

## CHANGES TO THE CONSTITUTION

Function	Proposed amendment	Reason for amendment
<p>Scheme of Delegation – Terms of Reference – Page 53</p> <p>(Mez Matthews)</p>	<p>Add the following General Condition:</p> <p>“In the absence of the appropriate Cabinet Member, or at the Cabinet Member’s request, the Leader may decide to determine a Cabinet function delegated to a Cabinet Member him/herself or refer the matter to the Cabinet or a Committee of the Cabinet.”</p>	<p>For clarification purposes.</p>
<p>Functions of the General Purposes Committee – Page 144</p> <p>(Mez Matthews)</p>	<p>Add the following delegation under function 4(c) of the General Purposes Committee:</p> <p><u>“The following function is delegated to the Head of Legal and Democratic Services</u> To make clerical and typographical corrections to the Constitution.”</p>	<p>New delegation.</p>
<p>Functions of the Audit and Governance Committee – Page 146</p> <p>(Ann-Maria Brown)</p>	<p>Amend function 3 as detailed in Appendix B1.</p>	<p>To take account of the Bribery Act 2010.</p> <p><b>Additional wording shown in bold.</b></p>



Function	Proposed amendment	Reason for amendment
<p>Functions of the Membership Committee – Page 148</p> <p>(Mez Matthews)</p>	<p>Add the following delegation under function 1 of the Membership Committee:</p> <p><u>“The following function is delegated to the Head of Legal and Democratic Services</u>            Authority to vary appointments to Committees to give effect to the wishes of a political group in relation to seats allocated to it subject to the change being reported to the next ordinary meeting of the Council.”</p>	<p>To ensure that the delegation is situated in the correct section of the Constitution (originally in the Delegation of Cabinet Functions section of the Constitution).</p>
<p>Functions of the Membership Committee – Page 148</p> <p>(Mez Matthews)</p>	<p>Add the following delegation under function 2 of the Membership Committee:</p> <p><u>“The following function is delegated to the Head of Legal and Democratic Services</u>            Authority to vary the appointments to Outside Bodies relating to Council functions to give effect to the wishes of a political group in relation to seats allocated to it subject to the change being reported to the next ordinary meeting of the Council.”</p>	<p>New delegation to simplify and streamline processes.</p>
<p>Scrutiny Procedure Rules – Page 292</p> <p>(Roger Brownings)</p>	<p>Amend Paragraph 14 to read as detailed in Appendix B2.</p>	<p>For the purposes of clarification.</p> <p><b>Additional wording in bold.</b></p>

Function	Proposed amendment	Reason for amendment
Financial Procedure Rules – Page 314 (Ann-Maria Brown)	Amend paragraph 9 to read as detailed in Appendix B3.	To take account of the Bribery Act 2010.  <b>Additional wording shown in bold.</b>  Deleted wording shown as crossed through.
Procurement Code – Page 339 (Ann-Maria Brown)	Amend the Table of Contents as detailed in Appendix B4.	For the purposes of clarification.  <b>Additional wording in bold.</b>
Procurement Code – Page 357 (Ann-Maria Brown)	Amend paragraph 12 as detailed in Appendix B5.	To take account of the Bribery Act 2010.  <b>Additional wording shown in bold.</b>  Deleted wording shown as crossed through.

Function	Proposed amendment	Reason for amendment
<p>Councillors' Code of Conduct – Page 384 (Ann-Maria Brown)</p>	<p>Amend the Code of Conduct for Councillors as detailed in Appendix B6.</p>	<p>To take account of the Bribery Act 2010.</p> <p><b>Additional wording shown in bold.</b></p> <p>Deleted wording shown as crossed through.</p>
<p>Code of Conduct on Planning Matters – Page 397 (Ann-Maria Brown)</p>	<p>Amend the paragraph relating to hospitality to read as detailed in Appendix B7.</p>	<p>To take account of the Bribery Act 2010.</p> <p><b>Additional wording shown in bold.</b></p> <p>Deleted wording shown as crossed through.</p>
<p>Employees' Code of Conduct – Page 408 (Ann-Maria Brown)</p>	<p>Amend the Employees' Code of Conduct as detailed in Appendix B8.</p>	<p>To take account of the Bribery Act 2010.</p> <p><b>Additional wording shown in bold.</b></p> <p>Deleted wording shown as crossed through.</p>

**EXCERPT FROM THE FUNCTIONS OF THE AUDIT AND GOVERNANCE COMMITTEE**

**RESPONSIBILITY FOR COUNCIL FUNCTIONS  
AUDIT AND GOVERNANCE COMMITTEE**

**The powers and duties of the Council relating to the functions set out below are delegated to the Audit and Governance Committeee**  
**Membership:** Not more than one member shall be a Cabinet member and that Member shall not Chair the Committee.

Councillors: A J E Quirk (Chair), I T Irvine (Vice-Chair), B K Blake, C R Eade, C C Lloyd and L A Walker

**Functions of the Audit and Governance Committeee**

- (1) Review the Internal Audit's Strategic Plan (currently 3-year work plan) based on governance and risk assessments made.
- (2) Review the key findings from the work of Internal Audit and seek assurance that action has been taken by relevant managers.
- (3) Review the effectiveness of the Council's:
  - risk management arrangements
  - internal control framework
  - anti-fraud and anti-corruption arrangements (**including bribery**), including the Council's whistle-blowing guidelines
  - local codes of corporate governance and standards and the implementation of improvements
- (4) Seek assurances that action is being taken on risk-related issues identified by auditors.

**Delegation of Functions (concurrently with the Audit and Governance Committeee**

The following function is delegated to the Chief Executive, a Director, a Head of Service, the Monitoring Officer, the Deputy Monitoring Officer, the Corporate Fraud Manager or the Audit Manager  
Referral of cases of fraud to the police.

**EXCERPT FROM THE SCRUTINY PROCEDURE RULES****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 13.2 (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 13 of the Constitution.
- (b) The Member of the Council calling in the decision must indicate how they believe the principles of Article 13.2 have been breached, not only by identifying the principle which they feel has not been complied with but also by specifying how they consider it has been breached. If there should be any doubt about the validity of a call-in, the matter may be referred to the Head of Legal and Democratic Services for determination. Where it is decided by the Head of Legal and Democratic Services that a request for call-in is invalid, the Leader and the Member of the Council calling in the decision will be advised that the call-in provisions do not apply and that, therefore, the original decision will stand. The implementation of the decision will be reported to the Cabinet and to Full Council.
- (c) If a decision is called in, it is treated as suspended. The Member of the Council calling in the decision must then obtain within the five working days following the call-in, the support of three other Members of the Council. The support must be communicated to the Head of Legal and Democratic Services either by way of a signed pro-forma or separate written confirmation by each supporter, which may be a hard copy or email communication (to [democraticservices@ Crawley.gov.uk](mailto:democraticservices@ Crawley.gov.uk)) and acknowledgement of receipt shall be obtained. Failure to obtain the support of three other Members within this period will mean that the original decision will stand and, on the sixth working day, the decision will be implemented. The implementation of the decision will be reported to the Cabinet and to Full Council.
- (d) In the case of the Cabinet or a Committee of the Cabinet, if the required number of signatures is produced within the period specified, then the decision will continue to be treated as suspended and the matter will be reconsidered at the next meeting of Full Council. If the Full Council does not object, then the original decision stands. If the Council does object, it cannot change the decision unless that decision was contrary to the

policy framework or contrary or not wholly in accordance with the budget. Unless that is the case, the Council will refer the matter back either to the next meeting of the Cabinet for reconsideration (in which case the matter may not be called in a second time) or to the Overview and Scrutiny Commission. If the matter has already been the subject of scrutiny, it shall only be referred back to the Overview and Scrutiny Commission if there is new material to be considered. The Council may pass a resolution specifying the nature of its objection to the proposed decision.

### **Call-In of Decisions Made by Individual Cabinet Members**

- (e) Notice of decisions to be made by individual Cabinet Members, or of key decisions made by employees with delegated authority from the Cabinet, will be published in the weekly Members' Information Bulletin and will be made available for public inspection at the Council's offices.
- (f) Unless, within five working days of the publication date of the Members' Information Bulletin, any Member of the Council objects to the proposed decision on the grounds that they do not believe the decision, if implemented, would be in accordance with the principles of decision-making set out in Article 13 of the Constitution, then the decision is implemented on the sixth working day.
- (g) If any Member of the Council objects, then the decision is called in. If a decision is called in, it is treated as suspended. The Member of the Council calling in the decision must then obtain the support of three other Members of the Council within the five working days following the publication date of the Members' Information Bulletin. The call-in and the support must be communicated to the Head of Legal and Democratic Services either by way of a signed pro-forma or separate written confirmation by each supporter, which may be a hard copy or email communication (to [democraticservices@crowley.gov.uk](mailto:democraticservices@crowley.gov.uk)) and acknowledgement of receipt shall be obtained. Failure to obtain the support of three other Members within this period will mean that the original decision will stand and, on the sixth working day, the decision will be implemented.
- (h) If the required support is given within the period specified, then the decision will continue to be treated as suspended and the matter will then be referred to the next Council meeting. Any decision taken by the Cabinet Member for Community Engagement relating to grants applications will not be subject to call-in since it would be subject to appeal to the Grants Appeals Panel.
- (i) Any objection to a proposed decision by an individual Cabinet Member, or to a key decision made by an employee with delegated authority from the Cabinet, must be made in writing to the Head of Legal and Democratic Services (either hard copy or email). The Member of the Council calling in the decision must

indicate how they believe the principles of Article 13 have been breached.

- (j) 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 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**

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



## EXCERPT FROM THE FINANCIAL PROCEDURE RULES

9.0 PREVENTING FRAUD, ~~AND~~ CORRUPTION **AND BRIBERY**

*Why is ~~#~~ this important?*

- 9.1 The Council will not tolerate fraud, ~~and~~ corruption **and bribery** in the administration of its responsibilities whether from inside or outside the authority.
- 9.2 The Council's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- 9.3 The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) that it comes into contact with, will act towards the Council with integrity and without thought or actions involving fraud, ~~and~~ corruption **or bribery**.

*Key Controls*

- 9.4 The key controls regarding the prevention of financial irregularities are that:
- (a) the Council has an effective anti-fraud and anti-corruption policy **(including reference to bribery)**
  - (b) all members and staff act with integrity, and lead by example
  - (c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt **or who may have bribed or been bribed within the meaning of The Bribery Act 2010**
  - (d) high standards of conduct are promoted amongst members by the Standards Committee
  - (e) ~~the maintenance of~~ a register of interests **is maintained** in which **any** ~~only~~ hospitality or gifts accepted must be recorded
  - (f) whistle blowing procedures are in place and operate effectively
  - (g) legislation including the Public Interest Disclosure Act 1998 is adhered to.

*Responsibilities of Head of Finance, Revenues and Benefits*

- 9.5 To maintain an anti-fraud, ~~and~~ corruption **and bribery** policy.
- 9.6 To maintain adequate and effective internal control arrangements for the Council.

**PROCUREMENT CODE TABLE OF CONTENTS**

CRAWLEY BOROUGH COUNCIL

PROCUREMENT CODE

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## EXCERPT FROM THE PROCUREMENT CODE

12. PREVENTION OF CORRUPTION AND BRIBERY

12.1. The Officer must comply with the Council's Employees' Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract.

12.2. High standards of conduct and integrity are obligatory. Corrupt behaviour will lead to dismissal and is a criminal offence **under the Bribery Act 2010**.

12.3. Officers shall not use any contract or other procurement arrangement entered into by the Council for their own personal use, benefit or gain other than with the prior written approval of the Head of Finance, Revenues and Benefits.

12.4. The following clause must be included in every Council contract:

The Council may terminate this contract and recover all its losses if the Contractor, its employees or anyone acting on the Contractor's behalf **does** any of the following things:

- (a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done); or
- (b) commit an offence under the **Bribery Act 2010** ~~Prevention of Corruption Acts 1889 to 1916~~ or Section 117(2) of the Local Government Act 1972; or
- (c) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.

12.5. Any clause limiting the Contractor's liability shall not apply to this clause.

## EXCERPT FROM THE CODE OF CONDUCT FOR COUNCILLORS

A Code of Conduct for Councillors

The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the authority as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position.

The law on the acceptance of gifts and hospitality is set out in the authority's Code of Conduct for Members and in the **Bribery Act 2010** ~~Prevention of Corruption Act~~. These requirements are then supplemented by the procedures which have been adopted by this authority, to provide a clear set of rules for the protection of both Councillors and the authority. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality can lead to **sanctions against a Councillor. Under the Bribery Act 2010 if a Councillor agrees to a request, receives or accepts a financial or other advantage with the intention that a "relevant function or activity" is performed improperly, a Councillor may be liable for a fine up to £5,000 or imprisonment for up to 12 months, or on indictment to an unlimited fine and/or imprisonment for up to 10 years. ~~disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 7 years' imprisonment.~~**

This Code of Conduct sets out:

- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality
- (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it
- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the authority

This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by this authority.

## 1 General Principles

In deciding whether it is proper to accept any gift or hospitality, it is a matter of judgement for each individual member, and you should apply principles (a) to (e) below. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles. Any gifts that you are offered and that you decline should be reported on the declaration of refusal of hospitality or of a gift form (copy attached) and sent to the Monitoring Officer who will maintain a record of such declarations.

- (a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor

As a Councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

~~The Public Bodies (Corrupt Offences) Act 1889 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction in which the authority is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 7 years~~

**Section 2 of the Bribery Act 2010 provides that it will be an offence to agree to a request, receive or accept a financial or other advantage with the intention that a “relevant function or activity” should be performed improperly. A Councillor if found guilty of that offence may be liable for a fine up to £5,000 or imprisonment for up to 12 months, and on indictment to an unlimited fine and/or imprisonment for up to 10 years.**

Further, the authority’s Code of Conduct for Members provides that you must act in the public interest, serving the authority and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.

## EXCERPT FROM THE CODE OF CONDUCT ON PLANNING MATTERS

HOSPITALITY

During the course of their work, employees or Members may be offered hospitality from people with a possible interest in development proposals. Hospitality can be perceived as creating a potential bias in those who are involved in the planning process and offers of hospitality should therefore always be viewed in this light.

- in line with the national code, Members should treat offers of hospitality with extreme caution and should follow the guidelines set out ~~in para. 17 of the code and~~ in the Protocol relating to Gifts and Hospitality
- Officers should also treat hospitality with extreme caution and follow the guidance given in the staff handbook
- all hospitality received should be notified to the Head of Legal and Democratic Services (Monitoring Officer) and recorded in the hospitality book
- **Both Members and officers need to be aware of the provisions of the Bribery Act 2010. Under that Act it is an offence to give a bribe and to promise, offer or agree to receive a bribe. A person found guilty of an offence under this Act may be liable for a fine up to £5,000 or imprisonment for up to 12 months, and on indictment to an unlimited fine and/or imprisonment for up to 10 years.**

## EXCERPT FROM THE EMPLOYEES' CODE OF CONDUCT

(m) Corruption and Bribery

Employees must be aware that it is a serious criminal offence **under the Bribery Act** for them **to offer, promote, promise or give financial or other advantage with the intention of inducing another person to perform improperly a "relevant function or activity" or to reward that person (bribing another) and to agree a request, receive or accept a financial or other advantage with the intention that a "relevant function or activity" should be performed improperly (being bribed). Penalties for such offences may be a fine of up to £5,000 or imprisonment for up to 12 months, and on indictment to an unlimited fine and/or imprisonment for up to 10 years** ~~corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity.~~ If an allegation is made it is for the employee to demonstrate that such rewards have not been corruptly obtained.

(n) Use of Financial Resources

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

(o) Hospitality

When to accept hospitality is clearly a matter of judgement. **It should be transparent, proportionate and reasonable in the particular circumstances.** It would be wrong to produce an atmosphere in which even those in a representative capacity for the Council such as Chief and Senior Employees on official occasions refuse all invitations for social involvement with those who may have business dealings with the Council. Contact established on the social side can be helpful in the Council's interests. What is important is to avoid any suggestion of improper influence or of giving the opportunity for questions of improper influence to be raised.

The following are intended as examples only:-

Acceptable

Insignificant gifts of token value for business use.

A working lunch of a modest standard provided to allow the parties to discuss business or following or prior to such discussion.

An invitation to a professional society, dinner or function.

An invitation to join other company guests as Council representatives at sponsored events, cultural, sporting or other public occasions.

Whilst the last three points are permissible arising out of occasional invitations, employees should bear in mind that accepting frequent invitations from the same source could lead to criticism and render the otherwise acceptable, unacceptable.

#### Unacceptable

Paid holiday or leisure travel or accommodation.

Tickets for premium events which are offered on a personal basis.

Bottles of wines or spirits.

Use of a company flat or hotel suite.

Discounted services, materials, labour, etc. from contractors or suppliers which are not equally available on the same basis to others not having an actual or potential business link with them.

When a particular person or firm has a matter currently in issue with the Council, then clearly common sense dictates a more restrictive approach. An important criterion in exercising judgement is what interpretation others might reasonably put on acceptance.

All offers of hospitality accepted (with the exception of insignificant items of token value) must be entered in the register maintained by the Monitoring Officer (Head of Legal and Democratic Services).

In case of doubt the Head of Service or Monitoring Officer (Head of Legal and Democratic Services) should be consulted.

#### (p) Sponsorship - Giving and Receiving

Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

Where the authority wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the authority, through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

#### (q) Interest of Employees in Contracts

The Head of Legal and Democratic Services shall record in a book to be kept for the purpose particulars of any notice given by an Officer of the Council under Section 117 of the Local Government Act, 1972, of a



prejudicial interest in a contract, and the book shall be open during office hours to the inspection of any member of the Council.

(r) Reporting on Fraud, ~~and~~ Corruption **and Bribery**

The Council has an Anti-Fraud, ~~and~~ Corruption **and Bribery** Strategy, a copy of which is available on the Intranet or by request from the Fraud Investigation Team or Audit Services. Where there is the possibility of fraud and corruption the Council needs to be able to deal with the matter in a firm and controlled manner.

Suspected fraud or corruption should initially be raised with a Senior Manager or one of the other employees listed in the 'Whistleblowing' arrangements. Strict confidentiality will be maintained in these circumstances and there will be no recriminations against anyone genuinely raising such issues. Where an individual does not feel able to raise the issues in this way, the Council has arranged a confidential reporting facility with an external agency which is available by telephone – 0870 7572550. A Senior Manager or one of the other employees listed in the 'Whistleblowing' arrangements has the authority to refer cases of fraud to the police.

This confidential reporting facility is not intended to deal with issues which are covered by other existing procedures such as **grievance** procedures ~~or of~~ staff suggestions. Examples of where it could be used include:

- Conduct which is an offence or a breach of the law.
- Disclosures related to miscarriages of justice.
- Health and Safety risks including risks to the public as well as other employees.
- Damage to the environment.
- The unauthorised use of public funds.
- Possible fraud, ~~and~~ corruption **and bribery**.
- Sexual or physical abuse of clients and other members of staff.
- Racial incidents and harassment.
- Action contravening the Council's equal opportunities policy, or
- Other unethical conduct or situation which could have a serious impact on the Council's reputation.

(s) Breaches of Conduct

Breaches of this Code or of Council Procedure Rules ~~or of~~ Financial Procedure Rules will be treated very seriously and will be dealt with under the Council's Disciplinary Procedure.