

Crawley Borough Council

Minutes of General Purposes Committee 29 September 2014 at 7.00pm

Present:

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| Councillor | J Stanley (Chair) |
| Councillor | R D Burrett (Vice-Chair) |
| Councillors | M L Ayling, C A Cheshire, D G Crow, C R Eade, P K Lamb, R A Lanzer, T Lunnon, C G Oxlade and L A Walker |

Also in Attendance:

Councillors M G Jones and C A Moffatt

Officers Present:

| | |
|---------------|-----------------------------|
| Lee Harris | Chief Executive |
| Kevin Carr | Legal Services Manager |
| Steve Lappage | Democratic Services Manager |
| Andrew Oakley | Electoral Services Manager |
| Mez Matthews | Democratic Services Officer |

Apologies for Absence:

Councillor C R Eade (for lateness)

1. Welcome

The Chair welcomed the Committee to the first meeting of the municipal year and stated that he was looking forward to undertaking the work of the Committee. The Chair also welcomed Councillors Jones and Moffatt who had requested to attend the meeting to observe discussions.

2. Members' Disclosure of Interests

No disclosures of interests were made by Members.

3. Minutes

The minutes of the meeting of the Committee held on 31 March 2014 were approved as a correct record and signed by the Chair.

4. Individual Electoral Registration - Update

The Committee considered report LDS/091 of the Head of Legal and Democratic Services which informed the Committee about the transition to Individual Electoral Registration and updated progress towards implementing the new legislation and publishing the new electoral register on 1 December 2014.

Following a question from the Committee, the Electoral Services Manager explained that the data held by the Department for Work and Pensions, which was used to match the data held on the Council's register, had been largely reliable. Although, some difficulties had been encountered when matching the data of a number of older, married women, it was not yet known why and more information on the reasons for this should be available next year.

The Committee was assured that the by-election which was due to take place on 9 October 2014 would not impact on the timetable identified in Paragraph 5.4 of the report. It was also noted that any new financial burdens placed on the Council as a result of the new system would be assessed by the Government on a year by year basis and funding would be provided accordingly.

Following a query from the Committee, the Electoral Services Manager drew the Committee's attention to Paragraph 5.3 of the report. The Contact Centre had taken a large number of calls from the public in relation to the new register and the publication of elector details on the open register, but he explained that it would be difficult to cost the amount of time staff had spent on the matter.

Currently there was limited statistical breakdown and it was not possible to ascertain whether frequent voters had been successfully registered under the new system. The Committee was assured however that the procedure for registering as an elector had been simplified, and those who wanted to register as an elector would now find it much easier to do so.

The Committee requested that another progress report be brought to a future meeting of the Committee.

RESOLVED

1. That the progress towards implementing Individual Electoral Registration be noted.
2. That a further progress report be brought before the 9 March 2015 meeting of the Committee.

5. Polling Arrangements

At this point Councillor Eade arrived at the meeting.

The Committee considered report LDS/092 of the Head of Legal and Democratic Services which considered the operation of the scheme at the European and Local elections on 22 May 2014 and made recommendations concerning polling in Three Bridges and Broadfield North wards.

The Electoral Services Manager informed the Committee that the proposal to split Broadfield North into two polling districts through the introduction of an additional polling place would reduce the number of electors visiting the Broadfield Barton. It was noted that there would be a general election in 2015 and the expected number of electors voting would be double the number for a local election.

Three Bridges

The Committee was in agreement that the Holiday Inn Express be confirmed as the polling place for polling district LMC.

Broadfield North

The report suggested that the Scout Hut on Seymour Road would be a suitable polling place for the proposed new polling district in Broadfield North. The following comments were made in relation to Broadfield North:

- Concern that the Scout Hut did not provide sufficient parking.
- Many disabled electors drove to their polling station and it was therefore important that sufficient parking was available.
- Having two polling places in Broadfield North would reduce congestion problems at Broadfield Barton.
- Any change in polling place would be highlighted on the elector's polling card as well as in the newspaper and local community noticeboard.

Broadfield South

It was noted that Creasys Drive Adventure Playground had been examined as a possible polling place for Broadfield South, but the disabled access had been deemed too steep and narrow and it had therefore not been included as a recommendation.

The following comments were made in relation to Broadfield South:

- Disappointment that the report did not include a proposal to divide Broadfield South into two polling districts.
- Did not envisage access issues at Creasys Drive and Broadfield South ward should also be split into two polling districts, with the additional polling place being the Adventure Playground.
- Suggested that the Council's Access Officer visit and carry out a disabled access assessment at Creasys Drive as he had not yet visited the premises.
- Concern that should the improvement works proposed at Broadfield Barton be underway during the next election it could worsen the current parking issues on polling day.
- Concern that the first election following the new polling arrangements would be a general election, where the turnout was expected to be high, and a change in polling place could cause confusion for electors and any problems would be intensified. However, other Committee members were of the view that the Broadfield Barton had seen large queues at the last general election and it was important that the new arrangements be in place in time for the 2015 general election to ensure that electors did not turn away due to overcrowding.
- Any change in polling place would be highlighted on the elector's polling card as well as in the newspaper and local community noticeboard.
- Concern that any changes to polling districts needed to be brought before the next Full Council meeting if such arrangements were to be in place in time for the 2015 general election.

The Electoral Services Manager highlighted that any change to polling districts would need to be considered at the next Full Council meeting, however the decision of polling places was not a Full Council function and could be dealt with at a later date. The Committee considered a map which showed a potential district division for Broadfield South Ward.

The Legal Services Manager advised the Committee on the Principles of Decision Making set out in Article 12 of the Council's Constitution. Whilst concerns were raised regarding the promotion of the proposed new view to also divide Broadfield South into two polling districts, the majority of the Committee were of the view that it was necessary to divide the Ward at this time if any changes were to take place in time for the general election in 2015.

Maidenbower and Ifield East

The Chair had received a request that the Committee consider the polling places for Ifield East Ward (LFB) and Maidenbower Ward (LHB). As a consequence, the Chair sought the Committee's agreement that a report be brought before a future meeting of the Committee for consideration. The Committee discussed the proposal in detail.

Although several Committee members were of the view that the polling arrangements for Maidenbower had been considered by the Committee in November 2013 (minute 13 refers) and had concluded that no suitable alternative arrangements were available for Maidenbower Ward, other members of the Committee were of the opinion that the use of The Brook School, Maidenbower should be reconsidered.

The majority of the Committee were in agreement that a report on the polling arrangements for Maidenbower and Ifield East be considered at a future meeting of the Committee. It was requested that the Ward Members be consulted and their opinions included in the report to Committee.

RESOLVED

1. That a report on the polling arrangements for Ifield East Ward (LFB) and Maidenbower Ward (LHB) be considered at a future meeting of the Committee.

That the Full Council be recommended:

2. That the Holiday Inn Express be confirmed as the polling place for polling district LMC.
3. That new polling districts be created for Broadfield North LBA and LBB as shown in Appendix A to report LDS/092.
4. That new polling districts be created for Broadfield South LCA and LCB as shown in Appendix A to these minutes.

6. Petition Scheme

The Committee considered report LDS/090 of the Head of Legal and Democratic Services on a review of the operation of the Petitions Scheme. The Cabinet would be asked at its meeting on 8 October 2014 to consider whether any changes should be made to the Petitions Scheme following the repeal of the Localism Act 2011 of the requirement (under the Local Democracy, Economic Development and Construction

Act 2009) to have a Petitions Scheme (including an e-petition facility. The Committee was asked to note the main changes being proposed to the Petitions Scheme prior to its consideration by the Cabinet.

The Committee noted that although the online petition system was not currently 'live' due to various technical issues, it would be operational in a matter of days. The Committee considered the report and agreed with the following proposals contained within the report:

- That the opportunity to request a review of the steps taken in response to a petition be removed, and be replaced with the option to submit a complaint under the Council's Complaints Procedure.
- That any petitions relating to a public consultation be dealt with as part of that consultation.
- That hybrid petitions (both electronic and paper) be considered, subject to review.
- That petitions should no longer be considered by the Overview and Scrutiny Commission, but should be debated at the relevant Committee/body.

The fifth line of the flowcharts contained within Appendices 2 and 3 to the report stated "if it is a valid petition...". It was suggested that an explanation was necessary as to why a second stage of validity was required as the flowchart showed that a petition's validity would have been ascertained earlier on in the process. It was acknowledged that, although a "Right of Review" had been omitted from Appendix 2 to the report that step had been included in the flowchart contained within the Cabinet report.

Some members of the Committee were of the view that Senior Officers should not be held to account, as Councillors should hold officers to account and not the public. However, other Committee members felt it was important that Senior Officers could be held to account by the public, especially given the increased level of delegation recently introduced following the (Executive) Decision Making Redesign. The Committee was informed that the Cabinet report specifically named the Senior Officers who could be held to account. It was noted that any petition seeking to hold a Senior Officer to account would result in an investigation into the matter.

Some concern was expressed at the proposal to reduce the number of petition signatures required to hold an officer to account from 500 to 50, as it was felt that 50 signatures was too low however, it was acknowledged that the threshold level could be reviewed in the future should it be necessary.

RESOLVED

1. That the report and operation of the scheme to date be noted;
2. That the proposals for the revision of the Council's Petitions Scheme to be considered by the Cabinet on 8 October 2014 be noted before being determined by Full Council on 22 October 2014;
3. That the Committee's comments above be considered by the Cabinet.

7. Changes to the Constitution

The Committee considered report LDS/089 of the Head of Legal and Democratic Services which proposed changes to the Constitution. The majority of the changes had been put forward to ensure that the Council's procedures accorded with the requirements of the Openness of Local Government Bodies Regulations 2014.

RESOLVED

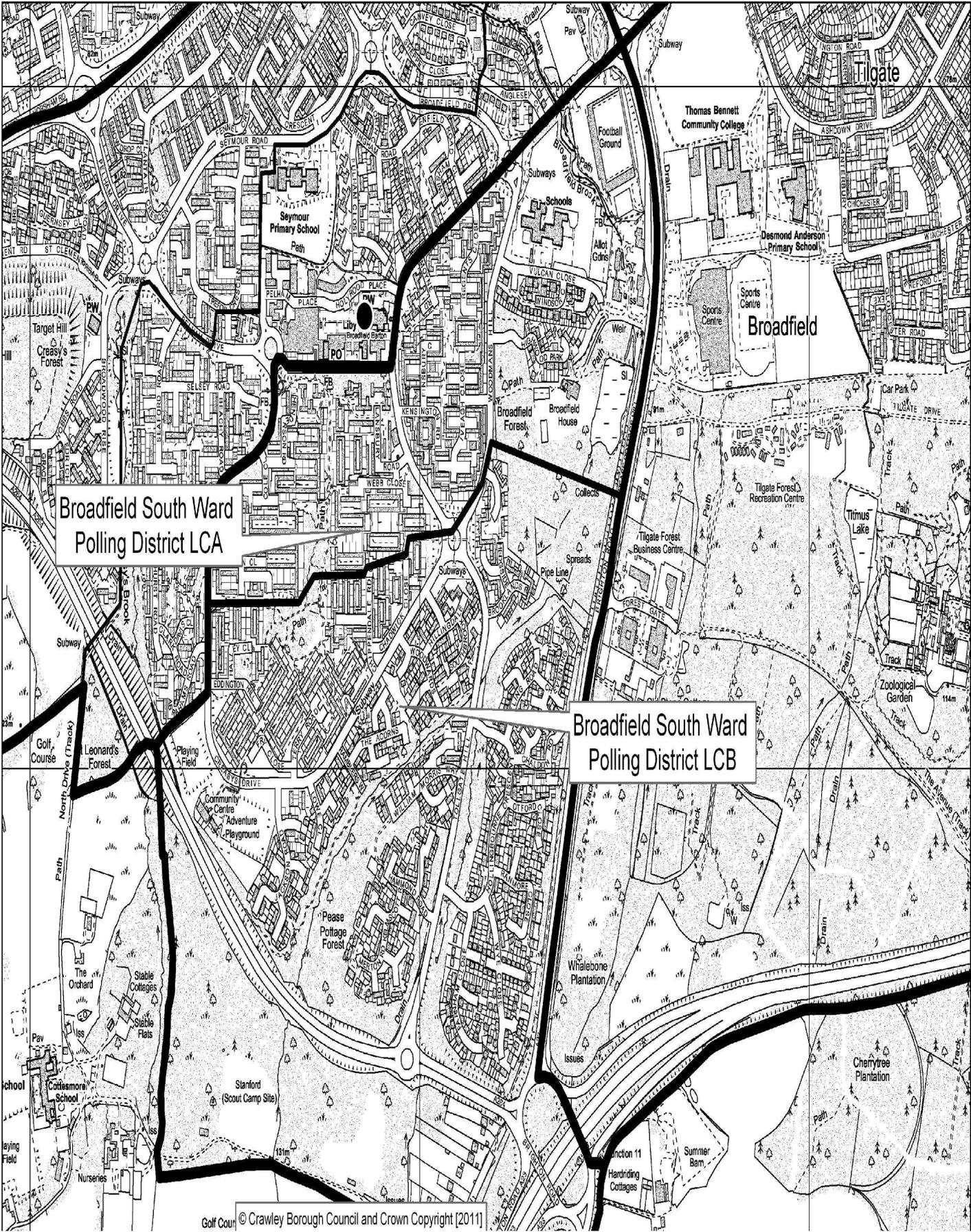
That the Full Council be recommended that the amendments to the Constitution proposed in Appendix B to these minutes be agreed.

8. Closure of Meeting

With the business of the Committee concluded, the Chair declared the meeting closed at 8.44pm.

J STANLEY
Chair

APPENDIX A



APPENDIX B

CHANGES TO THE CONSTITUTION (LDS/089)

| <u>Function</u> | <u>Proposed amendment</u> | <u>Reason for amendment</u> |
|---|--|---|
| | <p>Where appropriate:</p> <ul style="list-style-type: none"> • Deleted wording is shown as crossed through • Additional wording is shown in bold | |
| Article 12 – Decision Making – Page 39 | Amend Paragraph 12.3 as detailed in Appendix 1 to this report (LDS/089) to include the definition of a Significant Operational Decision. | The Access to Information Procedure Rules will refer to different types of decisions (see below), the inclusion of this definition will clarify the different decision types. |
| Access to Information Procedure Rules– Page 184 | Amend Paragraphs 7 and 8 as detailed in Appendix 2 to this report (LDS/089) | To accord with the requirements of The Openness of Local Government Bodies Regulations 2014. |
| Access to Information Procedure Rules– Page 192 | <p>Amend Paragraph 21.3 to read as follows:</p> <p>“21.3 Record of Individual Decision</p> <p>As soon as reasonably practicable after a Cabinet key decision or Significant Operational (non key) Decision (see Article 12 – Decision Making, for definitions) decision has been taken by an individual</p> | To accord with the requirements of The Openness of Local Government Bodies Regulations 2014. |

| <u>Function</u> | <u>Proposed amendment</u> | <u>Reason for amendment</u> |
|---|--|-----------------------------|
| <p>Access to Information Procedure Rules– Page 192 (continued...)</p> | <p>Where appropriate:</p> <ul style="list-style-type: none"> • Deleted wording is shown as crossed through • Additional wording is shown in bold <p>member of the Cabinet or an executive decision taken by an officer which was delegated to them either:</p> <p>(a) Under a specific express authorisation; or</p> <p>(b) Under a general authorisation to officers to take such decisions and, the effect of the decision is to:</p> <p style="padding-left: 40px;">(i) Grant a permission or licence;</p> <p style="padding-left: 40px;">(ii) Affect the rights of an individual; or</p> <p style="padding-left: 40px;">(iii) Award a contract or incur expenditure which, in either case, materially affects the Council's financial position.</p> <p>he/she will prepare, or instruct the Head of Legal and Democratic Services to prepare, a record of the decision, a statement including:</p> <p>(a) A record of the decision including the date it was made;</p> <p>(b) A record of the reasons for the decision;</p> <p>(c) Details of any alternative options considered and rejected by the Member/officer when making the decision;</p> | |

| <u>Function</u> | <u>Proposed amendment</u> | <u>Reason for amendment</u> |
|---|--|--|
| Access to Information Procedure Rules– Page 192 (continued...) | <p>Where appropriate:</p> <ul style="list-style-type: none"> • Deleted wording is shown as crossed through • Additional wording is shown in bold <p>(d) A record of any conflicts of interest declared by any Cabinet Member who is consulted by the Member/officer which relates to the decision; and</p> <p>(e) In respect of any declared conflict of interest, a note of any dispensation granted.</p> <p>The provisions of Rules 7 and 8 (inspection of documents after meetings) and Scrutiny Procedure Rule 14 will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a Political Adviser.</p> | |
| Access to Information Procedure Rules– Page 194 | <p>Insert the following new paragraph after Paragraph 23.6:</p> <p>“24. REPORTING PROCEDURES OF A MEETING</p> <p>24.1 Any person attending a meeting of the Council which is open to the public is permitted to report the proceedings. The Protocol on Use of Social Media, Photography, Filming and Recording at Meetings set out in Part 5 of this Constitution relates.</p> <p>24.2 Reporting on proceedings at a meeting means:</p> <p>(a) Filming, photographing or making an audio</p> | To accord with the requirements of The Openness of Local Government Bodies Regulations 2014. |

| <u>Function</u> | <u>Proposed amendment</u> | <u>Reason for amendment</u> |
|---|--|-----------------------------|
| <p>Access to Information Procedure Rules– Page 194 (continued...)</p> | <p>Where appropriate:</p> <ul style="list-style-type: none"> • Deleted wording is shown as crossed through • Additional wording is shown in bold <p>recording of the proceedings at the meeting;</p> <p>(b) Using any other means for enabling people not present at the meeting to see or hear proceedings at the meeting as it takes place or later; or</p> <p>(c) Reporting or providing commentary on proceedings at the meeting, orally or in writing, so that the report or commentary is available to people not present, as the meeting takes place or later.</p> <p>24.3 Any person who attends a meeting of the Council to report the proceedings may use any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities.</p> <p>24.4 When the meeting is not open to the public, the Council may also prevent any person from reporting proceedings using methods:</p> <p>(a) Which can be used without that person’s presence at the meeting; and</p> <p>(b) Which enable people not present at the meeting to see or hear the proceedings at the meeting as</p> | |

| <u>Function</u> | <u>Proposed amendment</u> | <u>Reason for amendment</u> |
|---|---|--|
| Access to Information Procedure Rules– Page 194 (continued...) | Where appropriate: <ul style="list-style-type: none"> Deleted wording is shown as crossed through Additional wording is shown in bold <p style="text-align: center;">it takes place or later.”</p> | |
| Arrangements for Dealing with Code of Conduct Complaints Under the Localism Act 2011 Page 411 | Amend Paragraph (a) of the Arrangements for Dealing with Code of Conduct Complaints Under the Localism Act 2011 to read as follows: “(a) Complaints in writing are to be made to the Monitoring Officer who will be responsible for the management of complaints, liaising with the Complainant, Members, those requiring to be informed and consulted and providing support services to the Independent Person. The Monitoring Officer should report periodically to the Council’s Audit and Governance Committee or any other Committee that has the responsibility for the discharge of standards functions on the complaints, the outcomes and lessons learned.” | To ensure that the issues are dealt with by the correct Committee. |
| Arrangements for Dealing with Code of Conduct Complaints Under the Localism Act 2011 Page 413 | Amend Appendix A (Role of Monitoring Officer) and Appendix B (Role of the Independent Person) of the Arrangements as detailed in Appendix 3 to this report (LDS/089) | To describe how frivolous and vexatious complaints are dealt with under the Code of Conduct for Members. |

EXCERPT FROM ARTICLE 12 – DECISION MAKING

12.3. Types of Decision

(a) Decisions reserved to Full Council

Decisions relating to the functions listed in Article 4.02 will be made by the Full Council and not delegated.

(b) Key Executive decisions

(1) A key decision is likely

(i) To result in the Council incurring expenditure which is, or in the making of savings which are deemed significant in financial terms:

- (a)** By not being in the Annual Budget and Capital Programme approved by the Full Council;
- (b)** In the case of revenue expenditure, any projects and new commitments likely to exceed £100,000 per annum;
- (c)** In the case of capital expenditure, any projects if they involve entering into new commitments in excess of £500,000;
- (d)** Any contract awards exceeding £500,000

NOTE: Expenditure in excess of the above levels will not constitute a key decision if such expenditure is made as part of the implementation of, and in accordance with, a decision which itself was a key decision

OR

(ii) To be significant in terms of its effects (impacts) on communities (eg. A significant number of people) living or working in an area comprising two or more wards or electoral divisions in the area of the Council.

(2) A decision taker may only make a key decision in accordance with the requirements of the Leader and Cabinet Procedure Rules set out in Part 4 of this Constitution.

(3) Generally, a key decision will only be made by the Leader/Cabinet/Cabinet Members, a Committee of the Cabinet, a Joint Committee (or Sub Committee thereof) or an area Committee (if any).

(c) **Significant Operational Executive (Non Key) Decisions**

A Significant Operational Decision:

- (i) **Results in revenue expenditure or making savings (including the receipt or loss of income) between £80,000 and £99,999 per year;**
- (ii) **Results in capital expenditure (i.e. if they involve entering into new commitments and/or making savings) and/or contract awards of between £250,000-£499,999;**
- (iii) **Takes place when, in the opinion of the Director or Head of Service or Monitoring Officer, a published record of the decision is required to provide openness and transparency. A significant decision should be recorded in order to comply with Regulation 13 (Recording of executive decisions made by individuals) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (No. 2089).**

EXCERPT FROM THE ACCESS TO INFORMATION PROCEDURE RULES

**7. RULE 7 - ACCESS TO MINUTES AND RECORDS OF DECISIONS ~~ETC.~~
~~AFTER THE MEETING~~**

7.1. The Council will make available copies of the following for six years after a meeting:-

- (a) the records of decisions taken by the bodies to which these apply (together with reasons for Cabinet decisions) excluding any part of the record when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any part of the meeting not open to the public, where the record open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

7.2. **An officer will produce a written record of any non executive decision they have taken which was delegated to them either:**

- (a) Under a specific express authorisation; or
- (b) Under a general authorisation to officers to take such decisions and, the effect of the decision is to:
 - (i) Grant a permission or licence;
 - (ii) Affect the rights of an individual; or
 - (iii) Award a contract or incur expenditure which, in either case, materially affects the Council's financial position.

The written record will be produced as soon as reasonably practicable after the decision has been taken and will contain the following:

- (a) The date the decision was taken;
- (b) A record of the decision taken along with the reasons for the decision;
- (c) Details of alternative options, if any, considered and rejected; and
- (d) The source of that delegation.

Records of executive decisions are referred to in Paragraph 21.3 of these Procedure Rules.

8. RULE 8 - BACKGROUND PAPERS

8.1. List of Background Papers

The proper officer will set out in every report **and record of decision** a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report / **decision** or an important part of the report / **decision** is based; and
- (b) which have been relied on to a material extent in preparing the report / **decision**

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) (and in respect of Cabinet reports / **decisions**, the advice of a Political Advisor).

8.2. Public Inspection of Background Papers

The Council will make available **as soon as reasonably practicable** for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

In relation to ~~an Executive~~ a decision, the Council will make available on the Council's website and at the Town Hall, Crawley (at all reasonable hours) a copy of the background papers included within the list.

**EXCERPT FROM THE ARRANGEMENTS FOR DEALING WITH CODE OF
CONDUCT COMPLAINTS UNDER THE LOCALISM ACT 2011**

APPENDIX A

ROLE OF THE MONITORING OFFICER

Upon receipt of a complaint the Monitoring Officer must consider:

1. whether the subject matter of the allegation is within the Code of Members' Conduct;
2. whether the allegation appears to disclose a failure to comply with the Code of Members' Conduct because it comprises
 - a. a failure to treat others with respect;
 - b. acting in a way that may cause the authority to breach an equality enactment;
 - c. bullying of any person;
 - d. an intimidation or attempt at intimidation of a person involved in an allegation against the Member;
 - e. a compromise the impartiality of those who work for, or on behalf of, the authority;
 - f. a disclosure of confidential information;
 - g. the bringing of an office or authority into disrepute;
 - h. the using or attempt at using of the Member's position as a Member improperly to confer or secure an advantage or disadvantage;
 - i. the using of the resources of the authority not in accordance with its requirements;
 - j. the disregarding of relevant advice when reaching decisions;
 - k. a failure to give reasons for decisions;
 - l. a failure to declare a disclosable pecuniary interest;
 - m. a failure to declare another type of disclosable interest;
 - n. the having of an interest and the failure to act appropriately;
 - o. a failure to register interests.
3. If the allegation appears to disclose a failure to comply with the Code of Members' Conduct, the Monitoring Officer is to consider:
 - a. the extent to which the Member is alleged to have failed to treat others with respect;
 - b. the extent to which the Member is alleged to have acted in a way that may cause the authority to breach an equality enactment;
 - c. whether the allegation relates to bullying, intimidating, or attempting to intimidate a person involved in an allegation against the Member;
 - d. whether in disclosing confidential information, the Member failed to take or to heed advice;

- e. the implications for public perception or the reputation of the Council;
 - f. the implications for staff relations;
 - g. the seniority or position of influence of the Member, and public trust and confidence;
 - h. the consequences or the likely consequences of the Member's alleged actions;
 - i. the extent to which the Member is alleged to have used his or her position as a Member improperly to confer or secure an advantage or disadvantage;
 - j. the extent to which the Member is alleged to have misused or abused the resources of the Council;
 - k. the detriment caused by acting against advice when reaching decisions;
 - l. the extent to which a failure to register or to declare interests resulted from a failure or refusal to seek or to follow advice;
 - m. whether the matter of complaint has already been the subject of a previous complaint, a previous investigation or of an investigation by another regulator, eg the Local Government Ombudsman or the council's auditor, or the subject of proceedings in court;
 - n. whether the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
 - o. whether the complaint is too trivial to warrant further action;
 - p. whether the complaint appears to be simply **frivolous**, malicious, vexatious, politically motivated or tit-for-tat *;
 - q. the public benefit in directing an investigation or other steps;
 - r. the costs and officer and Member time which could be incurred on an investigation or other steps.
4. The Monitoring Officer considers that a Code of Members' Conduct may have been committed they must decide whether:
- a. the complaint can be resolved by informal means e.g. a telephone call, a meeting between the complainant and the Member or a meeting between the complainant, the Member, the Independent Person or a third party e.g. Group Leader, the Leader of the Council or the Chief Executive, or an apology;
 - b. to recommend steps to the complainant and the Member other than investigation and, if so, what steps;
 - c. to investigate the complaint;
 - d. to refer the allegation to the Independent Person for action;
 - e. to refer the case to be dealt with as part of the Council's corporate complaints procedure; or
 - f. to take no further action because:
 - i. the subject matter of the allegation is outside the Code of Members' Conduct;
 - ii. the allegation does not appear to disclose a failure to comply with the Code of Members' Conduct;
 - iii. the information submitted is insufficient to enable him or her to reach a decision;

- iv. the matter of complaint has already been the subject of a previous investigation or of an investigation by another regulator, or the subject of proceedings in court;
 - v. the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
 - vi. the complaint is too trivial to warrant further action;
 - vii. the complaint appears to be simply **frivolous**, malicious, vexatious, politically motivated or tit-for-tat *; or
 - viii. it would not be expedient in the public interest for the matter to be pursued further.
5. The Monitoring Officer must consider the reasons for making this decision.
 6. If the Monitoring Officer proposes to take steps 4b to 4f they shall inform the Chief Executive, the Group Leader and the Independent Person.
 7. If the Monitoring Officer proposes to take steps 4c or 4d they shall consult the Independent Person.
 8. *** A frivolous or vexatious complaint is described as:-**
 - **Repeated complaints making the same or similar complaints against the same member or about the same alleged incident.**
 - **Repeated complaints that disclose no potential breach of the Code.**
 - **Complaints that are designed to cause disruption or annoyance.**
 - **Demands for redress which lack any serious purpose or value.**
 - **Complaints that are pursuing unrealistic outcomes.**
 - **Insistence upon pursuing complaints which lack merit.**
 9. **The Monitoring Officer will consult with the Independent Person if a complaint is received which falls within this category and where it is recommended no further action will be taken on the complaint.**

APPENDIX B

ROLE OF THE INDEPENDENT PERSON

1. To consider any reference from the Monitoring Officer and to give directions accordingly
2. To give directions regarding any Investigation
3. To give advice to the complainant, the Member, the Monitoring Officer or the Council or any of its Committees or Sub-Committees that have responsibility for Standards
4. To receive and consider any Investigation Report from the Monitoring Officer
5. To receive and consider any representations from the complainant and the Member
6. To hold a Hearing either orally or on the papers following an Investigation
7. Upon a reference by the Monitoring Officer and/or after a hearing to make recommendations to:
 - A Panel of Members drawn from the Appointments and Investigating Committee
8. In reaching any decision the Independent Person is to consider:
 - a) whether the subject matter of the allegation is within the Code of Members' Conduct;
 - b) whether the allegation appears to disclose a failure to comply with the Code of Members' Conduct because it comprises:
 - i) a failure to treat others with respect;
 - ii) acting in a way that may cause the authority to breach an equality enactment;
 - iii) bullying of any person;
 - iv) an intimidation or attempt at intimidation of a person involved in an allegation against the Member;
 - v) a compromise the impartiality of those who work for, or on behalf of, the authority;
 - vi) a disclosure of confidential information;
 - vii) the bringing of an office or authority into disrepute;
 - viii) the using or attempt at using of the Member's position as a Member improperly to confer or secure an advantage or disadvantage;
 - ix) the using of the resources of the authority not in accordance with its requirements;
 - x) the disregarding of relevant advice when reaching decisions;
 - xi) a failure to give reasons for decisions;
 - xii) a failure to declare a disclosable pecuniary interest;
 - xiii) A failure to declare an other type of disclosable interest;
 - xiv) the having of an interest and the failure to act appropriately;
 - xv) a failure to register interests.

- c) If the allegation appears to disclose a failure to comply with the Code of Members' Conduct, the Independent Person to consider
- i) the extent to which the Member is alleged to have failed to treat others with respect;
 - ii) the extent to which the Member is alleged to have acted in a way that may cause the authority to breach an equality enactment;
 - iii) whether the allegation relates to bullying, intimidating, or attempting to intimidate a person involved in an allegation against the Member;
 - iv) whether in disclosing confidential information, the Member failed to take or to heed advice;
 - v) the implications for public perception or the reputation of the Council;
 - vi) the implications for staff relations;
 - vii) the seniority or position of influence of the Member, and public trust and confidence;
 - viii) the consequences or the likely consequences of the Member's alleged actions;
 - ix) the extent to which the Member is alleged to have used his or her position as a Member improperly to confer or secure an advantage or disadvantage;
 - x) the extent to which the Member is alleged to have misused or abused the resources of the Council;
 - xi) the detriment caused by acting against advice when reaching decisions;
 - xii) the extent to which a failure to register or to declare interests resulted from a failure or refusal to seek or to follow advice;
 - xiii) whether the matter of complaint has already been the subject of a previous investigation or of an investigation by another regulator, eg the Local Government Ombudsman or the council's auditor, or the subject of proceedings in court;
 - xiv) whether the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
 - xv) whether the complaint is too trivial to warrant further action;
 - xvi) whether the complaint appears to be simply **frivolous**, malicious, vexatious, politically motivated or tit-for-tat *;
 - xvii) the public benefit in directing an investigation or other steps;
 - xviii) the costs and officer and Member time which could be incurred on an investigation or other steps.
- d) If the Independent Person considers that a breach of the Code of Members' Conduct may have been committed he or she must decide whether:
- i) the complaint can be resolved by informal means e.g. a telephone call, a meeting between the complainant and the Member or a meeting between the complainant, the Member, the Independent Person or a third party e.g. Group Leader, the Leader of the Council or the Chief Executive, or an apology;
 - ii) to recommend steps to the complainant and the Member other than Investigation and, if so, what steps;
 - iii) to recommend action to:
 - iv) A Panel of Members drawn from the Appointments and Investigating Committee

- v) to take no further action because
- (1) the subject matter of the allegation is outside the Code of Members' Conduct;
 - (2) the allegation does not appear to disclose a failure to comply with the Code of Members' Conduct;
 - (3) the information submitted is insufficient to enable him or her to reach a decision;
 - (4) the matter of complaint has already been the subject of a previous investigation or of an investigation by another regulator, or the subject of proceedings in court;
 - (5) the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
 - (6) the complaint is too trivial to warrant further action;
 - (7) the complaint appears to be simply **frivolous**, malicious, vexatious, politically motivated or tit-for-tat *; or
 - (8) It would not be expedient in the public interest for the matter to be pursued further.

9. The Independent Person must consider the reasons for making this decision.

10. If the Independent Person makes a decision he or she shall inform the Monitoring Officer, the Chief Executive, the Group Leader, the complainant and the Member.

11. The actions the Independent Person may recommend to:

- A Panel of Members drawn from the Appointments and Investigating Committee are set out at Appendix C.

12. * A frivolous or vexatious complaint is described as:-

- **Repeated complaints making the same or similar complaints against the same member or about the same alleged incident.**
- **Repeated complaints that disclose no potential breach of the Code.**
- **Complaints that are designed to cause disruption or annoyance.**
- **Demands for redress which lack any serious purpose or value.**
- **Complaints that are pursuing unrealistic outcomes.**
- **Insistence upon pursuing complaints which lack merit.**