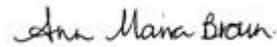


## Crawley Borough Council

### Governance Committee

Agenda for the **Governance Committee** which will be held in **Committee Room B - Town Hall**, on **Tuesday, 5 March 2019** at **7.00pm**

Nightline Telephone No. 07881 500 227



**Head of Legal, Democracy and HR**

Membership:  
Councillors

T Lunnon (Chair), R D Burrett (Vice-Chair), D Crow, C R Eade,  
R S Fiveash, M G Jones, P K Lamb, R A Lanzer, K McCarthy,  
B J Quinn and K Sudan

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[democratic.services@crawley.gov.uk](mailto:democratic.services@crawley.gov.uk)  
Published 25 February 2019

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The Boulevard  
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RH10 1UZ

The order of business may change at the Chair's discretion

## Part A Business (Open to the Public)

	<b>Pages</b>
<b>1. Apologies for Absence</b>	
<b>2. Disclosures of Interest</b>	
In accordance with the Council's Code of Conduct, Councillors of the Council are reminded that it is a requirement to declare interests where appropriate.	
<b>3. Minutes</b>	5 - 22
To approve as a correct record the minutes of the Governance Committee held on	
<b>4. Update Report on Standards, Including the Review of Local Government Ethical Standards by the Committee on Standards in Public Life</b>	23 - 46
To consider report LDS/145 of the Monitoring Officer (Head of Legal, Democracy and HR).	
<b>5. Constitutional Amendments for Development Consent Orders and Planning Performance Agreements</b>	47 - 52
To consider report PES/315 of the Head of Planning and Economy.	
<b>6. Review of Provisions Relating to Call-In and Urgency</b>	
There has been one case, during the period since the last report, where an item has been protected from the Call-In Procedure on the grounds of urgency as provided for in Scrutiny Procedure Rule 14(k). That decision related to the one-off delegation assigned to Natalie Brahma-Pearl as the Chief Executive in consultation with Full Council to provide a response to the Gatwick Airport Draft Master Plan 2018 Consultation. The consultation response was based on the clear direction provided by Full Council at its meeting on 12 December 2018 and included the requested verbatim minute of the Full Council debate.	
The Chief Executive (as Head of Paid Service), had agreed that the decision should be Protected from Call-In under Scrutiny Procedure Rule 14(k) of the Constitution for the following reasons:	
<ul style="list-style-type: none"><li>• The decision was debated by Full Council on 12 December 2018 and as such all Councillors had the opportunity to discuss the matter in full.</li><li>• The decision of the Full Council was the view expressed</li></ul>	

by the Chief Executive in her response to the Gatwick Airport Master Plan 2018 Consultation.

- To allow the Chief Executive time to incorporate the Full Council's direction into her formal response, before the final submission deadline of 10 January 2019.

Due to the unusual circumstances surrounding that Protection from Call-In it is not deemed necessary to change the provisions at this stage.

**Recommendation**

That no change to the provisions relating to Call-In and Urgency be made.

**7. Changes to the Constitution**

53 - 54

The Committee is asked to **RECOMMEND**:

That the Full Council agrees the amendments to the Constitution proposed in report LDS/149.

**8. Constitutional Review Working Group Update**

Councillor Lamb, as Chair of the Working Group, will provide the Committee with an update.

**9. Supplemental Agenda**

Any urgent item(s) complying with Section 100(B) of the Local Government Act 1972.

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## Crawley Borough Council

### Minutes of Governance Committee

Monday, 14 January 2019 at 7.00 pm

#### Councillors Present:

T Lunnon (Chair)

R D Burrett (Vice-Chair)

D Crow, C R Eade, R S Fiveash, M G Jones, P K Lamb, R A Lanzer, K McCarthy and B J Quinn

#### Officers Present:

Natalie Brahma-Pearl	Chief Executive
Ann-Maria Brown	Head of Legal, Democracy and HR
Mez Matthews	Democratic Services Officer
Andrew Oakley	Electoral Services Manager

#### Apologies for Absence:

Councillor K Sudan

#### 1. Disclosures of Interest

No disclosures of interests were made.

#### 2. Minutes

The minutes of the meeting of the Governance Committee held on 13 November 2018 were approved as a correct record and signed by the Chair.

#### 3. Polling District Review: Final Proposals

The Committee considered report LDS/148 of the Head of Legal, Democracy and HR, the purpose of which was to consider the final proposals on future polling arrangements for Crawley. The review had been required to take account of ward boundary changes made by the Local Government Boundary Commission for England review of electoral arrangements in Crawley as well as being combined with the statutory review of Polling Districts.

The Electoral Services Manager presented the report and advised the Committee that, following discussions with Forge Wood Primary School, the school had agreed that its premises would accommodate a polling station for Forge Wood Ward if its safeguarding requirements could be satisfied.

# Agenda Item 3

Governance Committee (22)

14 January 2019

The Committee acknowledged that the Council avoided using school premises as polling places where possible, however it noted that whilst Forge Wood Ward was still under construction, Forge Wood School had a limited number of pupils and therefore had sufficient available space which could be used without having to close the school. The Electoral Services Manager clarified that the use of Forge Wood School was expected to be a temporary measure and that it was envisaged that once Forge Wood Community Centre had been built, that would become the permanent polling station for Polling District LJC. The Committee was in support of Forge Wood School being used as a polling place for Polling District LJC in the interim.

The Chief Executive advised the Committee that she had been in discussion with the Brook School, as the school objected to the use of its premises as a polling place for Polling District LHA for Maidenbower Ward. Although several options had been discussed with the school, a solution had not been found which would allow the premises to be used without the full closure of the school on Election days. The Chief Executive highlighted the current uncertainty at Central Government level and advised that four elections could potentially be called at short notice. Should any such elections be called, the Chief Executive advised the Committee that a portacabin would need to be used as a polling place, as the school would not have planned for those closures and it would not be reasonable to expect the school to close in those circumstances.

Following a query from a Committee Member, the Electoral Services Manager agreed to verify and, if necessary, correct the postal vote numbers for Furnace Green Ward.

The Committee discussed the polling arrangements for Three Bridges Ward, and it was suggested that Crawley Library would be a suitable alternative polling place for Polling District LMD and it was requested that, once development of the Town Hall had begun and the Civic Hall was no longer available, that option be considered further. A Committee Member was of the view that Three Bridges Ward did not require four polling places, however other Members were of the view that the proposals for Three Bridges Ward were reasonable.

## Amendment

It was moved by Councillor Crow (seconded by Councillor McCarthy) that the Holiday Inn polling place for Three Bridges Ward be deleted and that the polling place for Polling District LMC be at the Three Bridges Community Centre, Gales Place.

The amendment upon being put to the Committee, was declared to be LOST.

The Committee then voted unanimously to agree the recommendation as set out in report LDS/148.

The Committee expressed its thanks to the Electoral Review Working Group and the Electoral Services Manager for their hard work and for conducting such a thorough review of the Polling District.

## **RESOLVED**

That the Full Council be recommended to approve the polling arrangements as set out in Appendix 1 to these minutes.

# Agenda Item 3

Governance Committee (23)  
14 January 2019

## 4. Changes to the Constitution

The Committee considered report LDS/147 of the Head of Legal, Democracy and HR which proposed a change to the Council Procedure Rules.

The Committee was reminded that the current wording of Paragraph 2.2(a) of the Council Procedure Rule had been agreed by the Governance Committee on 19 June 2018 (report LDS/140 refers) and the subsequent Full Council. That change had been introduced in readiness for the Full Council meeting which would take place in the Charis Centre whilst the Town Hall site was being redeveloped. However, development of the Town Hall site had been delayed until Summer 2019 and Full Council meetings would continue to take place in the Council Chamber until that date. Therefore the proposed change only enacted a guillotine when Full Council meetings were held outside of the Town Hall.

### Amendment

It was moved by Councillor Lunnon (seconded by Councillor Burrett) that, for ease of reading, the proposed change to Paragraph 2.2(a) of the Council Procedure Rules be amended to read as follows:

“If the business of the Council meeting has not been concluded within two and a half hours, unless the majority of Members present vote for the meeting to continue for a period up to 30 minutes if required, the following procedure will be implemented. Following the meeting’s initial extension, consideration will be given to extending the meeting by further periods of up to 30 minutes if required. **However, if the Full Council is held outside of the Town Hall** no further extensions may be called to extend the meeting beyond 11.00pm when the guillotine will come into effect”.

The amendment upon being put to the Committee, was declared to be CARRIED.

### **RESOLVED**

That the Full Council be recommended to approve the change to the Constitution below:

<u>Function</u>	<u>Proposed amendment</u>	<u>Reason for amendment</u>
Council Procedure Rules – Page165  (Councillors Burrett and Lunnon)	Where appropriate: <ul style="list-style-type: none"><li>Deleted wording is shown as crossed through</li><li><b>Additional wording is shown in bold</b></li></ul> Amend paragraph 2.2(a) “Duration of Meeting: Guillotine (Concluding the Meeting)” as follows:  “(a) <i>Concluding the Meeting</i>  If the business of the Council meeting has not been concluded within two and a half hours, unless the majority of Members present vote for the meeting to	When Full Council meetings are held at the Town Hall there is no requirement to conclude the meeting by a certain time. However, the current guillotine is required for other venues such as the Charis Centre as the building closes at

# Agenda Item 3

Governance Committee (24)  
14 January 2019

<u>Function</u>	<u>Proposed amendment</u>	<u>Reason for amendment</u>
	<p>Where appropriate:</p> <ul style="list-style-type: none"><li>Deleted wording is shown as crossed through</li><li><b>Additional wording is shown in bold</b></li></ul>	
	<p>continue for a period up to 30 minutes if required, the following procedure will be implemented. Following the meeting's initial extension, consideration will be given to extending the meeting by further periods of up to 30 minutes if required. <b>However, if the Full Council is held outside of the Town Hall</b> no further extensions may be called to extend the meeting beyond 11.00pm when the guillotine will come into effect".</p>	11.30pm.

## 5. Constitution Review Working Group Update

Councillor Lamb, as Chair of the Constitution Review Working Group, provided a verbal update on the comprehensive review of the Constitution which had been established by the Committee at its meeting on 15 March 2017 (report LDS/126 refers).

Tranche 1 and 2 of the re-drafted sections of the Constitution had been sent to the Working Group for their comments, with a response deadline of 3 February 2019. Tranche 3 of the re-drafted sections had been sent to him for comment and it was anticipated that this Tranche would be circulated via email to the Working Group shortly. The aim was to send the final Tranche (Tranche 4) to Chair by mid-February, with a view to sending it electronically to the Working Group by the end of February 2019.

Councillor Lamb advised that due to the distribution deadlines of the next Governance Committee (5<sup>th</sup> March), and the need to ensure 'buy-in' from the Groups, it was not deemed feasible that the new Constitution be considered by Governance Committee before its submission to the 3 April 2019 meeting of the Full Council for approval as had been previously anticipated. Councillor Lamb therefore proposed that once finalised, the new Constitution be considered by the Full Council at its AGM on 24 May 2019 for adoption. He suggested that a meeting of the Working Group be arranged to consider any outstanding issues prior to that Full Council meeting. Following that Working Group meeting, a draft combined version of the new Constitution would be circulated to the Working Group for its agreement. Democratic Services would also be able to attend Group meetings to discuss the new Constitution if that was requested.

The Committee noted the update provided by Councillor Lamb and agreed that the new Constitution be submitted straight to the Full Council at its AGM on 24<sup>th</sup> May 2019. The Committee acknowledged that in agreeing to that arrangement, the new Constitution would not be considered by the Governance Committee prior to its

# Agenda Item 3

Governance Committee (25)  
14 January 2019

submission to the Full Council AGM. In taking this approach, there was general consensus that, as cross-party agreement would have been sought prior to the new Constitution's submission to the AGM, no substantive debate should be required by Full Council on the matter.

## **RESOLVED**

1. That the updated provided by the Chair of the Constitution Review Working Group be noted.
2. That the new Constitution be submitted directly to the Full Council AGM on 24 May 2019 for adoption.

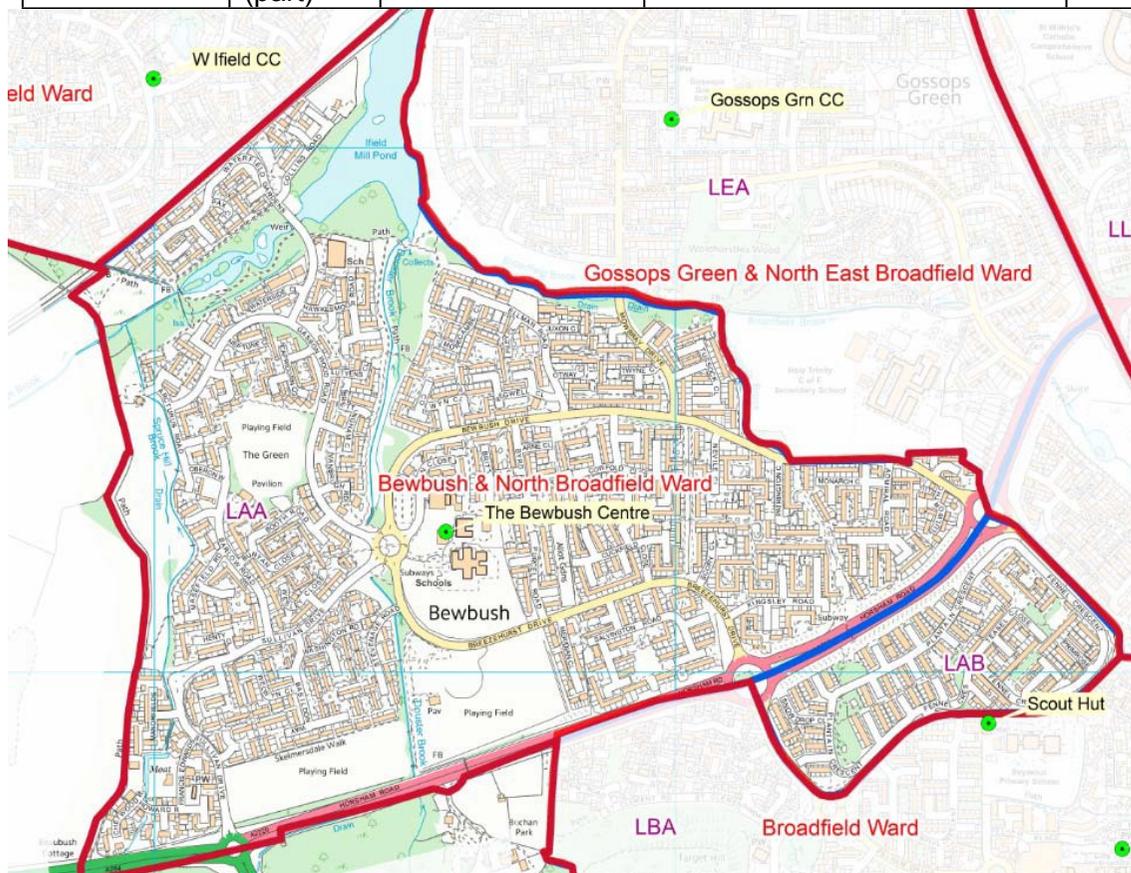
## **Closure of Meeting**

With the business of the Governance Committee concluded, the Chair declared the meeting closed at 7.30 pm

**T Lunnon**  
**Chair**

6. Appendix 1: Maps of Poling Districts Including Polling Places

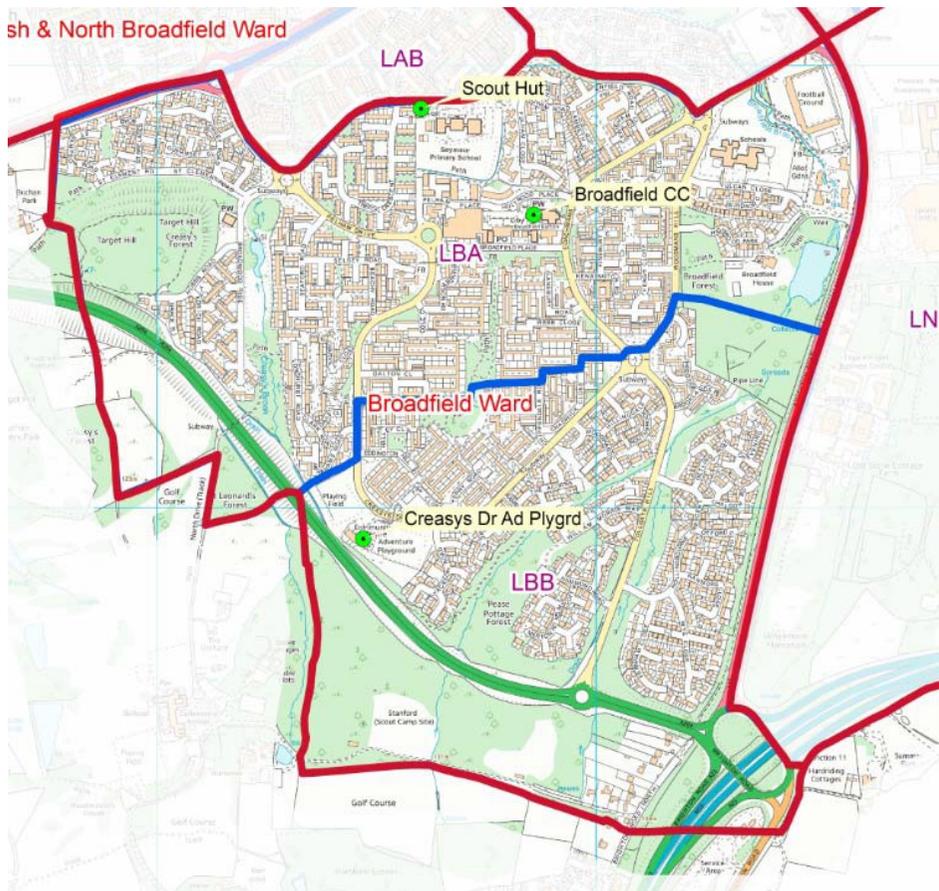
Ward Name			Bewbush & North Broadfield			
Proposed Polling District 1 <sup>st</sup> February 2019	Polling District 2018	Residential Properties	Total Electors	Postal voters	Polling station voters	Polling place
LAA	LA	3372	6291	904	5387	Bewbush Centre
LAB	LBA (part)	483	1018	124	894	Broadfield Scout Hut



**Changes Proposed:**

The North Broadfield part of the ward to be designated polling district LAB and to continue to vote at The Scout Hut, Seymour Road

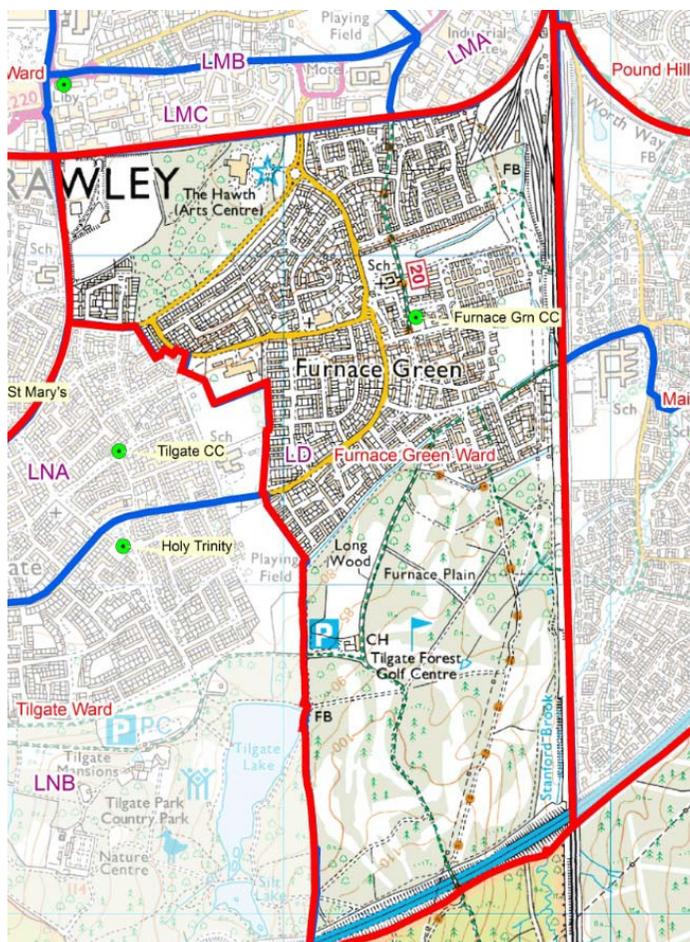
Ward Name			Broadfield			
Proposed Polling District 1 <sup>st</sup> February 2019	Polling District 2018	Residential Properties	Total Electors	Postal voters	Polling station voters	Polling place
LBA	LBA(part) LBB LCA	2658	4431	706	3725	Broadfield Community Centre
LBB	LCB	1676	2743	493	2250	Creasys Drive Adventure Playground



**Changes Proposed:**

No changes for voters in LBB. The Cottesmore Green area of LBA to vote at Broadfield Community Centre instead of the Seymour Road Scout Hut

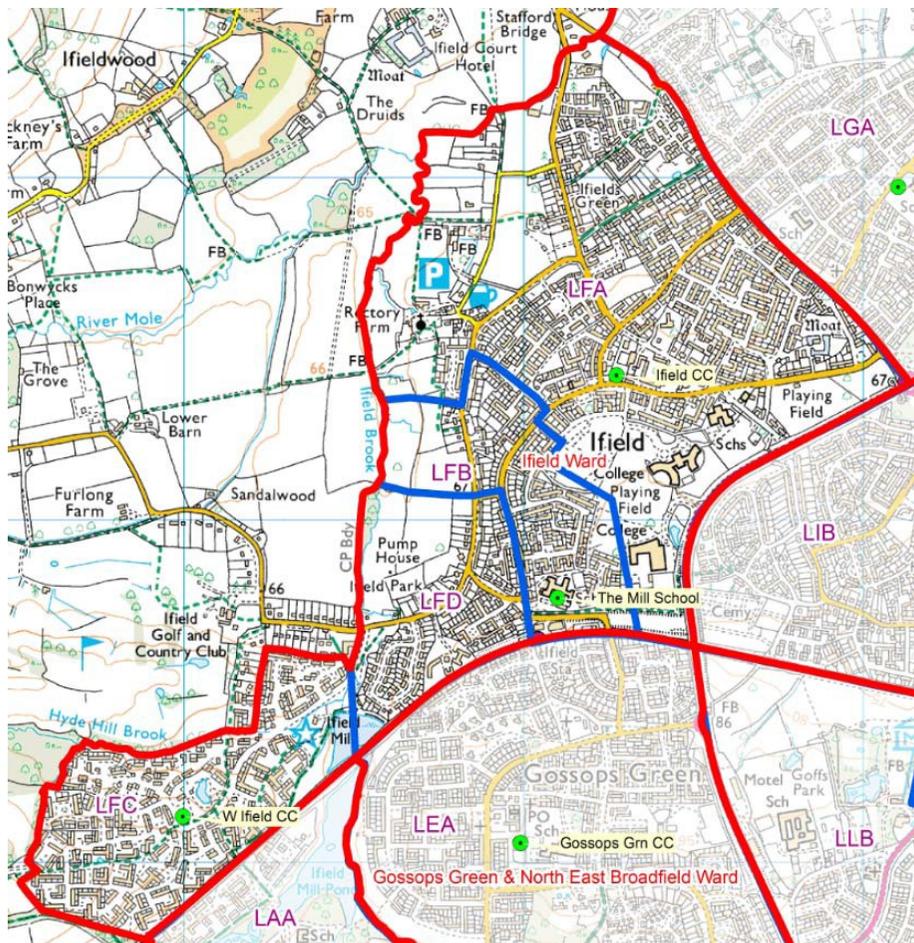
Ward Name			Furnace Green			
Proposed Polling District 1 <sup>st</sup> February 2019	Polling District 2018	Residential Properties	Total Electors	Postal voters	Polling station voters	Polling place
LD	LD	2389	4540	979	3531	Furnace Green Community Centre



**Changes Proposed:**  
No changes proposed



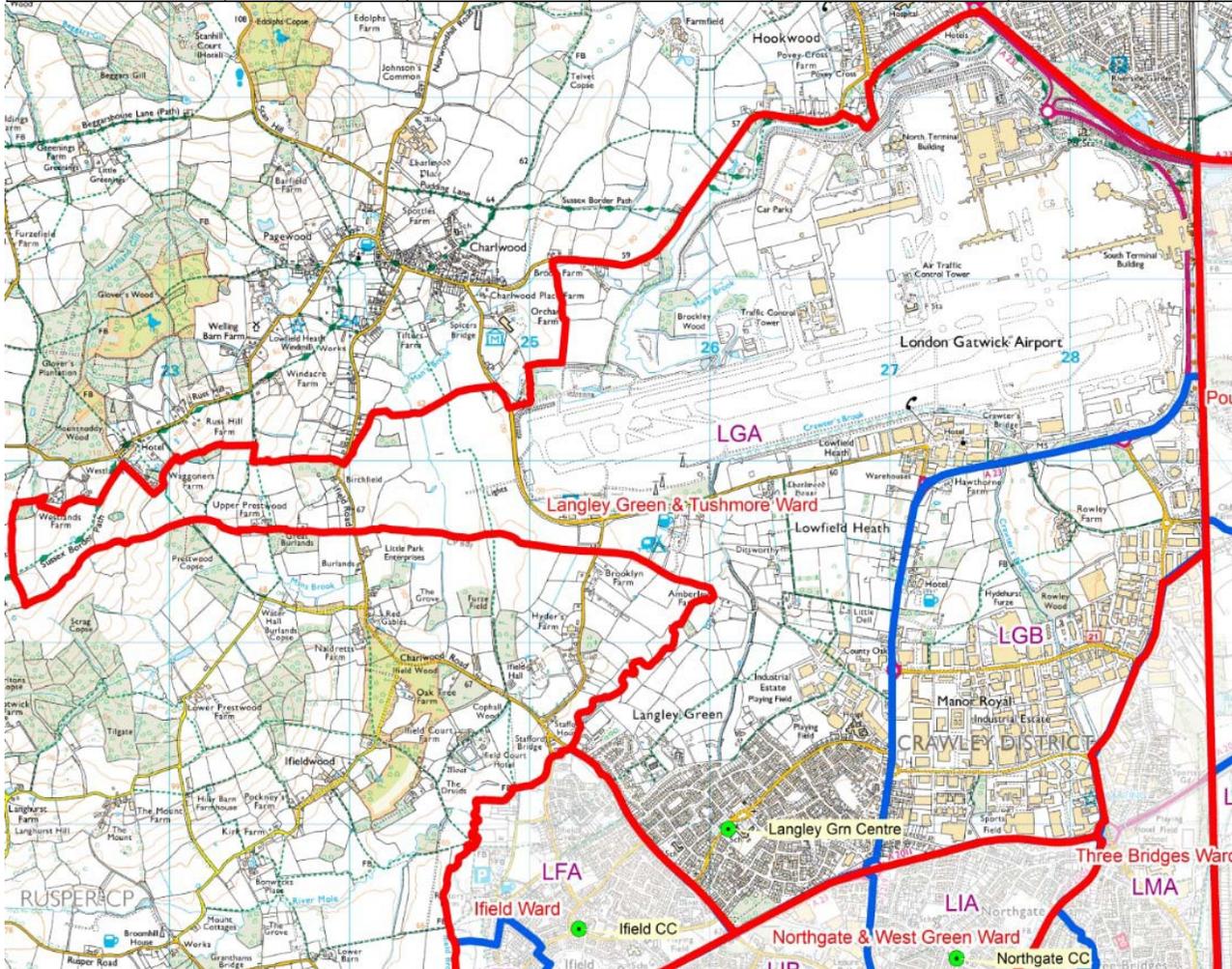
Ward Name			Ifield			
Proposed Polling District 2019	Polling District 2018	Residential Properties	Total Electors	Postal voters	Polling station voters	Polling place
LFA	LFA, LG (part)	2040	3453	783	2670	Ifield Community Centre
LFB	LFB	424	783	177	606	The Mill Primary School
LFC	LFC	1319	2204	339	1865	Ifield West Community Centre
LFD	LFD	276	607	147	460	The Mill Primary School



**Changes Proposed:**

The Orchards to vote at Ifield Community Centre instead of Langley Green Centre

Ward Name			Langley Green and Tushmore			
Proposed Polling District 2019	Polling District 2018	Residential Properties	Total Electors	Postal voters	Polling station voters	Polling place
LGA	LG	3042	5767	952	4815	Langley Green Centre
LGB	LI (part)	354	440	86	354	Northgate Community Centre



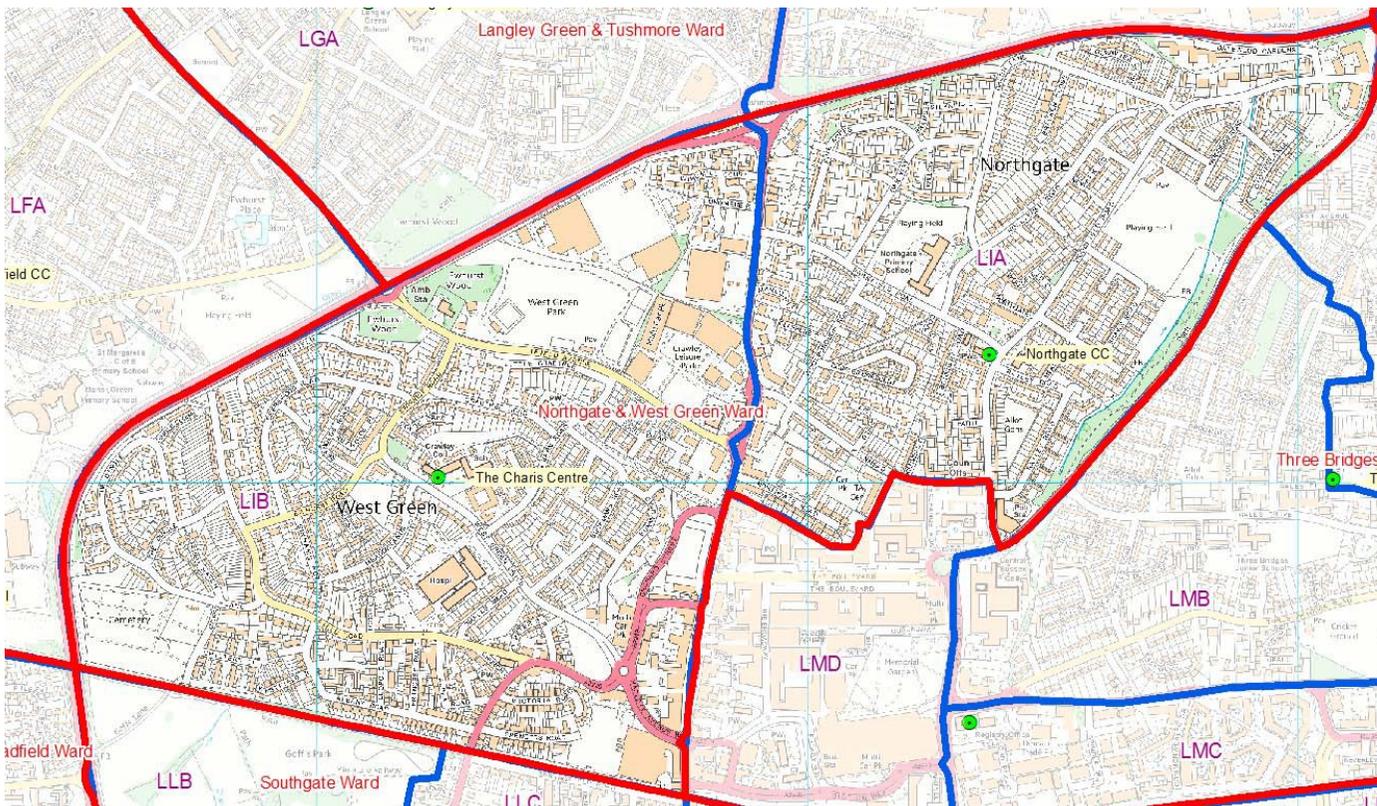
**Changes Proposed:**  
New Polling district LGB to continue to vote at Northgate Community Centre

Ward Name			Maidenbower			
Proposed Polling District 2019	Polling District 2018	Residential Properties	Total Electors	Postal voters	Polling station voters	Polling place
LHA	LHA	1618	2779	549	2230	Maidenbower Community Centre
LHB	LHB	2093	3818	746	3072	The Brook School, Salterns Road



**Changes Proposed:**  
No changes proposed

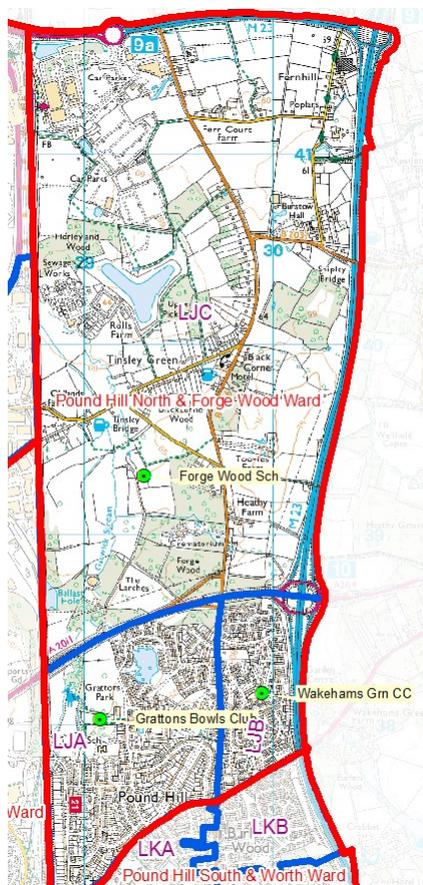
Ward Name			Northgate & West Green			
Proposed Polling District 2019	Polling District 2018	Residential Properties	Total Electors	Postal voters	Polling station voters	Polling place
LIA	LI (part)	1618	2779	549	2230	Northgate Community Centre
LIB	LO	2668	3742	691	3051	The Charis Centre



**Changes Proposed:**

No changes proposed

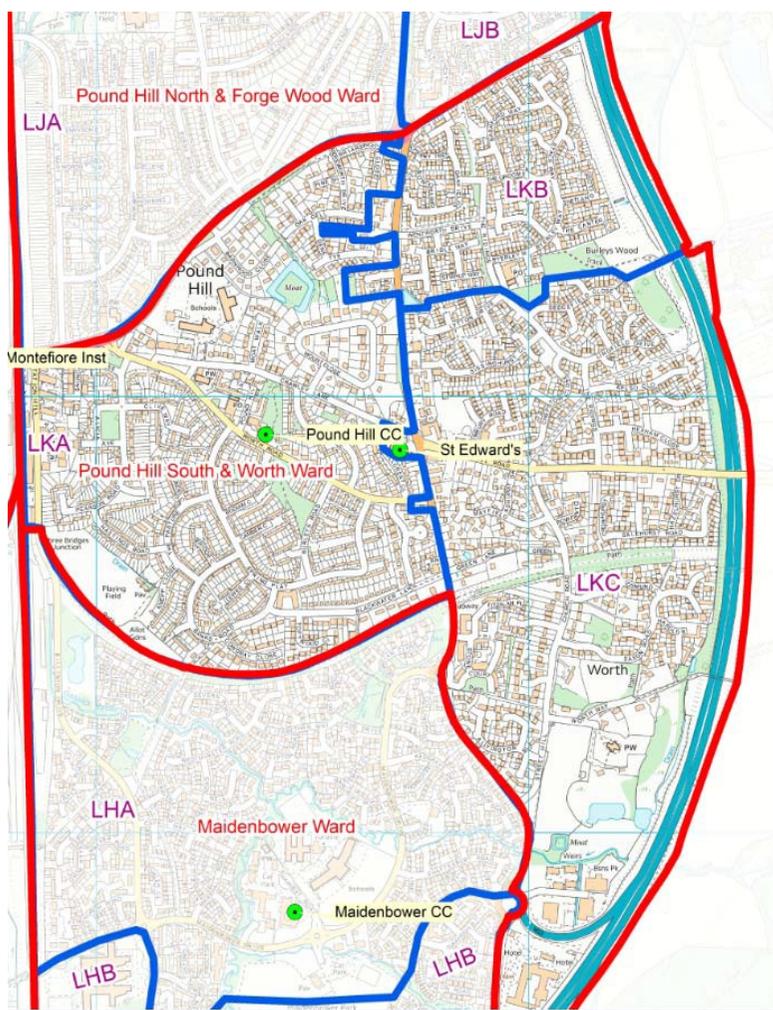
Ward Name			Pound Hill North & Forge Wood			
Proposed Polling District 2019	Polling District 2018	Residential Properties	Total Electors	Postal voters	Polling station voters	Polling place
LJA	LJA	1618	2779	549	2230	The Grattons Indoor Bowls Club
LJB	LJB	966	1741	262	1479	Wakehams Green Community Centre
LJC	LJB	1136	1108	174	934	Forge Wood Primary School



**Changes Proposed:**

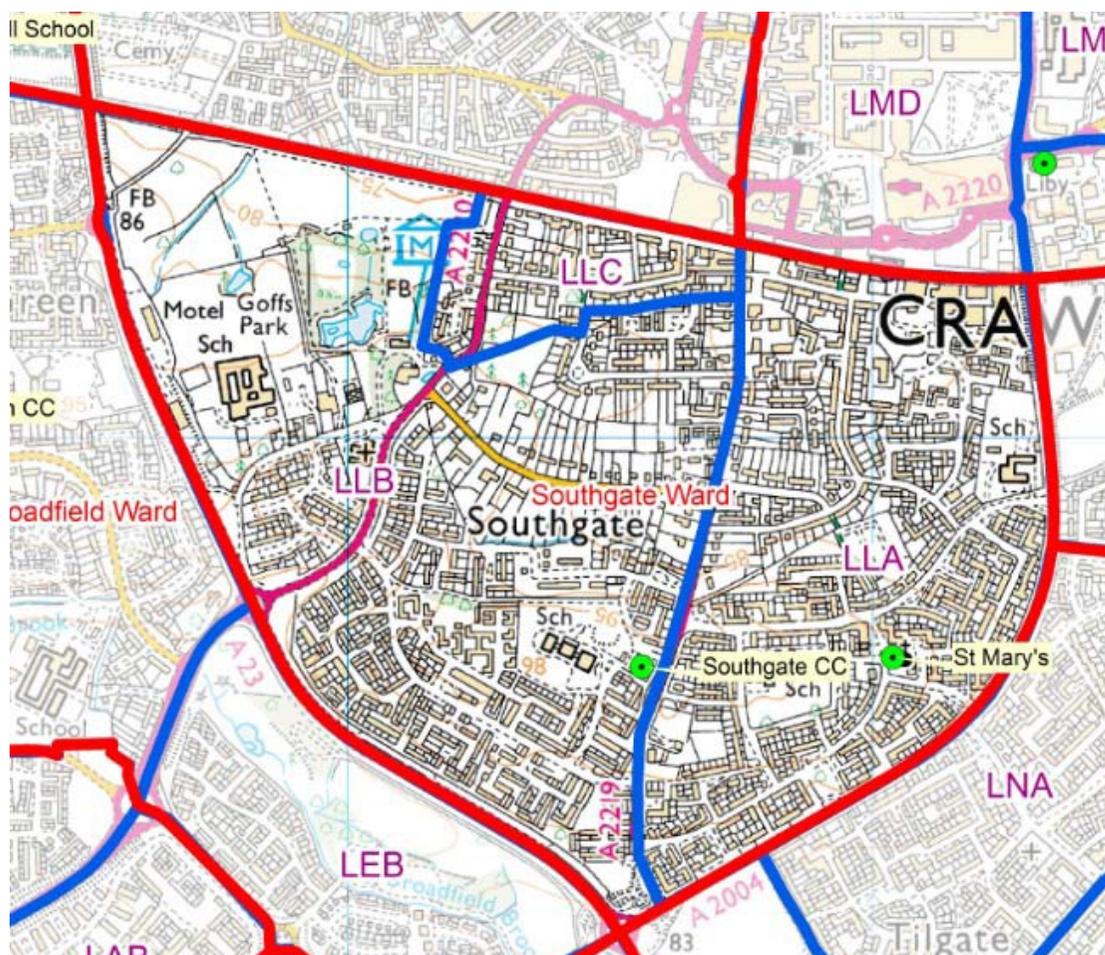
New polling district LJC to be created for the Forge Wood voting at Forge Wood Primary School.

Ward Name			Pound Hill South & Worth			
Proposed Polling District 2019	Polling District 2018	Residential Properties	Total Electors	Postal voters	Polling station voters	Polling place
LKA	LKA	1528	2738	473	2265	Pound Hill Community Centre
LKB	LKB	2093	1191	260	931	St Edward the Confessor
LKC	LKC	1551	2338	572	1766	St Edward the Confessor



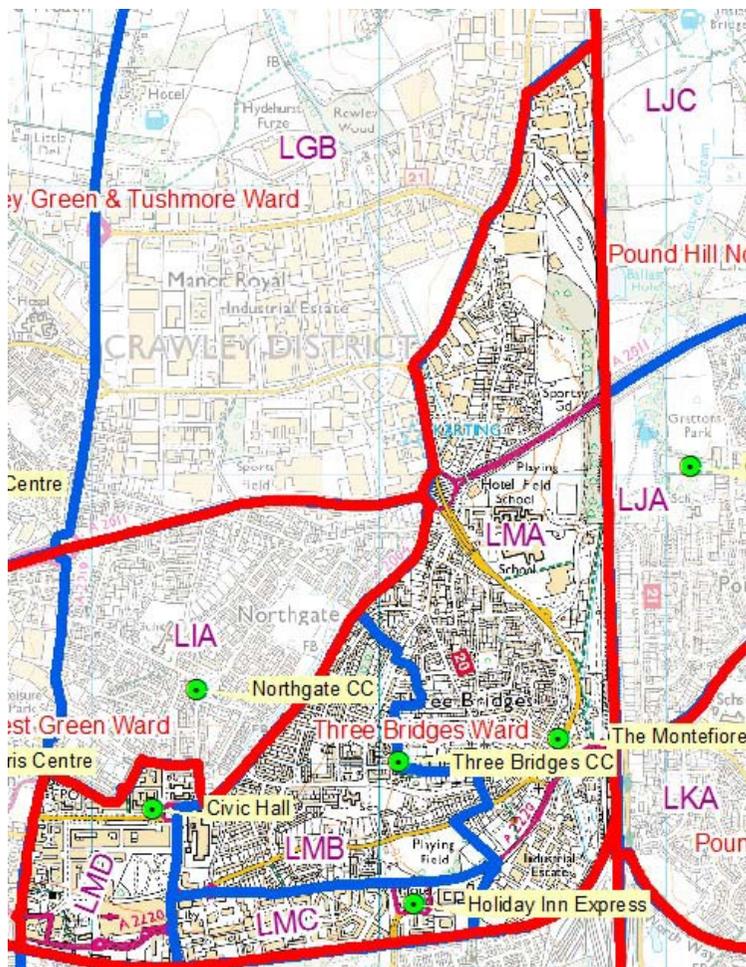
**Changes Proposed:**  
No changes proposed

Ward Name			Southgate			
Proposed Polling District 2019	Polling District 2018	Residential Properties	Total Electors	Postal voters	Polling station voters	Polling place
LLA	LLA	1725	2895	607	2288	St Mary's Church Hall
LLB	LLB	1705	2902	719	2183	Southgate West Community Centre
LLC	LLC	462	609	143	466	Southgate West Community Centre



**Changes Proposed:**  
No changes proposed

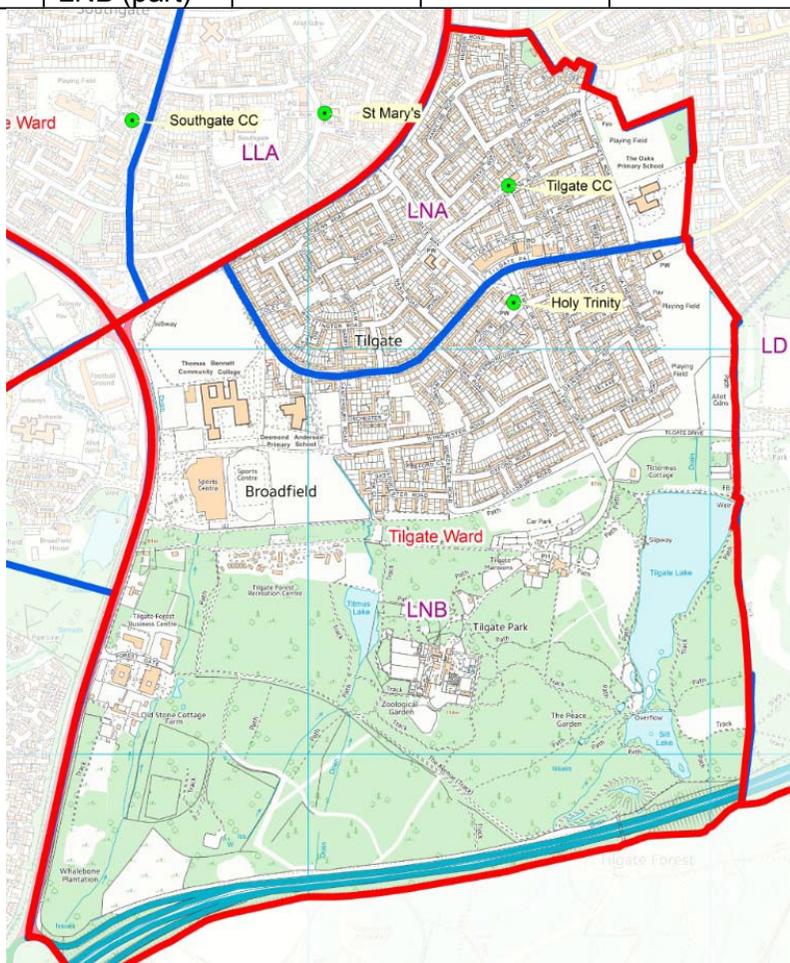
Ward Name			Three Bridges			
Proposed Polling District 2019	Polling District 2018	Residential Properties	Total Electors	Postal voters	Polling station voters	Polling place
LMA	LMA	1594	2776	554	2232	Montefiore Institute
LMB	LMB	955	1778	346	1432	Three Bridges Community Centre
LMC	LMC	896	1150	169	981	Holiday Inn Express
LMD	LI (part)	352	328	64	264	The Civic Hall



**Changes Proposed:**

New polling district for Crawley Town Centre to be designated LMD with voting at the Civic Hall

Ward Name			Tilgate			
Proposed Polling District 2019	Polling District 2018	Residential Properties	Total Electors	Postal voters	Polling station voters	Polling place
LNA	LNA ( part) LNB (part)	1309	2776	441	1952	Tilgate Community Centre
LNB	LNA ( part) LNB (part)	1162	2087	314	1773	Holy Trinity Church Hall



**Changes Proposed:**

To retain existing polling stations with polling districts created north and south of Ashdown Drive in place of the existing east west boundary to better reflect the location of the polling places and to reduce voter confusion.

# Agenda Item 4

## Crawley Borough Council

### Report to Governance Committee

5<sup>th</sup> March 2019

#### **Update Report on Standards, Including the Review of Local Government Ethical Standards by the Committee on Standards in Public Life**

Report of the Monitoring Officer: Head of Legal, Democracy and HR - Report LDS/145

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#### **1. Purpose**

- 1.1 To provide the Committee with background information on the Council's adopted Code of Conduct for Councillors and Arrangements for dealing with written allegations that a Member has breached the Code of Conduct together with an update on Code of Conduct Complaints. The Report also summaries the recently published Report by the Committee on Standards in Public life on its review of current arrangements of Local Government Ethical Standards.

#### **2. Recommendations**

- 2.1 The Committee is asked to
- a) Note the report of the Monitoring Officer.
  - b) Request that the Monitoring Officer submit a further report to the Governance Committee in June for the Committee to consider the implementation of the Best Practice recommendations as set out in the Report by the Committee on standards in Public Life on its review of Local Government Ethical Standards

#### **3. Background**

- 3.1 The Localism Act 2011 introduced fundamental changes to the system of The Regulation of Standards of Conduct for Elected and Co-opted Members abolishing the previous standards regime whilst introducing a more "light touch" standards arrangements. The Localism Act included in brief the following measures:-
- The abolition of Standards for England (previously the 'Local Government Standards Board for England');
  - A requirement for local authorities to promote and maintain high standards of conduct;
  - The abolition of the previous statutory sanctions;
  - Provision for the introduction of local codes of conduct and local responsibility for investigating alleged breaches of those codes. Local

# Agenda Item 4

authorities were to establish a code, which was to be consistent on the seven 'Nolan principles' of public life, and to specify sanctions for breaking it;

- Requirements concerning how local codes of conduct should treat the registration and disclosure of pecuniary and other interests;
- The creation of a new criminal offence of failing to comply with the statutory requirements for disclosure of pecuniary interests;
- The appointment of an Independent Person.

## Code of Conduct

3.2 Section 27 of the Localism Act 2011 places a duty on relevant authorities to promote and maintain high standards of conduct by Members and Co-opted Members of the authority. For this purpose the Council must adopt a Code dealing with the conduct that is expected of Members and Co-opted Members of the authority when acting in that capacity. The Code when viewed as a whole must be consistent with the following set of principles of public life commonly referred to as the Nolan Principles:-

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

3.3 Further, a Code is required to include provision for the registration of Disclosable Pecuniary Interests and Non-Pecuniary Interests. The Monitoring Officer is required to establish and maintain a register of interests of Members and Co-opted Members.

3.4 The Council's current Code of Conduct was adopted by the Council on 18<sup>th</sup> July 2012 and is incorporated in the Council's Constitution.

## Complaints about Breaches of the Code of Conduct and Investigating Alleged Breaches

3.5 The 2011 Act requires local authorities to have mechanisms in place to investigate allegations that a Member has not complied with the Code of Conduct, and arrangements under which decisions on allegations may be made. The Act removed the statutory requirement for local authorities to have a Standards Committee.

3.6 The Council abolished the Standards Committee in 2012 and delegated Standards functions in the main to the Governance Committee. The Appointments and Investigating Committee has responsibility with Members sitting as a Panel when considering the recommendations of an Independent Person where a complaint has been the subject of a formal investigation and where a Member has been found to have breached the Code of Conduct following a hearing before an Independent Person.

3.7 The Council adopted arrangements for dealing with Code of Conduct complaints on 18<sup>th</sup> July 2012. All complaints that a Member has breached the Code of Conduct must be dealt with in accordance with those arrangements.

3.8 Those arrangements enable the Monitoring Officer to assess the complaint and govern the roles of the Monitoring Officer and the Independent Person when considering Code of Conduct complaints.

# Agenda Item 4

- 3.9 Set out at Appendix A is a summary of all Code of Conduct complaints that have been dealt with under those arrangements.

## The Independent Person

- 3.10 Under the Localism Act 2018 Councils must appoint at least one Independent Person to advise the Council before it makes a decision on an allegation that it has decided to formally investigate. The Independent Person may also give the Council their views on any other allegations.

## Local Government Ethical Standards: Committee on Standards in Public Life

- 3.11 The Committee on Standards in Public Life was established in 1994 and is responsible for promoting the Seven Principles of Public life commonly known as the Nolan Principles, the principles of public life apply to anyone who works as a public office-holder and includes all those who are elected or appointed to public office. The Committee has conducted a Review of local government ethical standards with regard to the effectiveness of the current arrangements for standards in local government, particularly in light of the changes made by the Localism Act 2011. Their Report was published on 30<sup>th</sup> January 2019.

- 3.12 The Terms of Reference for the Review were:-

- (a) To examine the structures, processes and practice in local government in England for:
  - a. Maintaining Codes of Conduct for local Councillors;
  - b. Investigating alleged breaches fairly and with due process;
  - c. Enforcing Codes and imposing sanctions for misconduct;
  - d. Declaring interests and managing conflicts of interest; and
  - e. Whistleblowing.
- (b) To assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government.
- (c) To make any recommendations for how they can be improved; and
- (d) To note any evidence of intimidation of Councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

- 3.13 The Review considered all levels of local government in England, including town and parish Councils (excluding Combined Authorities, metromayors and the Mayor of London).

- 3.14 The wide-ranging report, which runs to over 100 pages, finds that while the majority of Councillors and officers maintain high standards of conduct, there is clear evidence of misconduct by some Councillors. The majority of these cases relate to bullying, harassment or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of Councillors. The Committee thought that arrangements for local management of standards should continue but that these needed to be supported by safeguards. The report also raises concerns about risks to standards under the current rules governing declaring interests, gifts and hospitality.

# Agenda Item 4

- 3.15 The report provides an excellent review of the current framework governing the behaviour of local government Councillors and executives in England and makes a number of recommendations to promote and maintain the standards expected by the public. While it identifies numerous points of best practice, it makes 26 separate recommendations for improvement.
- 3.16 Key Recommendations include:
- (a) **Local Authorities to retain ownership of their own Codes of Conduct:** the report finds considerable variation in the length, quality and clarity of local authority codes of conduct. It therefore recommends enhancing quality and consistency by requiring the Local Government Association to create an updated model code of conduct. However the Committee recognised the importance of authorities having ownership of their codes and so did not recommend that adoption of the national model should be mandatory. In a bid to help ease the burden on principal authorities (who must investigate code breaches by parish Councillors), the report also recommends requiring parish councils to adopt the code of conduct of their principal authorities or the new model code.
  - (b) **Declaring and Managing Interests, gifts and hospitality:** the report considers that current arrangements for declaring Councillors' interests are too narrow and do not meet public expectations, so it suggests refining the arrangements for declaring and managing interests, including extending the list of registrable interests to include two categories of non-pecuniary interest: (1) relevant unpaid commercial interests such as unpaid directorships; and (2) trusteeship or membership of organisations that seek to influence opinion or public policy. A register of gifts and hospitality should be established with Councillors recording any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single person.
  - (c) **A new "objective" test for when Councillors must withdraw or not vote:** the need to update the test for when Councillors are forbidden from voting or participating in discussion on matters in which they have an interest. The report recommends the test be overhauled and that Councillors be required to refrain from voting or withdraw whenever they have any interest at all – whether registered or not – that a member of the public would reasonably regard as so significant as to likely prejudice the Councillor's decision.
  - (d) **Strengthening the sanctions system:** the report considers the current sanctions insufficient and so recommends allowing local authorities to suspend Councillors without allowances for up to six months, with suspended Councillors enjoying a right of appeal to the Local Government Ombudsman for investigation and a binding decision on the matter.
  - (e) **Presumption of official capacity:** the report recommends combatting poor behaviour by presuming Councillors to act in an official capacity in their public conduct, including statements made on publicly-accessible social media. This arises from the perennial concern that the current understanding of public and private capacity is too narrow, undermining public confidence.

The report further concludes that there is no need for a centralised body to govern and adjudicate on standards, and that various benefits exist to local authorities maintaining their responsibility for implanting and applying the Seven Principles of Public Life.

# Agenda Item 4

## 3.17 Other Conclusions and recommendations include:

- (a) Assisting local authority Monitoring Officers, the “lynchpin of the arrangements for upholding ethical standards”, by extending disciplinary protections and offering additional training for the statutory officers who support them.
- (b) Giving local authorities a discretionary power to establish a standards committee to advise on standards issues and decide on alleged breaches and/or sanctions for breaching the code of conduct.
- (c) Abolishing the current criminal offences in the Localism Act 2011 relating to disclosable pecuniary interests, which are said to be disproportionate in principle and ineffective in practice.
- (d) A strengthened role for the independent Person.
- (e) Requiring local authorities to take a range of steps to prevent and manage conflicts of interest that can arise when decisions are made in more complex and potentially less transparent contexts such as Local Enterprise Partnerships and joint ventures.
- (f) Fostering an ethical culture requires leadership from a number of individuals and groups for example a standards Committee, the CE, political group leaders as well as the Leader of the Council. Political groups should set clear expectations of behaviour of their members, and senior officers should maintain effective relationships with political groups working informally to resolve standards issues where appropriate. Expected standards of behaviour to be embedded in effective training Councillors should be required to attend formal training given by their authorities training, with national parties adding the same requirement to their model group rules.

3.18 The report recognises that many of its recommendations would require primary legislation and therefore be subject to parliamentary timetabling. Some of the recommendations – in particular those relating to registrable interests, statutory officers and formal training for Councillors – could however be implemented relatively quickly. The report also sets out a number of best practice recommendations which local authorities can and should implement. The Committee intends to monitor the uptake of its suggestions in 2020.

3.19 The List of Recommendations and the list of Best Practice Recommendations is set out in Appendix B. Following a full consideration of the Report, including the best practice recommendations by the Monitoring Officer, a further report will be prepared for the meeting for the Governance Committee in June to consider the implementation of the best practice recommendations.

## 4. Background Papers

[Local Government Ethical Standards A Review by the Committee on Standards in Public Life January 2019](#)

Report author and contact officer: *Ann Maria Brown Head of Legal, Democracy and HR and Council’s Monitoring Officer*  
Email [ann-maria.brown@crawley.gov.uk](mailto:ann-maria.brown@crawley.gov.uk)

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**SUMMARY OF CODE OF CONDUCT COMPLAINTS**  
**FROM 2012 – PRESENT**

No	Date of Complaint	Name of Complainant	Subject Member	Code Allegation	Outcome
1.	2012/1  15.12.12	Former Councillor	Former Councillor	Breach of Paras: 3 (1) 3 (3) 3 (4) 3 (5) 3 (8)	<p><u>Decision</u></p> <p>The Monitoring Officer has an instruction to provide an explanation of the process for appointments to major Project Boards which should be sufficient for both parties. Completed</p> <p>No further action on this complaint There is no public benefit in terms of recommending informal action or carrying out a formal investigation on this complaint.</p> <p>The Monitoring Officer has informed and consulted with the Independent Person on this complaint. The Independent Person supports the decision on this complaint.</p>
2.	2013/1  2.1.13	Former Councillor	Former Councillor	Paras: 3 (4) 3 (5) 3 (6)	<p><u>Decision</u></p> <p>On the papers, it is difficult to determine if the Councillor had a personal and prejudicial interest in the determination of the complainant's Planning Application when it came before the Development Control Committee as the views as set out in the complaint are solely subjective and personal opinions of the complainant.</p> <p>It is proposed that it is not in the public interest to carry out</p>

**SUMMARY OF CODE OF CONDUCT COMPLAINTS**  
**FROM 2012 – PRESENT**

No	Date of Complaint	Name of Complainant	Subject Member	Code Allegation	Outcome
					<p>an investigation or to carry out other steps on this complaint but that this matter can be dealt with informally by the Monitoring Officer communicating with the Councillor so that the Councillor can consider their position in light of the issues identified in the complaint and in particular when attending the next Development Control Committee to decide whether member needs to disclose an interest in the planning application. Also, it is proposed that the Councillor contacts the complainant in advance of the meeting to explain their position - Completed</p> <p>The Monitoring Officer has informed and consulted with the Independent Person on this complaint. The Independent Person supports the decision on this complaint.</p>
3.	<p><b>2013/2</b></p> <p>1.3.13</p> <p>5.3.13</p> <p>7.3.13</p>	<p>Former Councillor</p> <p>Councillor</p> <p>Former Councillor</p>	<p>)</p> <p>)</p> <p>)</p> <p>) Councillor</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Para: 3 (1)</p>	<p><u>Decision</u></p> <p>Matter dealt with informally outside of complaint's process between the Groups. Apology suggested as an outcome. No apology tendered.</p> <p>No Further Action.</p> <p>No public benefit in taking any other steps.</p> <p>The Monitoring Officer has informed and consulted with the Independent Person on this complaint. The Independent Person supports the decision on this complaint</p>

**SUMMARY OF CODE OF CONDUCT COMPLAINTS**  
**FROM 2012 – PRESENT**

No	Date of Complaint	Name of Complainant	Subject Member	Code Allegation	Outcome
4.	2013/3/1 2013/3/2 2013/3/3 2013/3/4 2013/4/5 2013/3/6 2013/3/7 2013/3/8 2013/3/9 2013/3/10 2013/4/11 2013/3/12 2013/3/13  <u>7.7.13</u>	Member of the Public	6 Councillors  And against 7 Former Councillors	Paras: 3 (1) 3 (3) 3 (4) 3 (9) (i & ii)	<p><u>Decision</u></p> <p>Monitoring Officer, has considered the allegations under the Council’s arrangements for dealing with Code of Conduct complaints and have informed and consulted with the Independent Person on these complaints.</p> <p>No further action is being taken on the complaints as the Code of Conduct has not been engaged.</p> <p>Although the Code of Conduct has not been engaged by the complaints, Monitoring Officer to remind Members on the use of Council resources, particularly with reference to use of the Councillor’s official email address – Completed</p> <p>The Monitoring Officer has informed and consulted with the Independent Person on this complaint. The Independent Person supports the decision on this complaint</p>

**SUMMARY OF CODE OF CONDUCT COMPLAINTS**  
**FROM 2012 – PRESENT**

No	Date of Complaint	Name of Complainant	Subject Member	Code Allegation	Outcome
5.	<p>2013/4/1/1 2013/4/1/2</p> <p>2013/4/2 2013/4/3</p>	<p>Former Councillor</p> <p>Former Councillor</p>	<p>Councillor</p> <p>5 Councillors</p>	<p>Para 3(7) Para 3 (3)</p> <p>Paras: 3(3)</p>	<p><u>Decision on Complaint 2013/4/1/1 and 2013/4/1/2</u></p> <p>No further action on the complaints.</p> <p>The evidence provided in support of by the former councillor on the first complaint relates to matters that were conducted in a private capacity. The Code of Conduct only applies when a Member is acting in an official capacity. This is addressed in Paragraph 2 of the Councillor’s Code of Conduct. Councillor not acting on Council business nor representing himself as acting on behalf of the Council. The Code of Conduct is not engaged.</p> <p>With reference to second complaint, it is alleged that the member failed to stop bullying and intimidation by other Councillors towards the complainant. The Councillors were not acting in an official capacity or engaged on Council business so the Code of Conduct is not engaged.</p> <p>The Monitoring Officer has informed and consulted with the Independent Person on this complaint. The Independent Person supports the decision on this complaint.</p>

**SUMMARY OF CODE OF CONDUCT COMPLAINTS**  
**FROM 2012 – PRESENT**

No	Date of Complaint	Name of Complainant	Subject Member	Code Allegation	Outcome
	<p>2013/4/4 2013/4/5 2013/4/6 2013/4/7 2013/4/8 2013/4/9 2013/4/10 2013/4/11 2013/4/12 2013/4/13</p> <p>8.7.13</p>		And 7 former Councillors	3(4)	<p><u>Decision on Complaint 2013/4/2 – to 2013/4/13</u></p> <p>No further action on the complaints, The Code of Conduct is not engaged, It was alleged that the complainant had been subject to bullying and intimidation by the Councillors it was clear that those Councillors were not acting in an official capacity or engaged on Council business so the Code of Conduct is not engaged.</p> <p>The Monitoring Officer has informed and consulted with the Independent Person on this complaint. The Independent Person supports the decision on this complaint</p>
6.	2013/5	Member of the Public	Councillor		<p><u>Decision</u></p> <p>No further action as Code of Conduct not engaged (Internal party matter)</p> <p>The Monitoring Officer has informed and consulted with the Independent Person on this complaint. The Independent Person supports the decision on this complaint</p> <p>MO issued Guidance on : FOI/Data Protection Use of Council resources Confidential information</p>

**SUMMARY OF CODE OF CONDUCT COMPLAINTS**  
**FROM 2012 – PRESENT**

No	Date of Complaint	Name of Complainant	Subject Member	Code Allegation	Outcome
7.	2013/6 7.7.13	Former Councillor	Former Councillor		<p><u>Decision</u></p> <p>Complaint dealt with outside of complaints process. Code of Conduct not engaged.</p> <p>The Monitoring Officer has informed and consulted with the Independent Person on this complaint. The Independent Person supports the decision on this complaint</p>
8.	2013/7 September 2013	Member of the Public	2 Councillors	Paras: 3 (1) 3 (7)	<p><u>Decision</u></p> <p>Complaint not upheld. No breach of the Code of Conduct.</p> <p>The Monitoring Officer has informed and consulted with the Independent Person on this complaint. The Independent Person supports the decision on this complaint.</p> <p>Letter sent to Complainant from MO</p>
9.	2013/8 December 2013	Councillor	Former Councillor	Paras: 3 (1) 3 (3) 3 (4) 3 (7)	<p><u>Decision</u></p> <p>Complaint upheld for breach of paragraph 3(1) but not upheld for others as on information submitted with the complaint appears that the matter is Tit for tat. Guidance on use of Social Media issued to Members by Monitoring Officer.</p>

**SUMMARY OF CODE OF CONDUCT COMPLAINTS**  
**FROM 2012 – PRESENT**

No	Date of Complaint	Name of Complainant	Subject Member	Code Allegation	Outcome
					Independent Person consulted by Monitoring Officer, and supported views of Monitoring Officer. Specific views of Independent Person conveyed to subject Member.
10.	<b>2014/1</b>  5.3.14	Councillor	Former Councillor	Paras: 3 (3) 3 (7)	<p><u>Decision</u></p> <p>Matter to be resolved informally with Mtgs with: MO, IP &amp; Leader of Group MO, IP &amp; Former Cllr IP recommended that Former Cllr to apologise to Complainant.</p> <p>Independent Person consulted by Monitoring Officer, and supported views of Monitoring Officer.</p> <p>Member resigned from Council</p>
11.	<b>2015/1</b>  19.6.15	Member of the Public	Former Councillor	3(1) 3(7)	<p><u>Decision</u></p> <p>Complaint came via Contact Centre (telephone call).</p> <p>Monitoring Officer wrote to the member of the public providing details on how to make a complaint that a Member had breached the Code of Conduct. No further details on complaint received. No further action</p>

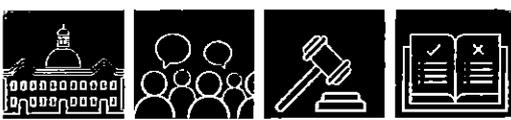
**SUMMARY OF CODE OF CONDUCT COMPLAINTS**  
**FROM 2012 – PRESENT**

No	Date of Complaint	Name of Complainant	Subject Member	Code Allegation	Outcome
12.	<b>2015/2</b>  13.7.15 and 15.7.15	Member of the Public	Councillor	Para: 3(8)	<p><u>Decision</u></p> <p>Code of Conduct not engaged. Councillor acting in a private capacity not as a Councillor.</p> <p>No further action of this complaint.</p> <p>The Monitoring Officer has informed and consulted with the Independent Person on this complaint. The Independent Person supports the decision on this complaint</p>
13.	<b>2018/1</b>	Councillor	Councillor	Paras: 3 (1) 3 (3) 3 (7) 3 (8)  Failure to disclose an interest.	<p><u>Decision</u></p> <p>Complaint upheld, dealt with by other action.</p> <p>Written apology to the Chair of Committee. Requirement of member to attend additional training on the Code of Conduct and Interests. Independent Person consulted who supports views of the Monitoring Officer on the complaint.</p> <p>Written apology given, further training given to member by the MO and Deputy MO</p>

**SUMMARY OF CODE OF CONDUCT COMPLAINTS**  
**FROM 2012 – PRESENT**

No	Date of Complaint	Name of Complainant	Subject Member	Code Allegation	Outcome
14.	2018/2	Councillor	Councillor	Paras: 3 (1) 3 (7)	<p><u>Decision</u></p> <p>Monitoring Officer referred complaint to Independent Person for his consideration and determination.</p> <p>The Original Recommendations of the Independent Person on this complaint:-</p> <ul style="list-style-type: none"> <li>• Written apology to the Mayor;</li> <li>• Removal of the offending tweet;</li> <li>• Recognition of Role of Mayor by the Member;</li> <li>• Statement at Full Council;</li> <li>• That Member should undertake to follow Code by no inappropriate use of a twitter account.</li> </ul> <p>That following a meeting between the IP, the MO and the subject member the Recommendations of the IP were</p> <ul style="list-style-type: none"> <li>• That the subject member should take steps at Council meetings and other events to publicly recognise the role of Mayor</li> <li>• That the Member should remove the offending tweet</li> <li>• That the Member should undertake to follow the Code of Conduct by not making inappropriate use of a twitter account</li> </ul> <p>Compliance with the Revised Recommendations.</p>

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# List of recommendations

Number	Recommendation	Responsible body
1	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association
2	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	Government
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government
4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	Government
5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	Government

written into national party model group rules. Maintaining an ethical culture day-to-day relies on an impartial, objective Monitoring Officer who has the confidence of all councillors and who is professionally supported by the Chief Executive.

An ethical culture will be an open culture. Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision-making processes. Whilst local press can play an important role in scrutinising local government, openness must be facilitated by authorities' own processes and practices.



Number	Recommendation	Responsible body
7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter".	Government
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government
9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government
10	A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government
11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government / all local authorities
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government
13	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government



List of recommendations

Number	Recommendation	Responsible body
14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government
15	The Local Government Transparency Code should be updated to require councils to publish annually, the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government
17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils
20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government
21	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government
22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government



List of best practice

## List of best practice

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.



<b>Number</b>	<b>Recommendation</b>	<b>Responsible body</b>
23	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government
24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties
26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.



# Introduction

The Committee on Standards in Public Life (the Committee) was established in 1994 by the then Prime Minister, and is responsible for promoting the Seven Principles of Public Life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership – commonly known as the Nolan Principles<sup>1</sup>

The Committee has had a long-standing interest in local government, which was the subject of its third report in 1997, and which it has considered on a number of occasions since then. Since we last reviewed standards arrangements in local government, the Committee has maintained a watching brief, and has received regular correspondence relating to local government. Our other recent reviews have also received evidence relevant to the maintenance of standards in local government. This review was not prompted, however, by any specific allegations of misconduct or council failure, but rather to review the effectiveness of the current arrangements for standards in local government, particularly in light of the changes made by the Localism Act 2011.

The terms of reference for our review were to:

- 1. Examine the structures, processes and practices in local government in England for:**
  - a. Maintaining codes of conduct for local councillors
  - b. Investigating alleged breaches fairly and with due process
  - c. Enforcing codes and imposing sanctions for misconduct
  - d. Declaring interests and managing conflicts of interest
  - e. Whistleblowing
- 2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government**
- 3. Make any recommendations for how they can be improved**
- 4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation**

<sup>1</sup> <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

# Agenda Item 5

## Crawley Borough Council

### Report to Governance Committee

5 March 2019

## Constitutional Amendments for Development Consent Orders and Planning Performance Agreements

Report of the Head of Planning and Economy – PES/315

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### 1. Purpose

- 1.1 This report proposes amendments to the Constitution to secure appropriate delegations for decision-making on responses to any Development Consent Order (DCO) applications, and to enter into Planning Performance Agreements (PPAs). These changes are required now to ensure the Council is in a position to make timely responses in accordance with strict statutory timescales and to secure additional resources should Gatwick Airport bring forward a DCO application.

### 2. Recommendations

- 2.1 To the Governance Committee:

**The Committee is requested to recommend to the Full Council the approval of the following changes to the Council's Constitution:**

- (i) An additional responsibility for decision making to the Planning Committee: "Where a Written Representation is to be provided to a Development Consent Order Application Process, if the Council is a host authority";
- (ii) That all other responses, decisions and actions during the Development Consent Order application process including The Examination are delegated to the Head of Economy and Planning;
- (iii) That the negotiation and completion of development consent obligations (Section 106 planning agreements) are delegated to the Head of Economy and Planning;
- (iv) That any subsequent responses to non-material and material changes are delegated to the Head of Economy and Planning;
- (v) That decisions on the discharge of Requirements are delegated to the Head of Economy and Planning;
- (vi) That power to take enforcement action under Part 8 of The Planning Act 2008 is delegated to the Head of Economy and Planning and The Head of Legal, Democracy and HR;
- (vii) That Planning Performance Agreements are negotiated and agreed by the Head of Economy and Planning.

# Agenda Item 5

## **3. Reasons for the Recommendations**

- 3.1 If a DCO application for a nationally significant infrastructure project in Crawley is made to the Planning Inspectorate, (PINS), for example by Gatwick Airport, the Council will need to make timely responses at various stages in the process to meet strict statutory deadlines. Therefore, in order to ensure Crawley Borough Council's views can be taken into account by PINS there is a need to put in place appropriate delegations to agree responses.
- 3.2 A Planning Performance Agreement (PPA) is a project management tool and can be negotiated between the Local Planning Authority and an Applicant on any planning application casework for development proposals which create significant amounts of work and have resource implications. They are therefore regularly used for DCO applications to agree timeframes and secure additional resources.
- 3.3 The proposed amendments to the Constitution will secure the appropriate delegations for timely decision-making for the various responses required for any DCO applications, and to enter into PPAs for the Gatwick DCO and any other DCOs or planning applications in the future.

## **4. Background**

- 4.1 The DCO process is the planning procedure for dealing with proposals for nationally significant infrastructure projects. It was established by the Planning Act 2008, as amended, and involves an Examination of major proposals relating to Energy, Transport, Water, Waste, and Waste Water, with PINS handling the process and the Secretary of State making the decision on the Application.
- 4.2 The DCO process contains many areas where local authorities, particularly those in which the development is located, have a specific role, and their participation is expected throughout the process. Participation is not obligatory but it is strongly advised. Local authorities are expected to provide a local perspective of potential impacts at the pre-application stage and to participate in the Examination. They are likely to be responsible for discharging, monitoring and enforcing many of the provisions and requirements (akin to planning conditions), including the negotiation and completion of section 106 planning obligations, in their area if the DCO is granted. The DCO once confirmed is set out as a Statutory Instrument, it grants planning permission for the proposed development.

## **5. Description of Issue to be resolved**

- 5.1 The Council's Constitution currently does not include any delegations for the DCO process. The Act and related Regulations including statutory Guidance and Advice notes explain that there are numerous deadlines for local authorities and other interested parties to meet, with swift responses expected especially during the Examination phase. Authorities are encouraged to ensure they have adequate delegations in place as there is unlikely to be time to seek committee approval for representations made during the examination. Committee approval is not required for any DCO documents, this is for each local authority to determine.
- 5.2 These changes need to be introduced into the new Constitution to be agreed at Full Council in May because Gatwick Airport's Draft Masterplan includes a proposal to make routine use of the emergency (standby) runway. Whilst at this stage it is not

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certain whether Gatwick will progress this proposal, an application to do so would be a nationally significant infrastructure project because it will add more than 10million passengers per annum capacity, and it would therefore be determined through the DCO process. The Draft Masterplan suggests this process could start in mid-2019.

- 5.3 PPAs are increasingly being used by local planning authorities to help meet the project management and resource demands of major or complex planning applications and DCO applications. They can be used to fund additional staff and/or commission expertise and can be entered into at any stage in the planning process. The DCO process for the airport will create significant demands on resources across the Council, but particularly in Planning, Environmental Health and Legal. The fee for the DCO will be received by PINS, not the local planning authority, but a Planning Performance Agreement can be sought by the local planning authority with the Applicant, (for example GAL), including Applicant funding towards additional resources.

## 6. Information & Analysis Supporting Recommendation

- 6.1 A host local authority, a council in which a nationally significant infrastructure development is situated, has a significant role right from the start of the DCO process. The Planning Inspectorate's Advice Note 2, "The role of local authorities in the development consent process" provides further information (see background documents). A list of some of the various responses required is set out below:-

### Pre-Application Stage

- Comment on the Applicant's draft Statement of Community Consultation(SOCC)
- Respond to the Applicant's pre-application consultation about the scheme
- Comment on the Scoping Opinion for an Environmental Statement
- Agree the terms of any PPA with the Applicant
- Agree draft section 106 Planning obligations /Heads of Terms

### Acceptance Stage (by PINS)

- Submit representation on the Adequacy of Consultation

### Pre-Examination

- Submit a Relevant Representation (summary of the main issues for the Local Impact Report LIR and Written Representation)

### Examination

- **Submit a Local Impact Report (LIR)**
- **Submit a Statement of Common Ground(SOCG)**
- **Submit a full Written Representation** (the authority's view on whether the application should be granted.)
- Respond to the Examining Authority's questions and requests for further information
- Comment on other interested parties' representations and submissions
- **Submit a signed planning obligation (S106)**

### Post Decision

- Discharge of DCO Requirements, obligations and monitoring of compliance
- Enforcement
- Respond to material and non-material changes notifications

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- 6.2 The major pieces of work are highlighted in bold above. In the Local Impact Report, (LIR), the Council sets out details of the positive, negative and neutral impacts of the proposed development on the authority's area. Consultation with the community or neighbouring authorities is not required as they are expected to make their own representations, although a joint LIR could be submitted with neighbouring authorities. The LIR should not undertake a balancing exercise. If the Council wishes to express a particular view on whether the application should be granted or not the Council can submit a separate Written Representation. This would obviously be informed by the factual LIR. Throughout the process, starting at the pre-application stage, the Council is expected to discuss the requirements (akin to planning conditions) and planning obligations. A fully signed S106 Planning Agreement has to be in place by the close of the Examination for it to be taken into account by the Planning Inspectorate.
- 6.3 PINS Advice Note 2 emphasises that there are very short timescales for some of the responses required from the Council. For example, a set deadline of 28 days to provide comment on the draft Statement of Community Consultation and of only 14 days to submit the Adequacy of Consultation representation. Those days are calendar days. Response times on questions during the Examination may be even shorter. As a result of this time pressure, and because all responses required apart from the Written Representation are technical matters, it is considered that the most sensible approach would be for endorsement of all responses apart from the Written Representation to be delegated to the Head of Economy and Planning. The Written Representation provides the only opportunity to make informed comments on the planning merits of the application and forms the Council's response to the application, ie. whether or not it supports the application and its reasons, so it is felt that this should be considered by the Planning Committee. It will be informed by the LIR and the Statement of Common Ground, so it is likely that the draft versions of these reports will be provided for information to the Planning Committee. However, these documents, especially the Statement of Common Ground and the S106 Planning Agreement, may change during the Examination process as issues are discussed and mitigations for impacts are agreed, and therefore the sign-off for the final documents should remain delegated to the Head of Economy and Planning. Sub-delegation schemes for officers will pick up all the additional authorities, as appropriate, below the Head of Service level.
- 6.4 PINS Advice Note 2 is clear that the Examining Authority can only take into account evidence that been received by the close of the Examination, and that late submissions of evidence may prejudice the ability of other interested parties to consider and comment on its content. It states that there is unlikely to be time to seek committee approval for local authority representations and that it won't be possible to structure the Examination timetable around an authority's committee cycle. The option of taking all the required responses and documents through the Planning Committee would, therefore, not be feasible and so these are proposed to be delegated to the Head of Economy and Planning as with other Development Management functions. However, the frequency of the Planning Committee meetings means it would be possible to take the Written Representation to it for a decision on the Council's viewpoint on the application. This will be informed by the draft LIR.
- 6.5 Local authorities of host and neighbouring authorities are encouraged to consider joint working arrangements at an early stage as these can bring benefits in terms of sharing costs, resources and expertise. PPAs, Adequacy of Consultation representations, LIRs, Statements of Common Ground and Written Representations can, if wanted, be structured to highlight the shared areas of concern and/or interest, as well as identifying specific issues related to individual authorities. Officers will

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explore the opportunities in joint working arrangements, potentially expanding existing groups such as the Gatwick Officers Group and the Gatwick Joint Local Authorities Group.

- 6.6 If the Secretary of State decides to grant development consent, the local authority then has the responsibility to discharge requirements, (similar to planning conditions), and to enforce the terms of the DCO, as with any planning permission. The majority of requirements are likely to be handled by Crawley Borough Council for a DCO by Gatwick Airport as the “relevant authority”, but another local authority can take on this responsibility for some of the requirements, subject to the agreement of the Secretary of State. The Secretary of State retains the decision-making powers in respect of non-material and material change applications, with the Council a prescribed consultee which may be notified and invited to submit a representation depending on the scale and nature of the changes proposed. It is proposed decisions on discharging requirements, and responses to non-material and material change consultations will be delegated to the Head of Service. As the Council will be responsible for enforcement, the current decision-making arrangements for enforcement will be followed.

## **7. Implications**

- 7.1 The proposed amendments to the Constitution will help the Council meet its obligations through the DCO process and help secure additional resources.

## **8. Background Papers**

The Planning Inspectorate Feb 2015: The role of local authorities in the development consent process.

[https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/03/Advice\\_note\\_2.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/03/Advice_note_2.pdf).

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## CHANGES TO THE CONSTITUTION (LDS/149)

<u>Function</u>	<u>Proposed amendment</u>	<u>Reason for amendment</u>
	<p>Where appropriate:</p> <ul style="list-style-type: none"> <li>• Deleted wording is shown as crossed through</li> <li>• <b>Additional wording is shown in bold</b></li> </ul>	
<p>Part 3: Scheme of Delegation - Terms of Reference: General Conditions (Page 55)</p> <p>(Iain Pocknell)</p>	<p>Add the following wording to the beginning of the Scheme of Delegation - Terms of Reference: General Conditions:</p> <p>“Reference to any EU legislation will be taken to mean any such transitional arrangements and/or legislation put in place in relation to BREXIT”.</p>	<p>To ensure that officers’ powers are in place from 29<sup>th</sup> March 2019 (intended date of BREXIT).</p>

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