

Crawley Borough Council

	Report No: LDS/060	B
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Report to General Purposes Committee

11 March 2013

Annual Review of the Constitution

1. Key Points

- 1.1. This report considers whether any changes are required in 2013/14 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 14.1 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. This is to ensure that the provisions relating to Protection from Call-In have not been abused, and does not relate to monitoring or reviewing the Call-In Procedure as a whole.

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. Policy Framework Documents (PFDs)
 - 4.2.1. Decision making is underpinned by a framework of policies, plans and strategies. These are collectively referred to as the Policy Framework and form part of the Constitution.
 - 4.2.2. Full Council is responsible for approving the contents of the Policy Framework, and the Cabinet is responsible for implementing it.
 - 4.2.3. Cabinet draws up initial proposals in relation to any plan, strategy or budget within the Policy Framework, the details of which shall be included in the Forward Plan if it is deemed to be a Key Decision. Stakeholders are consulted on the plans, including the Overview and Scrutiny Commission, or in some cases, the relevant regulatory Committee (such as if the matter relates to planning or licensing matters).
 - 4.2.4. PFDs can be classified as either mandatory or optional. Mandatory PFDs are plans and strategies required under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which have recently been revised. Other PFDs relate to plans and strategies which the Council has decided to include as a matter of local choice.
 - 4.2.5. Currently the list of PFDs in the Constitution does not distinguish between mandatory and other plans and strategies. It is proposed that the Constitution be amended to make clear which plans and strategies have been included on the list of PFDs as a matter of law and which have been adopted as a local choice.
 - 4.2.6. The list of PFDs is currently cited in several sections of the Constitution. It is proposed that the revised list only be included within the Policy Framework Procedure Rules and that the other relevant sections of the Constitution refer to those Procedure Rules rather than also listing the PFDs.

4.2.7. When reviewing the Council's current list of PFDs it was found that Local Authorities were no longer required to produce a Best Value Performance Plan (Annual Performance Plan) and therefore it is proposed to remove this Plan from the list of PFDs.

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. Reasons for the Recommendation

9.1. To comply with Article 14.1 of the Constitution and Scrutiny Procedure Rule 14(l).

10. Background Papers

The Council's Constitution.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.

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CHANGES TO THE CONSTITUTION

Function	Proposed amendment	Reason for amendment
Article 4: The Full Council – Page 16 (Mez Matthews)	Amend paragraph 4.1(a) of Article 4 to read as detailed In Appendix 1a.	For reasons given in paragraph 4.2 of report LDS/060. Deleted wording shown as crossed through. Additional wording shown in bold.
Functions of the Full Council – Page 75 (Lucasta Grayson)	Amend the first delegation relating to the terms and conditions on which staff hold office to read as follows: <u>“The following function is delegated to the Head of People and Technology, Head of Finance, Revenues and Benefits and the relevant Director or the Chief Executive</u> To approve operational staffing changes below Head of Service level (including numbers of posts, post types, job duties, grades, deployment of posts, redundancies, flexible retirement, retirement in the interest of efficiency of the service and retirement in exceptional circumstances as set out in the Council’s pension discretions) to meet the operational needs of the service within the limits of the approved financial budget and Financial Procedure Rules, subject to compliance with Council policies and to no significant service implications.	The current pension discretions for the Council include a discretion to grant early retirement to an employee over 55 in exceptional circumstances, for example, where an individual has to provide long term care for a partner or other close relative with a terminal or debilitating illness. The proposed change will extend the delegation to include this category of retirement. Additional wording is

Function	Proposed amendment	Reason for amendment
		shown in bold.
Responsibility for Cabinet Functions – Page 155 (Mez Matthews)	Amend bullet point (i) of the Responsibility for Cabinet Functions to read as detailed In Appendix 1b.	For reasons given in paragraph 4.2 of report LDS/060. Deleted wording shown as crossed through. Additional wording shown in bold.
Policy Framework Procedure Rules – Page 263 (Mez Matthews)	Amend paragraphs 1 and 2 of the Policy Framework Procedure Rules as detailed in Appendix 1c.	For reasons given in paragraph 4.2 of report LDS/060. Section 139 of the Local Government and Public Involvement in Health Act 2007 c.28 removed the duty of Local Authorities to prepare a Best Value Performance Plan (Annual Performance Plan) and therefore the Council no longer produces this document. Deleted wording shown as crossed through. Additional wording shown in bold.

EXCERPT FROM ARTICLE 4 – THE FULL COUNCIL

4.1. Meanings

(a) Policy Framework.

The Policy Framework means the **plans and strategies set out in The Policy Framework Procedure Rules within this Constitution.**
~~following plans and strategies:-~~

~~Annual Performance Plan~~

~~Sustainable Community Strategy~~

~~Safer Crawley Partnership Plan~~

~~Adopting, approving, amending, modifying, revising, varying, withdrawing or revoking alterations and local development documents (under Section 17 of the Planning and Compulsory Purchase Act 2004) which together form the Local Development Plan including~~

~~(i) the approval for the purposes of public consultation in accordance with regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012, of draft proposals associated with the preparation of alterations to, or the replacement of, a development plan; and~~

~~(ii) the adoption of local development documents in accordance with Section 17(8) of the Planning and Compulsory Purchase Act 2004.~~

~~Functions relating to Supplementary Planning Documents remain the responsibility of the Cabinet.~~

~~Council's Corporate Plan~~

~~Housing Strategy~~

~~Crawley's Economic Plan~~

~~Statement of Licensing Policy~~

~~Corporate Equality Scheme~~

~~Waste Strategy~~

~~Asset Management Plan~~

~~Statement of Gambling Policy~~

~~(Responses on behalf of the Council to consultation papers where they relate to Policy Framework plans and strategies will be a function of the Cabinet.)~~

~~(In respect of policy framework documents, and matters relating to the control of the authority's borrowing, investments or capital expenditure, or to housing land transfer, the Cabinet will be responsible for putting draft documents to the Council and will be responsible for any consultation required or necessary in the course of preparing these documents. The Council will be responsible for the approval for the purposes of its submission to the Secretary of State of any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted)~~

~~The function of amending, modifying, revising, varying, withdrawing or revoking a plan or strategy relating to the policy framework, to the control of the authority's borrowing, investments or capital expenditure, or for determining the authority's minimum revenue provision, or to housing land transfer shall be the responsibility of the Cabinet where such action:-~~

- ~~(i) is required to give effect to requirements of the Secretary of State in relation to a strategy or plan (or part of a strategy or plan) submitted for his/her approval; or~~
- ~~(ii) is recommended by the person carrying out, under Section 20 of the Planning and Compulsory Purchase Act 2004, an independent examination of a development plan document; or~~
- ~~(iii) is authorised by the Council when approving or adopting the plan or strategy~~

~~but shall not be the responsibility of the Cabinet in any other case.~~

~~In connection with the discharge of functions under Sections 28-31 of the Planning and Compulsory Purchase Act 2004 (joint Local Plans and joint Committees), the following actions shall not be the responsibility of the Cabinet:-~~

- ~~(i) The making of an agreement to prepare one or more joint Local Plans;~~
- ~~(ii) The making of an agreement to establish a joint Committee to be, for the purposes of Part 2 (local development) of the 2004 Act, the local planning authority;~~
- ~~(iii) (Where the authority is a constituent authority to a joint Committee, the making of an agreement that the joint Committee is to be, for the purposes of Part 2 of the Act, the local planning authority for any area or matter which is not the subject of an Order under Section 29 of the 2004 Act or an earlier agreement under Section 30 of the 2004 Act;~~
- ~~(iv) The making of a request to the Secretary of State for the revocation of an order constituting a joint~~

~~Committee as the local planning authority for any area
or in respect of any matter.
Any other function under Sections 28—31 of the Planning and
Compulsory Purchase Act 2004 shall be the responsibility of
the Cabinet.~~

EXCERPT FROM THE RESPONSIBILITY FOR CABINET FUNCTIONS

All the powers and duties of the Council are allocated to the Leader **EXCEPT:-**

- (i) approval or adoption of the Policy Framework, which means the ~~following~~ plans and strategies **set out in the Policy Framework Procedure Rules within this Constitution.**

- ~~● Annual Performance Plan~~
- ~~● Sustainable Community Strategy~~
- ~~● Safer Crawley Partnership Plan~~
- ~~● Adopting, approving, amending, modifying, revising, varying, withdrawing or revoking alterations and local development documents (under Section 17 of the Planning and Compulsory Purchase Act 2004) which together form the Local Plan including~~
 - ~~(a) the approval for the purposes of public consultation in accordance with regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012, of draft proposals associated with the preparation of alterations to, or the replacement of, a development plan; and~~
 - ~~(b) the adoption of local development documents in accordance with Section 17(8) of the Planning and Compulsory Purchase Act 2004.~~
- ~~● Functions relating to Supplementary Planning Documents remain the responsibility of the Cabinet~~
- ~~● The Council's Corporate Plan~~
- ~~● Housing Strategy~~
- ~~● Crawley's Economic Plan~~
- ~~● Statement of Licensing Policy~~
- ~~● Corporate Equality Scheme~~
- ~~● Waste Strategy~~
- ~~● Asset Management Plan~~
- ~~● Statement of Gambling Policy~~

~~(Responses on behalf of the Council to consultation papers where they relate to Policy Framework plans and strategies will be a function of the Cabinet)~~

~~(In respect of policy framework documents, and matters relating to the control of the authority's borrowing, investments or capital expenditure, or to housing land transfer, the Cabinet will be responsible for putting draft documents to the Council and will be responsible for any consultation required or necessary in the course of preparing those documents. The Council will be responsible for the approval for the purposes of its submission to the Secretary of State of any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted)~~

~~The function of amending, modifying, revising, varying, withdrawing or revoking a plan or strategy relating to the policy framework, to the control of the authority's borrowing, investments or capital expenditure, or for determining the authority's minimum revenue provision, or to housing land transfer shall be the responsibility of the Cabinet where such action=~~

- ~~(a) Is required to give effect to requirements of the Secretary of State in relation to a strategy or plan (or part of a strategy or plan) submitted for his/her approval; or~~
 - ~~(b) Is recommended by the person carrying out, under Section 20 of the Planning and Compulsory Purchase Act 2004, an independent examination of a development plan document; or~~
 - ~~(c) Is authorised by the Council when approving or adopting the plan or strategy~~
- but shall not be the responsibility of the Cabinet in any other case

~~In connection with the discharge of functions under Sections 28—31 of the Planning and Compulsory Purchase Act 2004 (joint Local Plans and joint Committees), the following actions shall not be the responsibility of the Cabinet:-~~

- ~~(a) The making of an agreement to prepare one or more joint Local Plans;~~
- ~~(b) The making of an agreement to establish a joint Committee to be, for the purposes of Part 2 (local development) of the 2004 Act, the local planning authority;~~
- ~~(c) Where the authority is a constituent authority to a joint Committee, the making of an agreement that the joint Committee is to be, for the purposes of Part 2 of the Act, the local planning authority for any area or matter which is not the subject of an Order under Section 29 of the 2004 Act or an earlier agreement under Section 30 of the 2004 Act;~~
- ~~(d) The making of a request to the Secretary of State for the revocation of an order constituting a joint Committee as the local planning authority for any area or in respect of any matter.~~

~~Any other function under Sections 28—31 of the Planning and Compulsory Purchase Act 2004 shall be the responsibility of the Cabinet~~

EXCERPT FROM THE POLICY FRAMEWORK PROCEDURE RULES

1. The Framework for Cabinet Decisions

The Cabinet is responsible for proposing the Policy Framework to the Council.

The Council will be responsible for the adoption of its Policy Framework as set out in **paragraph 2 below** ~~Article 4~~. Once a Policy Framework is in place, it will be the responsibility of the Cabinet to implement it.

2. Policy Framework

The Policy Framework means the following plans and strategies:-

- Statement of Licensing Policy
- Statement of Gambling Policy
- Crime and Disorder Reduction Strategy (Safer Crawley Partnership Plan)
- Sustainable Community Strategy
- **Development Plan Documents, including approval for the purposes of public consultation in accordance with Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012** (Functions relating to ~~Supplementary Planning Documents~~ **other Local Development Documents** remain the responsibility of the Cabinet.)
- ~~Adopting, approving, amending, modifying, revising, varying, withdrawing or revoking alterations and local development documents (under Section 17 of the Planning and Compulsory Purchase Act 2004) which together form the Local Plan including~~
 - ~~(i) the approval for the purposes of public consultation in accordance with regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012, of draft proposals associated with the preparation of alterations to, or the replacement of, a development plan; and~~
 - ~~(ii) the adoption of local development documents in accordance with Section 17(8) of the Planning and Compulsory Purchase Act 2004.~~
- **Other plans and strategies that the Council and Cabinet consider should be adopted by the Full Council as a matter of local choice; for example:**
 - ~~Annual Performance Plan~~
 - **The Council's Corporate Plan**
 - Housing Strategy
 - Crawley's Economic Plan
 - Waste Strategy
 - Asset Management Plan

(Responses on behalf of the Council to consultation papers where they relate to Policy Framework plans and strategies will be a function of the Cabinet).

(In respect of **Policy Framework Documents**, and matters relating to the control of the authority's borrowing, investments or capital expenditure, or to housing land transfer, the Cabinet will be responsible for putting draft documents to the **Full Council** and will be responsible for any consultation required or necessary in the course of preparing those documents. The **Full Council** will be responsible for the approval for the purposes of its submission to the Secretary of State of any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted).

In connection with the discharge of functions under Sections 28 –31 of the Planning and Compulsory Purchase Act 2004 (joint Local Plans and joint Committees), the following actions shall not be the responsibility of the Cabinet:-

- (i) The making of an agreement to prepare one or more joint Local Plans;
- (ii) The making of an agreement to establish a joint Committee to be, for the purposes of Part 2 (**Local Development**) of the 2004 Act, the local planning authority;
- (iii) Where the authority is a constituent authority to a joint Committee, the making of an agreement that the joint Committee is to be, for the purposes of Part 2 of the Act, the local planning authority for any area or matter which is not the subject of an Order under Section 29 of the 2004 Act or an earlier agreement under Section 30 of the 2004 Act;
- (iv) The making of a request to the Secretary of State for the revocation of an order constituting a joint Committee as the local planning authority for any area or in respect of any matter.

Any other function under Sections 28 – 31 of the Planning and Compulsory Purchase Act 2004 shall be the responsibility of the Cabinet

The function of amending, modifying, revising, varying, withdrawing or revoking a plan or strategy relating to the **Policy Framework**, to the control of the authority's borrowing, investments or capital expenditure, or for determining the authority's minimum revenue provision, or to housing land transfer shall be the responsibility of the Cabinet where such action:-

- (i) Is required to give effect to requirements of the Secretary of State in relation to a strategy or plan (or part of a strategy or plan) submitted for his/her approval; or
- (ii) Is recommended by the person carrying out, under Section 20 of the Planning and Compulsory Purchase Act 2004, an independent examination of a **Development Plan Document**; or
- (iii) Is authorised by the Council when approving or adopting the plan or strategy

but shall not be the responsibility of the Cabinet in any other case.