supported subject to any Panel being comprised solely of Independent Persons.

7. Changes to the Constitution

The Committee considered report LDS/102 of the Head of Legal and Democratic Services which proposed changes to the Constitution.

It was suggested that the Council's Complaints Procedure should remain in the Constitution to maintain its accessibility, and so any changes would be considered by the Committee. The Democratic Services Officer informed the Committee that any changes would be made by an officer, in consultation with the Cabinet Member if appropriate, and that any consequential changes to the Constitution would be made under delegated authority and would not necessarily be brought before the Committee. The Committee agreed that the Council's Complaints Procedure should be removed from the Constitution.

RESOLVED

That the Full Council be recommended that the amendments to the Constitution proposed in Appendix B to these minutes be agreed.

8. Annual Governance Statement

The Committee considered report FIN/365 of the Head of Finance, Revenues and Benefits which requested that the Committee consider the Annual Governance Statement and provide any comments for incorporation into the final version to be included in the annual statement of accounts, which was to be approved by the Audit Committee in September 2015. The Committee noted that the Statement covered the period from 1 April 2014 to 31 March 2015.

Following consideration of the Statement, the Committee suggested that the following amendments be made:

Report Page	Paragraph / Bullet Point	Amendment
G3	Paragraph 3	Delete duplication of the words "also on" in relation to the Council's website.
G5	Bullet point 9	Amend to read "Reports on complaints have been received are presented to CMT and the performance

Report Page	Paragraph / Bullet Point	Amendment
		Monitoring Scrutiny Panel on a quarterly basis.”
G7	Bullet point 3 of “Review of Effectiveness”	Amend to read “As part of the Council’s open and transparent approach, Overview and Scrutiny Committee Commission has responsibility
G8	Bullet point 1 and paragraph 2	Amend “Audit and Governance Committee” to read “Audit Committee”.

RESOLVED

That the amendments detailed in the table above be incorporated into the final version of the Annual Governance Statement to be included in the annual statement of accounts, which is to be approved by the Audit Committee in September 2015.

9. Closure of Meeting

With the business of the Committee concluded, the Chair declared the meeting closed at 8.30pm.

J STANLEY
Chair

APPENDIX A

ARTICLE 6 – OVERVIEW AND SCRUTINY COMMISSION

6.1. Terms of Reference

The Council will appoint an Overview and Scrutiny Commission with the following terms of reference to discharge the functions conferred by section 21 of the Local Government Act 2000, regulations under section 32 of the Local Government Act 2000, the Local Government and Public Involvement in Health Act 2007, the Local Democracy, Economic Development and Construction Act 2009 and the Localism Act 2011:-

- (1) The performance operation of all overview and scrutiny functions on behalf of the Council.
- (2) The appointment of task-orientated, time-limited scrutiny panels, with membership that reflects the political balance of the Council and, the setting of such terms of reference and duration as it considers appropriate to fulfil those functions by carrying out overview and scrutiny on functional matters or cross-cutting themes or with an area focus.
- (3) To receive requests from the Cabinet for scrutiny involvement in policy review and development and decide how to respond.
- (4) To monitor the Cabinet's Forward Plan and, where appropriate, comment on proposals prior to the Cabinet taking a decision.
- (5) To receive all appropriate ~~performance management~~ budget monitoring **and service** information **particularly in relation to the transformation plan.**
~~(This function may either be carried out by the Commission or by one of its panels).~~
- (6) To approve and co-ordinate an annual overview and scrutiny work programme, noting the programme of any scrutiny panels it appoints so as to ensure that the Overview and Scrutiny Commission's and scrutiny panels' time is effectively and efficiently utilised.
- (7) To ensure community and voluntary sector organisations, users of services and others are appropriately involved in giving evidence to relevant scrutiny panels.
- (8) To review the implementation of other completed scrutiny reviews.
- (9) Where appropriate, to review any other issue affecting the Borough but for which the Council is not directly responsible.
- (10) To discuss any local government matter or local crime and disorder matter either referred to the Commission or otherwise, to review or scrutinise such a matter and, where appropriate, make reports or recommendations to the Council or the Cabinet except where an excluded matter (i.e. any matters relating to a planning decision, a licensing decision or where a person has right of recourse to a review or right of appeal; any matter which is vexatious, discriminatory or not reasonable; **any matter referring to an individual complaint**; or any local crime and disorder matter excluded under S.19 of the Police and Justice Act 2006. However, a matter is not excluded if it consists of an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis).

- (11) To discuss any item relevant to the functions of the Commission referred to the Commission by a member of the Commission, to review or scrutinise such a matter and, where appropriate, make reports or recommendations to the Council or the Cabinet except where an excluded matter (i.e. any matters relating to a planning decision, a licensing decision or where a person has right of recourse to a review or right of appeal; any matter which is vexatious, discriminatory or not reasonable; **any matter referring to an individual complaint**; or any local crime and disorder matter excluded under S.19 of the Police and Justice Act 2006. However, a matter is not excluded if it consists of an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis).
- (12) To discuss any local government matter or local crime and disorder matter either referred to the Commission or otherwise, 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 except where an excluded matter (i.e. any matters relating to a planning decision, a licensing decision or where a person has right of recourse to a review or right of appeal; any matter which is vexatious, discriminatory or not reasonable; **any matter referring to an individual complaint**; or any local crime and disorder matter excluded under S.19 of the Police and Justice Act 2006. However, a matter is not excluded if it consists of an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis).
- (13) Where appropriate, to recommend to the Council the appointment of co-optees to serve on the Overview and Scrutiny Commission and whether they shall have voting rights.
- (14) Where appropriate, to appoint co-optees to serve on scrutiny panels and to decide whether they shall have voting rights or agree to let the Chair of the relevant scrutiny panel decide this in consultation with the Chair of the Overview and Scrutiny Commission and the Head of Legal and Democratic Services.
- (15) To appoint Chairs of scrutiny panels ~~from the membership of the Overview and Scrutiny Commission.~~
- (16) Where the Commission may reasonably require in order to discharge its function, being information which has been requested in writing and relates to the functions of the relevant partner authority so far as exercisable in relation to the authority's area or the inhabitants of that area, to obtain information from relevant partner authorities and require executives of local authorities to exclude confidential and exempt information when publishing their response to reports and recommendations of Overview and Scrutiny Committees.
- (17) To ensure that any reports by the Joint Scrutiny Task and Finish Groups be reported to the appropriate decision maker via the Commission, and that the appropriate decision maker responds accordingly to the West Sussex Joint Scrutiny Steering Group.
- (18) To consider any petition before its consideration by the appropriate decision-maker.
- (19) To consider a petition referred to the Commission before its consideration by the appropriate decision-maker.

Scrutiny Procedure Rule 8 sets out the process to be followed in respect of functions **(10), (11) and (12)** above.

6.2. General Matters

1. Overview and Scrutiny Commission

The Overview and Scrutiny Commission has responsibility for all overview and scrutiny functions on behalf of the Council. It has a remit to review or scrutinise the full range of the Council's activities.

Specifically the Commission undertakes policy review, looks closely at decisions the Cabinet is going to take, and oversees the work of the Cabinet. It therefore has an overview of activities across the Council.

2. Scrutiny Panels

The Overview and Scrutiny Commission may establish time-limited scrutiny panels, the number to be running at any one time to be subject to resource constraints. These panels will be charged with carrying out an in-depth investigation into a specific service area or policy or any issue of genuine importance to the town. Each panel will work to a specific brief set out by the Commission and will report to the Commission.

Membership of the scrutiny panels may be drawn from the Commission itself and/or from other non-Cabinet Members of the Council. The panels will be politically balanced unless agreed otherwise by the Group Leaders. Membership will depend on the knowledge and expertise required to deal with the matter in hand, as long as the principle of independence is not compromised.

The Commission will agree the Chair of any scrutiny panel it establishes (who will not necessarily be an OSC Member and may potentially be the nominator). Panel members will then be agreed in consultation with Group Leaders and the party group secretaries. However at least one member of the panel must be an OSC Member.

Choosing the topics for the scrutiny panels to work on is a key task for the Commission. It will be impossible for the scrutiny panels to cover all the Council's activities and there is therefore a need to prioritise particular issues. It will also be important for the Commission to hold some capacity in reserve for urgent issues that may emerge.

3. West Sussex Joint Scrutiny Task and Finish Groups

A formal but flexible joint scrutiny arrangement, through an overarching steering group and bespoke task groups, was established in West Sussex initially for a pilot period commencing July 2011.

The West Sussex Joint Scrutiny Steering Group will consider suggestions for joint scrutiny and 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 outcomes- 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 the 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.

Any joint scrutiny will be carried out by non-Cabinet members of County, District and Borough Councils. Non-Executive 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.

Any Task and Finish Groups will consist of a minimum of 3 members, with the exact number to be 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.

These Task and Finish Groups will submit a final report via the Overview and Scrutiny Commission(s) to the Cabinet(s) of the relevant Council(s) and/or other partners with a copy to the Joint Steering Group.

6.3. Specific Functions

- (1) The Overview and Scrutiny Commission (and its panels) may:
 - (a) review and scrutinise the decisions made by and the performance of the Cabinet and Committees and Council employees both in relation to individual decisions and over time;
 - (b) review and scrutinise the **transformation plan, operation** of the Council in relation to its policy objectives, ~~measures performance targets~~ and particular service areas;
 - (c) review other issues which might impact on the quality of life in the town;
 - (d) review any matter relating to, or arising out of, any issue that has previously been referred to scrutiny.
 - (e) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Commission, or a panel, or local people, about their activities and performance;
 - (f) question and gather evidence from any person (with their consent);
 - (g) question members of the Cabinet and Chairs of Committees and **the Chief Executive/Deputy Chief Executive** /~~Directors~~/Heads of Service about their decisions and ~~performance~~ **services**, whether generally in comparison with service plans and ~~targets~~ **measures (performance)** over a period of time, or in relation to particular decisions, initiatives or projects;

In addition, the Overview and Scrutiny Commission may:

- (h) make recommendations arising from the outcome of the scrutiny process to the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), to a Committee where the matter falls within its terms of reference or to the Council as appropriate (e.g. if the proposal would require a departure from or a change to the agreed budget and policy framework ~~or if it relates to the outcome of a best value review~~)

Where the Council is to receive the report, a copy of the report will be submitted to the Cabinet held in the same cycle. The Cabinet may comment upon the report and these comments will be presented to the Council at the time the report is considered.

- (i) exercise overall responsibility for the finances made available to it;
 - (j) exercise overall responsibility for the work programme of the employees employed to support its work.
- (2) The Overview and Scrutiny Commission (and its panels) will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.
 - (3) The remit of the Overview and Scrutiny Commission (and its panels) is not to perform the function of an appellate body nor to examine individual complaints.
 - (4) The Overview and Scrutiny Commission will not normally be responsible for the development of new policies. This function will be fulfilled by the Policy Development Forums (see page 381 of this Constitution), except where policy development arises from the Overview and Scrutiny Commission reviewing current policy in which case the Commission may, as part of the review, recommend new policies.

6.4. Role of Chair of Overview and Scrutiny Commission

- (1) To oversee and provide leadership, management and strategic direction to the Overview and Scrutiny Commission and process.
- (2) To represent the Overview and Scrutiny Commission on the West Sussex Joint Scrutiny Steering Group. In the event that the Chair is unable to attend, the Vice-Chair shall attend on his/her behalf. If neither the Chair nor the Vice-Chair are able to attend, another Commission member shall be nominated by the Chair to attend on his/her behalf;
- (3) To develop and promote the role, profile and impact of overview and scrutiny
- (4) To develop a knowledge of the Council and how it relates to other organisations and the community
- (5) To develop the skills set for a successful chair of overview and scrutiny
- (6) To chair meetings of the Overview and Scrutiny Commission impartially, encouraging contributions from all Commission members;
- (7) To consider how Scrutiny work might be assisted by:-
 - arranging informal discussions outside the Committee process or undertaking visits
 - inviting outside contributors to attend Overview and Scrutiny Commission meetings
 - calling for reports from ~~Directors~~ **the Chief Executive, Deputy Chief Executive or Service Heads** ~~relevant officers~~ or commissioning research.
- (8) To produce a report for submission to the Cabinet, a Committee or the Council as appropriate.
- (9) To present review reports at the Cabinet, at a Committee and/or the Full Council.

- (10) To decide, in consultation with the Chair of the relevant scrutiny panel and the Head of Legal and Democratic Services, whether any co-optees serving on such scrutiny panels should have voting rights (as in accordance with paragraph 6.1(14) of this Article).

6.5. Scrutiny and the Forward Plan

Following the publication of the Forward Plan, Members will be invited by the Head of Legal and Democratic Services to indicate which items, if any, should be scrutinised prior to consideration by the Cabinet. Items should not be identified for Overview and Scrutiny Commission consideration if a Member's queries could easily be answered by reference to the appropriate Head of Service or relevant Cabinet Member.

RESPONSIBILITY FOR COUNCIL FUNCTION

OVERVIEW AND SCRUTINY COMMISSION

The functions conferred by Section 21 of the Local Government Act 2000 or regulations under Section 32 of the Local Government Act 2000 will be discharged by the Overview and Scrutiny Commission

Membership:- Councillors:

Functions of the Overview and Scrutiny Commission

Delegation of Functions (concurrently with the Overview and Scrutiny Commission)

- (1) The performance **operation** of all overview and scrutiny functions on behalf of the Council.
- (2) The appointment of task-orientated, time-limited scrutiny panels, with membership that reflects the political balance of the Council, and the setting of such terms of reference and duration as it considers appropriate to fulfil those functions by carrying out overview and scrutiny on functional matters or cross-cutting themes or with an area focus.
- (3) To receive requests from the Cabinet for scrutiny involvement in policy review and development and decide how to respond.
- (4) To monitor the Cabinet's Forward Plan and, where appropriate, comment on proposals prior to the Cabinet taking a decision.
- (5) To receive all appropriate ~~performance management and budget monitoring and service information~~ **particularly in relation to the transformation plan including measures.** ~~(This function may either be carried out by the Commission or by one of its~~

Functions of the Overview and Scrutiny Commission

Delegation of Functions (concurrently with the Overview and Scrutiny Commission)

panels).

- (6) To approve and co-ordinate an annual overview and scrutiny work programme, noting the programme of any scrutiny panels it appoints so as to ensure that the Overview and Scrutiny Commission's and scrutiny panels' time is effectively and efficiently utilised.
- (7) To ensure community and voluntary sector organisations, users of services and others are appropriately involved in giving evidence to relevant scrutiny panels.
- (8) **To review the annual Transformation Plan and to scrutinise the implementation of current and previously completed reviews.** ~~undertake Best Value Reviews of the Council's services and to monitor the implementation of previously completed Best Value Reviews.~~
- (9) To review the implementation of other completed scrutiny reviews.
- (10) Where appropriate, to review any other issue affecting the Borough but for which the Council is not directly responsible.
- (11) To discuss any local government matter or local crime and disorder matter referred to the Commission by a Councillor, to review or scrutinise such a matter and, where appropriate, make reports or recommendations to the Council or the Cabinet.

Functions of the Overview and Scrutiny Commission

- (12) To discuss any item relevant to the functions of the Commission referred to the Commission by a member of the Commission, to review or scrutinise such a matter and, where appropriate, make reports or recommendations to the Council or the Cabinet.
- (13) To review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions and, where appropriate, make reports or recommendations thereon.
- (14) Ensuring effective scrutiny of the Treasury Management Strategy and policies.
- (15) To consider any petition before its consideration by the appropriate decision-maker.
- (16) To consider a petition referred to the Commission before its consideration by the appropriate decision.

Scrutiny Procedure Rule 8 sets out the process to be followed in respect of functions **(10)**, (11), (12) and (13) above.

Delegation of Functions (concurrently with the Overview and Scrutiny Commission)

SCRUTINY PROCEDURE RULES

1. **What will be the Arrangements for the Overview and Scrutiny Commission and its Panels?**

The Council will have an Overview and Scrutiny Commission as set out in Article 6 of the Constitution. The Overview and Scrutiny Commission may establish task-orientated, time-limited scrutiny panels, the number to be running at any one time to be subject to resource constraints. These panels will be charged with carrying out an in-depth investigation into a specific service area or policy or any issue of genuine importance to the town. ~~The Commission will also establish, on an annual basis, a Performance Monitoring Panel.~~ Each panel will work to a specific brief set out by the Overview and Scrutiny Commission and will report to the Commission.

2. **Who May Sit on the Overview and Scrutiny Commission and its Panels?**

All Councillors except Members of the Cabinet may be Members of the Overview and Scrutiny Commission.

Membership of the scrutiny panels may be drawn from the Commission itself and/or from other non-Cabinet Members of the Council. **The panels will be politically balanced unless agreed otherwise by the Group Leaders. Membership will depend on the knowledge and expertise required to deal with the matter in hand, as long as the principle of independence is not compromised. The Commission will agree the Chair of any scrutiny panel it establishes (who will not necessarily be an OSC Member and may potentially be the nominator). Panel members will then be agreed in consultation with Group Leaders and the party group secretaries. However at least one member of the panel must be an OSC Member.**

No Member may be involved in scrutinising a decision in which he/she has been directly involved. Paragraph 7 of the Councillors Code of Conduct refers

3. **Co-optees**

- (a) The Overview and Scrutiny Commission shall be entitled to recommend to Council the appointment of additional people to serve on the Commission as co-optees and whether they shall have voting rights.
- (b) The Commission may appoint co-optees onto any of its panels and decide whether or not they shall have voting rights or agree to let the Chair of the relevant scrutiny panel decide this in consultation with the Chair of the Overview and Scrutiny Commission and the Head of Legal and Democratic Services. The requirements of Regulation 3 of the Crime and Disorder (Overview and Scrutiny) Regulations 2009 apply to the co-option of members to a Committee dealing with crime and disorder matters.

4. Terms of Reference

The terms of reference of the Overview and Scrutiny Commission are as set out in Article 6 of the Constitution.

The Overview and Scrutiny Commission may set such terms of reference for the scrutiny panels as it considers appropriate.

5. Meetings of the Overview and Scrutiny Commission

There shall be at least seven ordinary meetings of the Overview and Scrutiny Commission programmed each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An extraordinary meeting of the Overview and Scrutiny Commission may be called by the Head of Legal and Democratic Services if he/she considers it necessary or appropriate and must be called by the Head of Legal and Democratic Services if required to do so by a notice in writing given either by the Chair of the Overview and Scrutiny Commission or by any three Members of the Overview and Scrutiny Commission.

6. Quorum

The Quorum for the Scrutiny Commission and Scrutiny Panels shall be as set out in the Council Procedure Rules in Part 4 of this Constitution.

7. Who Chairs Overview and Scrutiny Commission Meetings?

The Council will appoint the Chair and Vice Chair of the Overview and Scrutiny Commission ~~and the Commission will appoint the Chairs of any scrutiny panels it establishes.~~ The Chair and Vice Chair of the Overview and Scrutiny Commission will be drawn from amongst the Councillors sitting on the Commission.

~~The Commission will appoint the Chair of each scrutiny panel from the membership of the Commission.~~

The Commission will agree the Chair of any scrutiny panel it establishes (who will not necessarily be an OSC Member and may potentially be the nominator). Panel members will then be agreed in consultation with Group Leaders and the party group secretaries. However at least one member of the panel must be an OSC Member.

8. Agenda Items

- (a) Any member of the Council shall be entitled to give notice to the Head of Legal and Democratic Services that he/she wishes to refer a local government matter relevant to the functions of the Commission or a local crime and disorder matter to the Commission and for it to be included on the agenda and discussed at the next available meeting of the Commission. As part of the discussion, the Commission will decide whether or not it would be appropriate

to refer a matter to a scrutiny panel to carry out an in-depth investigation and report back to the Commission.

A local government matter is defined in S.21A of the Local Government Act 2000 as one that

- (i) relates to the discharge of any function of the Council,
- (ii) is not an excluded matter (a local crime and disorder matter or a matter defined by Order).

A local crime and disorder matter as defined in S.19 of the Police and Justice Act 2006, in relation to a Councillor, means a matter concerning 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 the misuse of drugs, alcohol and other substances which affects all or part of the electoral area for which the Councillor is elected or any person who lives or works in that area.

Excluded Matters as defined by Order include:

- (i) any matter relating to a planning decision;
- (ii) any matter relating to a licensing decision;
- (iii) **any matter relating to an individual complaint;**
- (iv) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
- (v) any matter which is vexatious, discriminatory or not responsible to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Commission or at a meeting of a Sub-Committee of that Commission.

However, a matter which consists of an allegation of systematic failure to discharge a function for which it is responsible may be referred to the Overview and Scrutiny Commission, notwithstanding the fact that the allegation specifies matters which would otherwise be excluded by virtue of the above."

- (b) Any Member of the Overview and Scrutiny Commission shall be entitled to give notice to the Head of Legal and Democratic Services that he/she wishes to refer an item relevant to the functions of the Commission to the Commission (and for a member of a Scrutiny Panel to be able to refer to the Panel any matter which is relevant to the Panel's functions). The item shall then be included on the agenda and be discussed at the next available meeting of the Commission (or Panel).
- (c) The Commission may also review or scrutinise decisions made, or other action taken in connection with the discharge by the responsible authorities of their crime and disorder functions. The Commission will meet for the purpose when it is considered appropriate but no less than once in every twelve month period.

(d) **Procedure**

When considering whether or not to exercise its powers to review or scrutinise a local government matter or a local crime and disorder matter, the Commission may have regard to representations made by a local Councillor exercising powers under Section 236 of the Local Government and Public Involvement in Health Act 2007. If the Commission decides not to exercise its powers, the local Councillor should be advised of the reasons for the decision. The local Councillor should also receive a copy of any report or recommendations which the Commission makes to the Council or to the Cabinet relating to the matter (subject, in the case of a local government matter, to the exclusion of any confidential information and, where appropriate, of any exempt information which should, instead, be summarised). In the case of a local crime and disorder matter and matters relating to the discharge by the responsible authorities of their crime and disorder functions, a copy of the report and recommendations should be provided to the responsible authorities and the co-operating persons and bodies (as defined in S5 of the Crime and Disorder Act, 1998) as is considered appropriate

In the case of a local government matter or an item relevant to the functions of the Commission, the Commission must (by notice in writing) require the Council or the Cabinet to consider and respond within two months to any report or recommendations it makes, and to indicate what (if any) action is proposed. The Council or the Cabinet are under a duty to comply with these requirements and if the Commission has published its report or recommendations, then the response should also be published (subject to the exclusion of any confidential information and, where appropriate, of any exempt information which should, instead, be summarised).

In the case of a matter relating to the discharge by the responsible authorities of their crime and disorder functions, the Commission shall notify the responsible authorities to whom the report or recommendations have been made, and the co-operating persons and bodies who have been provided with a copy, that they must consider and respond to the report or recommendations, indicating what (if any) action is proposed, and must have regard to the report and recommendations in exercising their functions.

9. Petitions

Officer Evidence

- (a) If a petition contains between 50 and 999 signatures it will be considered by the Overview and Scrutiny Commission prior to its submission to the appropriate decision-maker.
- (b) The Commission will endeavour to consider any petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.

- (c) At the meeting of the Overview and Scrutiny Commission the Chair will invite the petition organiser to address the Commission for a maximum of 3 minutes on the issue.

Matters Referred to the Commission

- (a) The Commission may consider a petition referred to it by the Cabinet, Council or a Committee or Sub-Committee of the Council.

10. Reports from the Overview and Scrutiny Commission

- (a) In addition to reporting to the Full Council each cycle on its current work, the Overview and Scrutiny Commission will produce reports when a particular piece of work has been completed, to the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), to a Committee where the matter falls within its terms of reference or to the Council as appropriate (e.g. if the proposal would require a departure from or a change to the agreed budget and policy framework ~~or if it relates to the outcome of a best value review~~). These reports will be presented directly by the Chair of the Overview and Scrutiny Commission (or, with the agreement of the Chair of the Overview and Scrutiny Commission, by the Member who led the review). Where the Council is to receive the report a copy of the report will be submitted to the Cabinet held in the same cycle. The Cabinet may comment upon the report and these comments will be presented to the Council at the time the report is considered. The Chair of the Overview and Scrutiny Commission will be entitled to introduce his/her report and to answer questions made by Members of the Cabinet if he/she wishes to do so.
- (b) If the Overview and Scrutiny Commission cannot agree on one single report, then **no more than up to** one minority report may be prepared and submitted for consideration with the majority report.
- (c) The report of the Overview and Scrutiny Commission shall be considered as soon as reasonably practicable.

11. Rights of Overview and Scrutiny Commission Members to Documents

- (a) In addition to their rights as Councillors, Members of the Overview and Scrutiny Commission and its panels have the additional rights to documents and to notice of meetings as set out in the Access to Information Procedure Rules in part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Commission as appropriate, depending on the particular matter under consideration.

12. Members and Officers Giving Account

The Overview and Scrutiny Commission and its panels may, within their terms of reference, scrutinise and review decision-making or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in

fulfilling the scrutiny role, it may require any Member of the Cabinet, any Committee Chair, the Head of Paid Service/**Chief Executive** and/or **the Deputy Chief Executive** ~~any Director~~ or any Service Head to attend before it to explain in relation to matters within their remit:

- (i) Any particular decision or series of decisions;
- (ii) The extent to which the actions taken implement Council policy; and/or
- (iii) Their performance;
- (iv) Any response to a petition calling for a senior Council officer to give evidence.

And it is the duty of those persons to attend if so required.

- (b) Where any Member, Committee Chair or Employee is required to attend the Overview and Scrutiny Commission or a scrutiny panel under this provision, the Chair of the Commission/or that panel will inform the Head of Legal and Democratic Services. The Head of Legal and Democratic Services shall inform the Member or Employee in writing, giving at least five working days' notice of the meeting at which he/she is required to attend. The notice will state the name of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Commission or panel. Where the account to be given to the Commission or panel will require the production of a report, then the Member or Employee concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Member or Employee is unable to attend on the required date, then the Overview and Scrutiny Commission or panel shall in consultation with the Member or Employee arrange an alternative date for attendance.

13. Attendance by Others

The Overview and Scrutiny Commission or its panels may invite people other than those people referred to in paragraph ~~12~~ 44 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders, Members and Employees in other parts of the public sector and shall invite such people to attend. When carrying out its functions relating to crime and disorder, the attendance of an officer or employee of a responsible authority or of a co-opted person or body may be required in order to answer questions. Reasonable notice of the intended date of attendance must be given to that person.

Petition organisers may attend a meeting of the Overview and Scrutiny Commission as detailed in the Crawley Borough Council Petitions Scheme (see page 449).

14. Call In

Call in should only be used in exceptional circumstances. These are where the Member(s) calling in the decision believes that the decision was not taken in accordance with the principles set out in Article 12.2 (decision-making).

Call In of Decisions Made by the Cabinet as a Whole

- (a) At Cabinet meetings or Committees of the Cabinet, immediately after the decision is taken, any Member of the Council present may indicate that they wish to call-in the decision because they do not believe it has been taken in accordance with the provisions of decision making set out in Article 12 of the Constitution.
- (b) The Member of the Council calling in the decision must indicate how they believe the principles of Article 12.2 have been breached, not only by identifying the principle which they feel has not been complied with but also by specifying how they consider it has been breached. 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, therefore, the original decision will stand. The implementation of the decision will be reported to the Cabinet and to Full Council.
- (c) If a decision is called in, it is treated as suspended. The Member of the Council calling in the decision must then obtain within the five working days following the call-in, the support of three other Members of the Council. The support must be communicated to the Head of Legal and Democratic Services either by way of a signed pro-forma or separate written confirmation by each supporter, which may be a hard copy or e mail communication (to democraticservices@ Crawley.gov.uk) and acknowledgement of receipt shall be obtained. Failure to obtain the support of three other Members within this period will mean that the original decision will stand and, on the sixth working day, the decision will be implemented. The implementation of the decision will be reported to the Cabinet and to Full Council.
- (d) In the case of the Cabinet or a Committee of the Cabinet, if the required number of signatures is produced within the period specified, then the decision will continue to be treated as suspended and the matter will be reconsidered at the next meeting of Full Council. If the Full Council does not object, then the original decision stands. If the Council does object, it cannot change the decision unless that decision was contrary to the policy framework or contrary or not wholly in accordance with the budget. Unless that is the case, the Council will refer the matter back either to the next meeting of the Cabinet for reconsideration (in which case the matter may not be called-in a second time) or to the Overview and Scrutiny Commission. If the matter has already been the subject of scrutiny, it shall only be referred back to the Overview and Scrutiny Commission if there is new material to be considered. The Council may pass a resolution specifying the nature of its objection to the proposed decision.

Call In of Decisions Made by Individual Cabinet Members

- (e) Notice of decisions to be made by individual Cabinet Members, or of key decisions made by employees with delegated authority from the Cabinet, will

be published in the weekly Members' Information Bulletin and will be made available for public inspection at the Council's offices.

- (f) Unless, within five working days of the publication date of the Members' Information Bulletin, any Member of the Council objects to the proposed decision on the grounds that they do not believe the decision, if implemented, would be in accordance with the principles of decision-making set out in Article 12 of the Constitution, then the decision is implemented on the sixth working day.
- (g) If any Member of the Council objects, then the decision is called in. If a decision is called in, it is treated as suspended. The Member of the Council calling in the decision must then obtain the support of three other Members of the Council within the five working days following the publication date of the Members' Information Bulletin. The call in and the support must be communicated to the Head of Legal and Democratic Services either by way of a signed pro-forma or separate written confirmation by each supporter, which may be a hard copy or e mail communication (to democraticservices@ Crawley.gov.uk) and acknowledgement of receipt shall be obtained. Failure to obtain the support of three other Members within this period will mean that the original decision will stand and, on the sixth working day, the decision will be implemented.
- (h) If the required support is given within the 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.
- (i) Any objection to a proposed decision by an individual Cabinet Member, or to a key decision made by an employee with delegated authority from the Cabinet, must be made in writing to the Head of Legal and Democratic Services (either hard copy or email). The Member of the Council calling in the decision must indicate how they believe the principles of Article 12 have been breached.
- (j) If the required number of signatures is produced within the period specified, then the decision will continue to be treated as suspended and the matter will be reconsidered at the next meeting of Full Council. If the Full Council does not object, then the original decision stands. If the Council does object, it cannot change the decision unless that decision was contrary to the policy framework or contrary or not wholly in accordance with the budget. Unless that is the case, the Council will refer the matter back to either the individual Cabinet Member who originally took the decision for reconsideration (in which case the matter may not be called in a second time), to the next meeting of the Cabinet for reconsideration (in which case the matter may not be called in a second time), or to the Overview and Scrutiny Commission. If the matter has already been the subject of scrutiny, it shall only be referred back to the Overview and Scrutiny Commission if there is new material to be considered. The Council may pass a resolution specifying the nature of its objection to the proposed decision.

Call In and Urgency (Protection from Call In)

- (k) The call in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The agenda item in the case of matters to be decided by the Cabinet as a whole or the Members' Information Bulletin item in the case of proposed decisions by individual Cabinet Members, or key decisions made by employees with delegated authority from the Cabinet, must indicate the reason why, in the opinion of the Head of Paid Service or his/her nominee, the matter should be treated as urgent, and that in his/her opinion the decision proposed is reasonable in all the circumstances. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (l) The operation of the provisions relating to call in and urgency shall be monitored annually and a report submitted to Council with proposals for review if necessary.

15. The Party Whip

When considering any matter in respect of which a Member of the Overview and Scrutiny Commission or its panels is subject to a party whip, the Member must declare the existence of the whip and the nature of it before the commencement of the Commission's or the panel's deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

16. Procedure at Overview and Scrutiny Commission Meetings

- (a) The Overview and Scrutiny Commission shall consider the following business:
 - (i) Minutes of the last meeting;
 - (ii) Declarations of interest (including whipping declarations);
 - (iii) The business otherwise set out on the agenda for the meeting, including:-
 - (a) consideration of any matter referred to the Overview and Scrutiny Commission for a decision in relation to call-in of a decision;
 - (b) matters referred to the Overview and Scrutiny Commission in relation to relevant petitions submitted under the Crawley Borough Council Petitions Scheme; and
 - ~~(c) responses of the Cabinet or Full Council to reports of the Overview and Scrutiny Commission;~~
 - (iv) Forward Plan;
 - (v) Supplemental agenda. (This item can be used to discuss any item on the forthcoming Cabinet agenda)

- (b) Where the Overview and Scrutiny Commission or its panels conduct investigations, the Commission or its panels may also ask people to attend to give evidence at Commission or panel meetings which are to be conducted in accordance with the following principles:
 - (i) That the investigation be conducted fairly and all Members of the Commission or panel be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) That those assisting the Commission or panel by giving evidence be treated with respect and courtesy; and
 - (iii) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Commission/panel shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

17. Public Speaking at the Overview and Scrutiny Commission

- (1) At the beginning of every ordinary meeting of the Commission, there will be a public question time.
- (2) During public question time, a member of the public may ask a question which is relevant to any item on the agenda, a scrutiny panel or potential review. The question must not relate to an individual case which should be dealt with under the Council's complaints procedure or any other formal appeals procedure.
- (3) The Chair of the Commission at his/her discretion may answer the question or invite other Members or employees to respond.
- (4) Members of the public do not need to give prior notice of their questions. They may signify their wish to ask a question by raising their hand.
- (5) After the question has been answered, the person asking the question may ask one supplementary question.
- (6) The duration of question time will be a maximum of 15 minutes. It may be extended at the Chair of the Commission's discretion.
- (7) Petition organisers may address the Commission in accordance with Paragraph 9 of these procedure rules.

APPENDIX B

CHANGES TO THE CONSTITUTION

<u>Function</u>	<u>Proposed amendment</u>	<u>Reason for amendment</u>
<p>Functions of the Development Control Committee – Page 62</p> <p>(Jean McPherson)</p>	<p>Where appropriate:</p> <ul style="list-style-type: none"> Deleted wording is shown as crossed through Additional wording is shown in bold <p>Amend delegation (1)(c)(v)(e)(ii) to read as detailed in Appendix B1 to this report (LDS/102).</p>	<p>It is considered that there is no longer a special case for telecom applications to be triggered to go to Committee if an objection is received. This measure was introduced in the 1990s during the rapid expansion of the mobile phone network when there was heightened public concern about this new technology in terms of the visual impact of the masts and perceived public health risks. These are now more accepted part of the streetscene and modern life and therefore it is proposed that these planning applications and prior approval applications should now be brought in line with the requirements of all other planning applications.</p>
<p>Functions of the Development Control</p>	<p>Amend function (31) as follows:</p>	<p>The powers for dealing</p>

<u>Function</u>	<u>Proposed amendment</u>	<u>Reason for amendment</u>
<p>Committee (page 71) (Jean McPherson)</p>	<p>Where appropriate:</p> <ul style="list-style-type: none"> • Deleted wording is shown as crossed through • Additional wording is shown in bold <p>“(31) Power to deal with complaints about high hedges</p> <p><u>The following functions are delegated to the Head of Economic and Environmental Services in consultation with the Chair of the Development Control Committee</u></p> <p>(a) Approval of any charging scheme to be imposed in respect of the Council’s functions under Part 8 of the Anti-Social Behaviour Act, 2003 (dealing with complaints about high hedges).</p> <p>(b) Power to deal with complaints about high hedges including the service of remedial notices, handling of any appeals or other decisions from relevant authorities and powers of entry in relation to carrying out of such duties as set out under Part 8 of the Anti-Social Behaviour Act 2003 or any subsequent re-enactment of that provision”</p>	<p>with complaints about high hedges appears to rest exclusively with the Committee. The additional wording delegates this to the Head of Services, these cases are very rare and can be effectively handled by officers, very few result in service of notices.</p>
<p>Council’s Complaints Procedure – Page 429</p>	<p>Remove the Council’s Complaints Procedure from the Constitution.</p>	<p>Only 2 Local Authorities in West Sussex include their</p>

<u>Function</u>	<u>Proposed amendment</u>	<u>Reason for amendment</u>
(Sarah Barnes)	Where appropriate: <ul style="list-style-type: none">• Deleted wording is shown as crossed through• Additional wording is shown in bold	Complaints Procedure in their Constitution. The Procedure is available on the Council's website and it is felt that the Constitution is not an appropriate place for the procedure. A link to the Complaints Procedure could be provided on the Constitution page of the website instead.

EXCERPT FROM FUNCTIONS OF THE DEVELOPMENT CONTROL COMMITTEE

Functions of the Development Control Committee

Planning and conservation

Functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations) and as set out below:-

- (1) Power to determine applications for planning permission

Delegation of Functions (concurrently with the Development Control Committee)

The following functions are delegated to the Head of Economic and Environmental Services

- (a) The service of notices requiring further information on outline planning applications or in the case of a validation dispute in accordance with Part 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 or any subsequent re-enactment of that provision
- (b) The determination of the appropriate statutory notices for giving publicity to applications made under the Town and Country Planning Act 1990
- (c) The determination of applications for developments submitted to the Council (including the power to grant permission for development already carried out) for:
 - (i) planning permission under Part III of the Town and Country

Functions of the Development Control Committee

Delegation of Functions (concurrently with the Development Control Committee)

- Planning Act, 1990;
- (ii) consent to carry out works to trees (including felling) under Part VIII of the Town and Country Planning Act 1990;
 - (iii) consent to display advertisements under Part VIII of the Town and Country Planning Act 1990;
 - (iv) consent to carry out works on or other development in connection with listed buildings under the Planning (Listed Building and Conservation Areas) Act 1990 and;
 - (v) consent to carry out work in a conservation area under the Planning (Listed Building and Conservation Areas) Act 1990

EXCEPT WHERE:

- (a) a request has been received from a Member of the Council for an application to come before the Committee, or;
- (b) the application has been submitted by or on behalf of an employee or Member of the Council or;
- (c) the Head of Economic and Environmental Services considers an application, that would otherwise be delegated, should come before the Committee or;
- (d) the application is for a major development (as defined under the Development Management Procedure Order) of any kind or;
- (e) the Head of Economic and Environmental Services is minded to approve the development and any of the following applies:-
 - (i) an approval would constitute a departure from the Local Plan or;
 - (ii) 4 or more objections have been received in writing

Functions of the Development Control Committee

Delegation of Functions (concurrently with the Development Control Committee)

- during the Council's normal consultation period from different individuals living in different households ~~(or one or more in the case of telecommunications development)~~ or;-
- (iii) one or more objection has been received in writing during the Council's normal consultation period from a recognised residents' association, amenity or conservation group or;
 - (iv) one or more objection has been received in writing during the Council's normal consultation period from a statutory consultee or;
 - (v) the proposal involves the Borough Council as the applicant either alone or jointly with another person.