

## Crawley Borough Council

### Minutes of Governance Committee

Tuesday, 5 March 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,  
B J Quinn and K Sudan

#### **Also in Attendance:**

Mr P Nicolson (Appointed Independent Person)

#### **Officers Present:**

Natalie Brahma-Pearl	Chief Executive
Ann-Maria Brown	Head of Legal, Democracy and HR
Sallie Lappage	Forward Planning Manager
Mez Matthews	Democratic Services Officer
Jean McPherson	Group Manager (Development Management)

#### **1. Disclosures of Interest**

No disclosures of interests were made.

#### **2. Minutes**

The minutes of the meeting of the Governance Committee held on 14 January 2019 were approved as a correct record and signed by the Chair subject to the following amendment to Minute 3 (Polling District Review: Final Proposals):

That reference made to "Forge Wood Ward" in both the second and third paragraphs be deleted and replaced with "Pound Hill North and Forge Wood Ward".

#### **3. Constitutional Amendments for Development Consent Orders and Planning Performance Agreements**

The Committee considered report PES/315 of the Head of Planning and Economy which proposed 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). The proposed changes were required to ensure that the Council was in a position to make

timely responses in accordance with strict statutory timescale and to secure additional resources should Gatwick Airport bring forward a DCO application.

Several queries were raised by Committee Members. In response to those questions the Forward Planning Manager and/or Group Manager (Development Management) clarified that completing the S106 Planning Agreement in time for an Examination would not prejudice the outcome of the Planning Inspectorate's decision. The Committee was also advised that PPAs, although not currently used by this Council, were common practice in other Local Authorities. Those PPAs typically included a clause which stated that the Agreement did not guarantee approval of the application.

The Committee noted that when providing a written representation on a DCO application, the Planning Committee could take matters into account which it usually could not when it considered a standard planning application, however the Committee would need to ensure that any representation was based on fact and that a balanced opinion was provided. A Committee Member queried whether Councillors considering DCOs could be subject to a 'whip', and it was agreed that the Head of Legal, Democracy and HR would look into the matter.

A Committee Member suggested that decision making regarding written representations in relation to a DCO application should be the responsibility of the Full Council and not the Planning Committee as set out in the recommendation of the report. The Forward Planning Manager advised that Guidance specifically stated that the timetable set by the Planning Inspectorate would not be dictated by a Council's Committee cycle. Taking that Guidance into account, there would not always be sufficient time for the matter to be considered at a meeting of the Full Council, whereas the Planning Committee met on a more regular basis. Following a detailed debate, it was agreed that the function for written representations be allocated to the Planning Committee, but that there be a presumption that the matter be recommended to the Full Council unless that was not feasible given the Planning Inspectorate's timetable. Following a vote, the Committee agreed to that the recommendation be amended accordingly.

## **RESOLVED**

### **RECOMMENDATION 1**

That the Full Council be RECOMMENDED to approve the following changes to the Constitution:

1. An additional responsibility for decision making be allocated to the Planning Committee (with a presumption that the matter be recommended to Full Council unless timescales were prohibitive): "Where a Written Representation is to be provided to a Development Consent Order Application Process, if the Council is a host authority";
2. 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;
3. That the negotiation and completion of development consent obligations (Section 106 planning agreements) are delegated to the Head of Economy and Planning;

4. That any subsequent responses to non-material and material changes are delegated to the Head of Economy and Planning;
5. That decisions on the discharge of Requirements are delegated to the Head of Economy and Planning;
6. 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;
7. That Planning Performance Agreements are negotiated and agreed by the Head of Economy and Planning

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

The Committee considered report LDS/145 of the Monitoring Officer (Head of Legal, Democracy and HR) which provided the Committee with background information on the Council's adopted Code of Conduct for Councillors and Standards Arrangements for dealing with written allegations that a Councillor had breached the Code of Conduct. An update of Code of Conduct complaints was also provided. In addition, the report summarised the recently published report by the Committee on Standards in Public Life (CSIPL) on its review of current arrangements of Local Government Ethical Standards.

The Head of Legal, Democracy and HR advised the Committee that the report before them provided a summary of the CSIPL's lengthy report and that it was intended that a more comprehensive report would be brought before the June meeting of the Governance Committee. The Committee noted that this Council already complied with a number of the CSIPL's key recommendations and best practice recommendations (included in paragraph 3.16 and Appendix B of report LDS/145) as Crawley's Code of Conduct reflected the broader 2007 Model Code. It was also noted that Codes of Conduct could vary considerably across Local Authorities in both content and length. Although the necessity for a further report was questioned, the Committee agreed that such a report should be brought before the Committee for its consideration, even if it stated that this Council's Standards Arrangements already reflect the CSIPL's recommendation, as such a report would provide assurance. The Committee noted that most other Local Authorities were considering a report on the outcome of the Review from the CSIPL.

The Committee discussed several of the key recommendations posed by the CSIPL. Particular attention was paid to the CSIPL's recommendation that the sanction system be strengthened, allowing Local Authorities to suspend Councillors without allowances for up to six months, with suspended Councillors having a right of appeal to the Local Government Ombudsman for investigation. The majority of the Committee were in favour of this recommendation as it was of the opinion that the sanctions a Local Authority could currently impose following a breach of the Code were not sufficient.

The Committee considered the level of transparency within its current Standards regime. Following comments from the Committee, the Head of Legal, Democracy and HR informed the Committee that under the Council's current Standards Arrangements

the name of a Councillor who was the subject of a complaint was not published either when the complaint was upheld or when it was not. She advised the Committee that it had the option to amend these Arrangements and an in-depth discussion then took place on anonymity and publication of complaints.

Whilst some Committee Members were of the opinion that the Monitoring Officer should give further consideration to the Council's current policy regarding publication and anonymity and that more information be provided within the June report, other Committee Members were of the view that the Council's Standards Arrangements should be amended immediately to make public a record of any upheld complaint. Following a vote it was agreed that Standards Arrangements be amended immediately and that, a record be made public of any complaint upheld under the current Code of Conduct, with the Head of Legal, Democracy and HR consulting with other Local Authorities so to ensure that this Council's approach was proportional. The Committee also requested that the Head of Legal, Democracy and HR provide a steer in the June report regarding the possibility of publicising complaints which had been found to be vexatious.

Following the Committee's conclusions the Appointed Independent Person addressed the meeting having observed (but not contributed) to the discussion. He advised the Committee that he believed good Standards was the bedrock of any Local Authority. He was aware of issues at other Local Authorities and advised that Councillor conduct at Crawley was very good by comparison with this being evident in the lack of complaints which had been made in recent years and the decrease in vexatious complaints made. He stated that the aim of Standards was to ensure that every Councillor acted in accordance with the Code of Conduct and that any Councillor who fell short was brought to account. He informed the Committee that in his opinion, and that of the Monitoring Officer, the aim of any Standards regime was firstly to correct any 'wrongdoing' and then to make sure that the behaviour/action did not occur again. He urged the Committee to think carefully about how to proceed.

## **RESOLVED**

1. That report LDS/145 be noted.
2. That the Council's Standards Arrangements be amended immediately to make public a record of any upheld complaint under the current Code of Conduct.
3. That the Monitoring Officer be requested to submit a further report to the Governance Committee in June for it to consider the implementation of the Best Practice recommendations as set out in the Committee on Standards in Public Life's report on its review of Local Government Ethical Standards.

## **5. Review of Provisions Relating to Call-In and Urgency**

The Committee was advised that there had been one case, during the period since the last report, where an item had been protected from the Call-In Procedure on the grounds of urgency as provided for in Scrutiny Procedure Rule 14(k). The Committee was of the opinion that, as the item in question had been considered by Full Council and therefore all Councillors had been given the opportunity to express their views on the matter, no changes to the provisions relating to Call-In and Urgency were necessary.

## **RESOLVED**

That no change to the provisions relating to Call-In and Urgency are necessary at this stage.

### **6. Changes to the Constitution**

The Committee considered report LDS/149 of the Head of Legal, Democracy and HR which proposed changes to the Constitution and noted that the change proposed would ensure that officers' powers remained in place from the intended date of Brexit on 29 March 2019. The Committee agreed that the word "mean" be replaced with "include" in the proposed change.

## **RESOLVED**

### **RECOMMENDATION 2**

That the Full Council be RECOMMENDED to amendment the Constitution proposed in Appendix 1 to these minutes be agreed.

### **7. Constitutional 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).

Councillor Lamb advised the Committee that comments from the Working Group on Tranche 2 had been received by Democratic Services and was therefore considered 'agreed'. Councillor Lamb had also made comments on Tranche 3 and Democratic Services were in the process of working through those comments before the documents were emailed to the Working Group in the near future for its views. Tranche 4, which was envisaged to be the final tranche, was currently being completed by Democratic Services with a view to sending it out to Councillor Lamb for comments before circulating it to the Working Group.

## **RESOLVED**

That the update provided by the Chair of the Constitution Review Working Group be noted.

### **Closure of Meeting**

With the business of the Governance Committee concluded, the Chair declared the meeting closed at 8.15 pm

T LUNNON  
Chair

**Appendix 1: Changes to the Constitution**

<u>Function</u>	<u>Proposed amendment</u>	<u>Reason for amendment</u>
Part 3: Scheme of Delegation - Terms of Reference: General Conditions (Page 55)  (Iain Pocknell)	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> Add the following wording to the beginning of the Scheme of Delegation - Terms of Reference: General Conditions:  “Reference to any EU legislation will be taken to include any such transitional arrangements and/or legislation put in place in relation to Brexit”.	To ensure that officers’ powers are in place from 29 <sup>th</sup> March 2019 (intended date of Brexit).