

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. 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 they have 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, Democracy and HR. 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, Democracy and HR if they consider it necessary or appropriate and must be called by the Head of Legal, Democracy and HR 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. The Chair and Vice Chair of the Overview and Scrutiny Commission will be drawn from amongst the Councillors sitting on the Commission.

From the Civic Year 2016, where there is more than one political group on the Council, either the position of Chair or Vice Chair of the Overview and Scrutiny Commission will go to a Member nominated by an opposition group.

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, Democracy and HR that they wish 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, Democracy and HR that they wish 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 signatories 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 request 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). 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 their report and to answer questions made by Members of the Cabinet if they wish to do so.

- (b) If the Overview and Scrutiny Commission cannot agree on one single report, then no more than 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 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, Democracy and HR. The Head of Legal, Democracy and HR shall inform the Member or Employee in writing, giving at least five working days' notice of the meeting at which they are required to attend. The notice will state the name of the item on which they are 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 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 Part 5 of this Constitution).

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, Democracy and HR for determination. Where it is decided by the Head of Legal, Democracy and HR 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, Democracy and HR 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 Councillors' 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 Councillors' 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 Councillors' Information Bulletin. The call in and the support must be communicated to the Head of Legal, Democracy and HR 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 Public Protection and 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, Democracy and HR (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 Councillors' 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 their nominee, the matter should be treated as urgent, and that in their 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 only be reviewed if any decisions have been protected from call in during that municipal year, and a report shall be submitted to the Full Council AGM with proposals for changes to the provisions 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
 - (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 their 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.