


# Crawley Borough Council

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|  | Report No: LDS/050 |  |
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## **Report to General Purposes Committee**

**25 September 2012**

### **Localism Act 2011 – Constitutional Issues**

#### **Election and Term of Office of Executive Leader**

#### **1. Key Points**

- 1.1 The report sets out provisions in The Localism Act 2011 which affect the Election and Term of Office of the Executive Leader. The Act provides that the Council is required to make provision for setting the term of office of the Leader.

#### **2. Recommendations**

- 2.1 The Committee is asked to recommend to Council on 24<sup>th</sup> October 2012:

- (i) that a 4-year term of office for the Executive Leader should be retained with changes to the Council's executive arrangements as set out in Appendix A;
- (ii) that the Executive Leader continue in office for the remainder of his current term.

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### **3. Background**

- 3.1 The Localism Act 2011 contains a number of provisions relating to the Governance arrangements of Local Authorities.
- 3.2 The Council adopted a Leader and Cabinet Executive pursuant to the provisions of the Local Government Act 2000. That Act was subsequently amended by the Local Government and Public Involvement in Health Act 2007 whereupon “The Strong Leader” Executive Model of Governance was introduced. The Council adopted The Strong Leader and Cabinet Executive in December 2010. The Leader of the Council was appointed as the Executive Leader in May 2011 and subsequently in May 2012 to serve a mandatory 4-year term of office.

### **4. The Effect of The Localism Act 2011**

- 4.1 Transitional provisions preserve the current rules relating to elections and terms of office of Executive Leaders until such time as the Council makes provision in its executive arrangements under Section 91 of the Local Government Act 2000 (inserted by The Localism Act 2011). This section requires the Council's executive arrangements to have provisions for the election of the Executive Leader, including provision for an election where there is a vacancy. The Act also stipulates that where the Council resolves to remove the Executive Leader, a new Executive Leader has to be elected at the meeting where the resolution is passed or at a subsequent meeting. The Act removes the requirement for a 4-year term of office for an Executive Leader and leaves it to Local Authorities to make local provision with respect to the term of office of the Executive Leader.
- 4.2 There is provision for the Secretary of State to make regulations in respect of these matters. The Government has indicated that it is not going to prescribe this, but leave it to Local Authorities to decide.
- 4.3 The Council is now required to make provision for setting the term of office of the Leader.
- 4.4 It is recommended that the Council preserve a 4-year term of office for the Executive Leader and agree minor changes to the relevant section of the Constitution as set out in Appendix A and that the Executive Leader continues in office for the remainder of his current term.

### **5. Staffing, Equalities, Legal and Financial Implications**

- 5.1 The issues set out in this report for consideration by the Committee and Council arise from the provisions of the Localism Act 2011.
- 5.2 There are no financial implications arising from this report.

## **6. Reason for Recommendation**

- 6.1 The Council is required to make provision for the Election and Term of Office of the Executive Leader under the provisions of The Localism Act 2011.

## **7. Background Papers**

Localism Act 2011 – Schedule 1 and Schedule 2. Part I of The Local Government Act 2000.

Regulation 2 of The Localism Act 2011 (Local Authority Governance Transitional Provisions) (England) Order 2012.

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## ARTICLE 7 - THE LEADER AND CABINET

### 7.1. Role

The Cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution. The Leader may, however, make arrangements to delegate some matters from himself/herself to the Cabinet, a Committee of the Cabinet, individual Cabinet Members, or to an employee, an Area Committee, through Joint Arrangements or to another Local Authority.

### 7.2. Form and Composition

~~Commencing with the May 2011 Elections the Council will operate new political arrangements which will be the 'Strong Leader' and Cabinet Executive Arrangements Model under the Local Government and Public Involvement in Health Act 2007.~~

**Crawley Borough Council has decided to adopt the Leader and Cabinet form of Executive. The Cabinet is at the heart of the decision-making process.**

The Cabinet will consist of the Leader appointed by the Council, the Deputy Leader appointed by the Leader, together with at least one, but not more than eight other Councillors appointed by the Leader.

Only Councillors may be appointed to the Cabinet. Neither the Mayor nor the Deputy Mayor of the Council may be appointed to the Cabinet. The Leader and Cabinet Members may not be members of the Overview and Scrutiny Commission **or serve on scrutiny panels.**

### 7.3. Leader

The Leader will be a Councillor elected to the position of Leader by a simple majority of the Council at its post-election Annual Meeting (or if the Council fails to elect a Leader at that meeting, a subsequent meeting of the Council). The term of office of the Leader starts ~~sed~~ on the day of his/her election as Leader and the Leader will hold office until:

- (1) he/she resigns from the office; or
- ~~(2) he/she is suspended from being a Councillor under Part III of the Local Government Act, 2000 (although he/she may resume office at the end of the period of suspension); or~~
- (2) he/she is no longer a Councillor; or
- (3) he/she is otherwise disqualified from holding the office of a Councillor; or

- (4) until the next Annual Meeting after the Leader's normal day of retirement as a Councillor except that the Council may remove the Leader from office at an earlier date by resolution of the Council.

**In the event of there being a vacancy in the office of Leader, the Council shall elect a new Leader at its next ordinary meeting.**

**If the Council passes a resolution to remove the Leader, a new Leader shall be elected at the meeting at which the Leader is removed from office or at a subsequent meeting of the Council.**

#### **7.4. Role of the Leader**

The role of Leader shall be as follows:-

- (1) To appoint the Deputy Leader, the Cabinet and the Cabinet Portfolio Holders;
- (2) To determine the number of Members to be appointed to the Cabinet and allocate any areas of responsibility to the Cabinet Portfolio Holders;
- (3) To determine the Scheme of Delegation for the discharge of the Cabinet functions of the Council set out in Part 3 of this Constitution;
- (4) To give political leadership to Members and Employees;
- (5) To be the spokesperson for the majority political group(s);
- (6) To represent the majority political group(s)' interests on issues concerning the political management of the Council, liaising regularly with the Chief Executive;
- (7) To initiate and develop corporate strategies and policies which the majority group(s) wish to pursue;
- (8) To promote the interests and image of the Council and enhance its influence by building good relationships with local and national, private, public and voluntary sector organisations;
- (9) Subject to the ceremonial role of the Mayor, to represent the Council and conduct member-level correspondence with Government, Regional Bodies and Local Government Associations.

#### **7.5. Deputy Leader**

The Leader will appoint a Deputy Leader. If for any reason the Leader is unable to act or the office of the Leader is vacant, the Deputy Leader will act in his/her place. The Deputy Leader will hold office until:

- (1) he/she resigns from office; or
- ~~(2) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or~~
- (2) he/she is no longer a Councillor; or
- (3) he/she is otherwise disqualified from holding the office of a Councillor; or

- (4) he/she is removed from office by the Leader who must deliver written notice of any removal to the Head of Legal and Democratic Services and to the Deputy Leader. The removal will take effect immediately after receipt of the notice by the proper officer; or
- (5) at the end of the term of office of the Leader.

Where a vacancy occurs in the office of the Deputy Leader the Leader must appoint another person in his/her place. If the Deputy Leader is unable to act or his/her position becomes vacant, the Cabinet must act in the Leader's absence or must arrange for a Cabinet Member to do so.

#### 7.6. **Other Cabinet Members**

Other Cabinet Members shall hold office until:-

- (1) they resign from office; or
- ~~(2) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or~~
- (2) they are no longer Councillors; or
- (3) they are otherwise disqualified from holding the office of a Councillor: or
- (4) they are removed from office, either individually or collectively, by the Leader who must deliver written notice of any removal to the Head of Legal and Democratic Services and to the Cabinet Member/s concerned. The removal will take effect immediately after receipt of the notice by the proper officer; or
- (5) at the end of the term of office of the Leader.

#### 7.7. **Attendance**

If any member of the Cabinet fails for six consecutive months to attend any meeting of the Cabinet or any Committee of the Cabinet or, acting alone, to discharge any functions which are the responsibility of the Cabinet and delegated to that member, then, unless the failure is due to some reason approved by the local authority, she or he will cease to be a member of the local authority.

#### 7.8. **Role of Cabinet Members**

The role of Cabinet Members shall be as follows:-

- (1) To be the advocate of policies within his/her portfolio;
- (2) To provide strong and fair leadership and clear political guidance;
- (3) To be politically accountable to the Council for overseeing the effective implementation of policies and strategies which fall within his/her portfolio;
- (4) To work with the Leader and other Cabinet Members in order to initiate and develop corporate strategies and policies which the majority group(s) wish(es) to pursue;

- (5) To keep himself/herself informed of any significant underspends/ overspends in the budgets for which his/her portfolio is responsible;
- (6) To promote the interests and image of the Council;
- (7) To contribute towards achieving the Corporate Plan objectives as embodied in the Council's Vision Statement;
- (8) To exercise collective responsibility for decisions of the Cabinet;
- (9) To make decisions as delegated under the Council's Constitution and to take day-to-day decisions relating to a matter within the remit of his or her portfolio responsibilities including executive decisions that have been delegated to him/her subject to the following:
  - (a) The Cabinet member shall comply with the requirements of Article 12 of this Constitution relating to Decision-Making and Rule 20 of the Access to Information Rules and any other relevant Procedural Rules contained in the Constitution.
  - (b) A Cabinet Member may refer any matter within their portfolio to the Cabinet for a decision.

#### **7.9. Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

#### **7.10. Responsibility for Functions**

The Leader holds all responsibility for Cabinet functions and determines the Scheme of Delegation for the discharge of Cabinet functions. The Leader will determine which Cabinet functions are to be exercised by:

- (1) Him/herself;
- (2) The Cabinet as a whole;
- (3) A Committee of the Cabinet;
- (4) An individual Member of the Cabinet;
- (5) An employee;
- (6) An Area Committee;
- (7) Joint Arrangements;
- (8) Another Local Authority.

The Leader will maintain a list in Part 3 of this Constitution setting out which individual Members of the Cabinet, Committees of the Cabinet, employees, Area Committees, Joint Arrangements or other authorities are responsible for the exercise of particular Cabinet functions.

The Leader of the Council has allocated portfolio responsibility to individual Cabinet members. Full details of their responsibilities are set out in Part 4 – Rules and Procedures – Leader and Cabinet Procedure Rules.

7.11. **Appointment of Committees**

The Council may appoint advisory Committees to advise the Cabinet or any Committee or individual member of the Cabinet.