

Crawley Borough Council

	Report No: LDS/040	B
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Report to General Purposes Committee

12 March 2012

Review of Democratic Structures and Constitutional Changes

1. Key Points

- 1.1 This report considers whether any changes are required in 2012/13 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 – 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(l) 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 Full Council:
 - (a) that 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 not been used 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(l) 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 Localism Act 2011 received Royal Assent on 15 November 2011. The Act contains a number of enabling provisions which give the Secretary of State power to introduce regulations and guidance that will make the measures 'live'. It is anticipated that the key areas of the Act will come into force from April 2012 onwards. Significant areas of the Act include:
- New freedoms and flexibilities for local government:
 - The Act clarifies the rules on 'pre-determination' to reflect case law (so there is no change in practice). The rules on pre-determination make sure councillors take part in discussions and make decisions with an open mind;
 - The current standards framework and the national regulatory board, Standards for England, will be replaced with new local arrangements;
 - There will be some flexibility on governance arrangements and directly-elected mayors.
 - New rights and powers for communities and individuals:
 - The Act would require that if the Council proposed to raise Council Tax by more than a threshold set by the Secretary of State it would have to hold a referendum to get approval from local voters;
 - Councils will be required to vote on and publish a statement of their policies on pay, including the pay of senior officers.
 - Reform to make the planning system more democratic and more effective:
 - The Act contains some stronger planning enforcement powers, reform of the Community Infrastructure Levy, and reform of the way plans are made. It also gives government ministers power to take decisions on nationally significant infrastructure projects.
 - Reform to ensure that decisions about housing are taken locally.

No changes are currently proposed to the Constitution in relation to the Localism Act 2011, but the Constitution will need to be amended in the future once the various sections of the Act come into force.

- 4.3 In addition, the Democratic Services Team is currently undertaking a Systems Thinking Review. No changes are currently proposed to the Constitution in relation to this matter, but amendments will be brought to a future meeting of the Committee to reflect any changes made to procedures and practices.

5. Provisions Relating to Call-In and Urgency

- 5.1. There have been no cases, 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).

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

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 of the Constitution and Scrutiny Procedure Rule 14(l).

11. Background Papers

The Council's Constitution
The Localism Act 2011

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CHANGES TO THE CONSTITUTION

Function	Proposed amendment	Reason for amendment
<p>Functions of the Licensing Committee – Page 97</p> <p>(James Keating)</p>	<p>Delete function (18) below and re-number subsequent functions accordingly:</p> <p>“Power to licence dealers in game and the killing and selling of game</p> <p><u>The following function is delegated to the Head of Planning and Environmental Services</u> Determination of applications for licences for game dealers”</p>	<p>The Council is no longer responsible for this function as the legislation has been repealed.</p>
<p>Functions of the Licensing Committee – Page 97</p> <p>(James Keating)</p>	<p>Amend function (19) to read as follows:</p> <p>“Power to licence and register premises for the preparation of food</p> <p><u>The following function is delegated to the Head of Planning and Environmental Services</u> Registration of premises under the Food Safety Act, 1990”</p>	<p>Food businesses are registered (not licensed) for the preparation of food.</p> <p>Deleted wording shown as crossed through.</p>
<p>Functions of the Licensing Committee – Page 99</p> <p>(James Keating)</p>	<p>Delete function (29) below and re-number subsequent functions accordingly:</p> <p>“Power to licence knackers yards</p> <p><u>The following function is delegated to the Head of Planning and Environmental Services</u> Determination of applications for licences for slaughterhouses or knackers yards, and slaughtermen”</p>	<p>The Council is no longer responsible for this function as the legislation has been repealed.</p>

Function	Proposed amendment	Reason for amendment
<p>Functions of the Licensing Committee – Page 102</p> <p>(James Keating)</p>	<p>Amend function (43) to read as follows:</p> <p><u>“The following function is delegated to the Head of Planning and Environmental Services</u> Appointment of authorised officers under the Food Safety Act, 1990; European Communities Act 1972; Health Protection (Local Authority Powers) Regulations 2010; Health Protection (Notification) Regulations 2010; Health Protection (Part 2A Orders) Regulations 2010; Regulation (EC) no. 178/2002; Regulation (EC) no. 852/2004; Regulation (EC) no. 853/2004 and Regulation (EC) no. 854/2004; the General Food Regulations 2004 (as amended); the Official Feed and Food Controls (England) Regulations 2009; the Trade in Animals and Related Products Regulations 2011; and the Food Hygiene (England) Regulations 2006 (as amended) and the Animal By-Products (Enforcement) (England) Regulations 2011”</p>	<p>To reflect current legislation.</p> <p>Additional wording shown in bold.</p> <p>Deleted wording shown as crossed through.</p>
<p>Functions of the Licensing Committee Under the Licensing Act 2003 – Page 111</p> <p>(James Keating)</p>	<p>Amend function (73) to read as follows:</p> <p>“Determination of applications to vary designated personal licence holders a Designated Premises Supervisor where a representation has been made by the Chief Officer in respect of the application</p> <p><u>The following function is delegated to the Head of Planning and Environmental Services</u> Determination of all applications to vary designated personal licence holders a Designated Premises Supervisor EXCEPT where a representation has been made by the Chief Police Officer Chief Officer of Police in respect of the application</p>	<p>To reflect the terminology used under the Licensing Act 2003.</p> <p>Additional wording shown in bold.</p> <p>Deleted wording shown as crossed through.</p>

Function	Proposed amendment	Reason for amendment
	(such applications to be determined by the Licensing Committee)”	
<p>Leader and Cabinet Procedure Rules – Page 270</p> <p>(The Leader)</p>	<p>Amend paragraph 1.4 to read as follows:</p> <p>1.4 The Council’s Scheme of Delegation and Cabinet Functions</p> <p>(a) Subject to the Leader’s powers to delegate Cabinet responsibilities set out above, the Council’s Scheme of Delegation for non-Cabinet functions will be subject to adoption by the Council and may only be amended by the Council;</p> <p>(b) The Leader may amend the Scheme of Delegation relating to Cabinet functions at any time during the year. The Leader must give written notice to the Head of Legal and Democratic Services and to the person, body or Committee concerned. The notice must set out the extent of the change to the Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body or Committee or the Cabinet as a whole. An item will be published in the next Member’s Information Bulletin report will be presented to the next ordinary meeting of the Council setting out the changes made by the Leader, following which it shall replace any previous version in this</p>	<p>Currently changes to the Leader’s Scheme of Delegation are both published in the Members’ Information Bulletin and reported to the General Purposes Committee and Full Council.</p> <p>The amendment to the procedure will avoid duplication.</p> <p>Additional wording shown in bold.</p> <p>Deleted wording shown as crossed through.</p>

Function	Proposed amendment	Reason for amendment
	Constitution; (c) Where the Leader seeks to withdraw delegation from a Cabinet Committee or Area Committee, he/she should give written notice to the Chair of the Committee.	
Where appropriate (James Keating)	Delete all occurrences of “formal caution” and “formal cautioning” and replace with “simple caution” and “simple cautioning” respectively.	To reflect current legal terminology.