


Crawley Borough Council

	Report No:LDS/16	
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Report to General Purposes Committee

15 March 2010

Review of Democratic Structures and Constitutional Changes

1. Key Points

- 1.1. This report considers whether any changes are required in 2010/11 to the Council's Democratic Structures.
- 1.2. It is also usual, at this time of year, for a full review of the Constitution to be carried out prior to the start of the new municipal year and this report proposes certain revisions (including changes to Part 3 of the document – Responsibility for Functions).
- 1.3. Finally, the requirement to monitor the operation of the provisions relating to call in and urgency on an annual basis as required in Scrutiny Procedure Rule 14(k) is also addressed in this report. The purpose of such monitoring is to ensure that the procedure is not being abused.

2. Recommendations

2.1 To recommend to the Council:

- (a) that, subject to any comments received from the Cabinet with regard to its functions, the amendments to the Constitution proposed in Appendix 1 to this report be agreed.
- (b) to agree that since the provisions relating to call in and urgency have only been used once during the past twelve months, no change to the provisions is necessary at this stage.

ANN-MARIA BROWN
Head of Legal and Democratic Services

3. Background

- 3.1. To fulfil the requirements of Article 15.1 of the Constitution, the Council must monitor and review the operation of its Democratic Structures and of the Constitution to ensure that its aims and principles are given effect.
- 3.2. In addition, Scrutiny Procedure Rule 14(k) requires that the operation of the provisions relating to call in and urgency should be monitored annually and a report submitted to the Council with proposals for review, if necessary.

4. Review of Structures and Constitutional Changes

- 4.1. As part of the overall annual review of the Constitution, Appendix 1 to this report proposes certain changes to the document for consideration by the Committee.
- 4.2. The Local Democracy, Economic Development and Construction Act 2009 received Royal Assent on 12 November 2009. Although not currently in force, Chapter 2 of the Act requires all principal Councils to make, publicise and comply with a scheme for handling petitions (including the ability to handle them electronically). No changes to the Constitution are proposed at this time, but changes will be proposed once the Government has published final statutory guidance and a model scheme.

5. Provisions Relating to Call In and Urgency

- 5.1. There has been one case, during the period since the last report, where an item has been protected from the call in procedure on grounds of urgency as provided for in Scrutiny Procedure Rule 14(j). This is set out in more detail in Appendix 2 to this report.

6. Staffing, Equalities, Financial and Legal Implications/Powers

- 6.1 There are no staffing or financial implications arising from these changes to the Constitution. It has not been necessary to complete an Equality Impact Assessment.

7. Risk Implications

- 7.1 None.

8. Environmental Impacts

- 8.1 There are no environmental impacts arising from these changes to the Constitution.

9. Links to the Sustainable Community Strategy and Corporate Plan

9.1 The proposals contained in this report relate to the following key areas of the Sustainable Community Strategy

Community Cohesion	Community Safety	
Young People and Children	Health and Well Being	
Older People	The Environment	
The Local Economy	Social Inclusion	y

The following key principles are applicable:-

- (i) Working together y
- (ii) Dignity, respect and opportunities for all
- (iii) Involving People y
- (iv) Making it last

The report relates to the following areas in which the Council operates to enhance the town and the quality of life of local people:-

- (i) Prosperity y
- (ii) Community y
- (iii) Environment y
- (iv) Value for Money y

10. Reasons for the Recommendation

10.1 To comply with Article 15.1 and Scrutiny Procedure Rule 14(k) of the Constitution.

11. Background Papers

The Council's Constitution.

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AMENDMENTS TO THE CONSTITUTION

Function	Proposed amendment	Reason for amendment
Functions of the Development Control Committee – Page 80	<p>Amend function 18 to read as follows:</p> <p>“(18) Power to authorise entry under Sections 88(2) (a), (b), (c) and (d) of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p> <p><u>The following function is delegated to the Head of Planning and Environmental Services</u> Power to authorise entry under Sections 88(2) (a), (b), (c) and (d) of the Planning (Listed Buildings and Conservation Areas) Act 1990.”</p>	<p>Correction.</p> <p>Amended wording in bold.</p>
Functions of the Development Control Committee – Page 80	<p>Add the following delegation:</p> <p>“(18a) Power to authorise an application to a Court for a warrant to enter land under Section 88A of the Planning (Listed Buildings and Conservation Areas) Act 1990.</p> <p><u>The following function is delegated to the Head of Planning and Environmental Services</u> Power to authorise an application to a Court for a warrant to enter land under Section 88A of the Planning (Listed Buildings and Conservation Areas) Act 1990.”</p>	<p>New delegation.</p>

Function	Proposed amendment	Reason for amendment
Functions of the Development Control Committee – Page 82	Amend the final bullet point of function 28 to read as follows: “Power to revoke or modify a tree preservation order”.	Clerical correction.
* Environmental Matters Delegated to Cabinet Members and Officers – Page 158	Amend function A30 to read as follows: “The following function is delegated to the Head of Strategic Housing and Planning in consultation with the Cabinet Member for Environmental Services and Ward Members The approval for public consultation purposes of neighbourhood environmental improvement schemes.”	The change in delegated authority would assist in speeding up delivery of the scheme, but would not affect the opportunity for Members to comment on proposals prior to the consultation stage. Amended wording in bold.
* General Matters Delegated to Cabinet Members and Officers – Page 186	Add the following delegations: “(G11a) <u>The following function is delegated to the Head of ICT in consultation with the Cabinet Member for Continuous Improvement and Development</u> Approval of applications for funding from the ICT Replacement Fund. Such approval is subject to adequate justification being made for the replacement of the item.” “(G44a) <u>The following function is delegated to the Director of Community Services in consultation with the Cabinet Member for Leisure and Cultural Services</u> Approval of applications for funding from the	New delegations.

Function	Proposed amendment	Reason for amendment
<p>* General Matters Delegated to Cabinet Members and Officers – Page 186 (continued...)</p>	<p>Specialist Equipment (Hawth and K2) Renewals Fund. Such approval is subject to adequate justification being made for the replacement of the item.”</p> <p>“(G44b) <u>The following function is delegated to the Head of Amenity Services in consultation with the Leader</u> Approval of applications for funding from the Vehicles and Plant Fund. Such approval is subject to adequate justification being made for the replacement of the item.”</p>	
<p>* General Matters Delegated to Cabinet Members and Officers – Page 192</p>	<p>Delete delegation G45 which reads:</p> <p>“<u>The following function is delegated to the Head of Finance and Procurement in consultation with the Leader</u> Authorisation of expenditure from the renewals fund for the replacement of vehicles, equipment, computer facilities and other items for which a renewals fund exists. Such approval is subject to adequate justification being made for the replacement of the item for which the renewals fund has been set up.”</p>	<p>The Renewals Fund ceases to exist on 31 March 2010 and will be replaced by the ICT Replacement Fund, Specialist Equipment (Hawth and K2) Renewals Fund, and the Vehicles and Plant Fund. This was approved in the Capital Strategy report (FIN/173) to Cabinet in March 2009.</p>

Function	Proposed amendment	Reason for amendment
* General Matters Delegated to Cabinet Members and Officers – Page 192	Delete delegation G47 which reads: <u>“The following function is delegated to the Chief Executive, in consultation with the Chair of the Cabinet</u> Approval of individual bids against the strategic initiatives fund for projects costing up to £50,000.”	The strategic initiatives fund has no funds and has not been in use since 2007/08.
Protocol for Policy Development Forums – Page 425	Amend the first sentence of paragraph 1 to read as follows: “Two Policy Development Forums have been established covering Community and Value for Money; and Environment and Prosperity. ”	To reflect the change in name of the Policy Development Forums. Amended wording in bold.
Protocol for Policy Development Forums – Page 427	Amend the names of the Policy Development Forums to read “Community and Value for Money” and “Environment and Prosperity”.	To reflect the change in name of the Policy Development Forums.
* Where relevant	Replace each occurrence of ‘Portfolio Holder’ with ‘Cabinet Member’.	To ensure consistency throughout the document.

* These changes will also be considered by the Cabinet on 24 March 2010.

CALL IN AND URGENCY – 2009/10

Subject	Dealt with by	Reason for protection from call-in
Consultation Response: Partial Review of the Regional Spatial Strategy for the South East of England: Gypsies, Travellers and Travelling Showpeople	Head of Strategic Housing and Planning	There was a tight deadline for submission of comments, and any delay in the decision would have seriously prejudiced the Council's or the public interests.