

Crawley Borough Council

Report to Governance Committee

29 January 2020

Adoption of the New Constitution

Joint Report of the Chair of the Constitution Review Working Group (CRWG) and
Head of Legal, Democracy and HR – LDS/157

1. Purpose

- 1.1 The purpose of this report is to present the draft new Constitution of the Council that has been written in association with, and unanimously endorsed by, the Constitution Review Working Group (CRWG), based on the principles agreed by the Governance Committee on [15 March 2017](#) as set out in paragraph 1.2 below.
- 1.2 The aim of the review was to devise a Constitution that was more user friendly, fit for purpose and modern in structure, to enable users to take decisions and/or understand procedures and protocols in a manner that encourages efficiency. Additionally, the Constitution was designed to embrace the digital and electronic age.

2. Recommendations

That the Governance Committee:

- 2.1. confirms its support for a one year trial of Written Public Questions at the Full Council, with an evaluation report being submitted to a Governance Committee meeting in 2021.
- 2.2. confirms whether the new Constitution should include provision for a Public Question Time item to be included (based on items on the agenda) at the Audit Committee, Governance Committee and Licensing Committee and, if agreed, that such a provision should mirror the suggested trial arrangements as detailed in recommendation 2.1 of report LDS/157.
- 2.3. recommends to Full Council that the new Constitution as set out in Appendix A to report LDS/157 (subject to any changes required as a consequence of recommendations 2.1 and 2.2), or any other changes agreed by the Committee, be adopted and come into effect as soon as practicable (as assessed by the Monitoring Officer).

3. Reason for the Recommendations

- 3.1 The Council is required under Section 9P of the Local Government Act 2000 (as amended by the Localism Act 2011) to prepare and keep its Constitution up to date. Whilst the Council reviews the Constitution on an annual basis, this is the first full scale comprehensive review of the Constitution since it was first adopted in 2001.

4. Background and How the CRWG Operated

- 4.1 The Council regularly updates its Constitution, via Governance Committee and Full Council, along with the required annual review to ensure it meets its legal requirements and reflects operational practice. However, there has not been a comprehensive review and refresh since the Constitution was first adopted in 2001.
- 4.2 The CRWG was established by the Governance Committee on 15 March 2017. The CRWG members were Councillors Lamb (Chair), Burrett, Crow, Irvine and Lunnon (who replaced Councillor Skudder in May 2019).
- 4.3 At its conception the Constitution was 352 pages long but, by the time the review started, it had extended to 496 pages. As a result of its growth, it has become quite cumbersome and unwieldy. This has also led to areas of duplication and inconsistency in terms of layout and formatting, an example being that scrutiny processes appear in at least four separate areas of the Constitution.
- 4.4 As of January 2020 the Constitution stands at 424 pages long. It should be noted that the slight recent reduction in pages has come about through some simple changes proposed by the CRWG and agreed by the Full Council at its AGMs in both 2018 and 2019, such as removing Committee memberships from the document.
- 4.5 The drafting of the new Constitution has been undertaken by the Democratic Services Manager (Chris Pedlow) and Democratic Services Officer (Mez Matthews), who have liaised with the Chair of the CRWG, the Monitoring Officer and the Chief Executive during the development and drafting of the new Constitution. The officers methodically took each section of the Constitution and considered:
- its purpose.
 - how it fitted within the Constitution as a whole.
 - what other sections it related to and impacted.
 - whether it reflected current ways of working.
 - whether it mirrored best practice.
 - whether it could be rewritten more clearly without changing its meaning.
 - the legislation governing its statute.
- 4.6 Whilst reviewing and updating the Constitution, it became apparent that a number of sections of the document required more detailed rewriting. These sections are highlighted within Section 5 of this report.
- 4.7 Unusually for a Working Group the whole of the review was successfully undertaken electronically. The CRWG was sent various tranches of the revised Constitution for its consideration and feedback.

- 4.8 These tranches typically contained:
- the rewritten section(s).
 - a breakdown of the changes being proposed.
 - the areas (and pages) of the current Constitution being replaced/covered by the revised section.
 - any specific areas of note.
 - details of the reduction in pages as a result of the revision.
- 4.9 As and when required, officers arranged individual meetings with CRWG members to discuss, in a collaborative manner, any areas of concern to formulate a way forward.
- 4.10 All views of the CRWG were shared with the Chair along with any proposed amendments to incorporate suggestions from the CRWG and, where conflicting opinions were expressed, the suggested way forward.

5. Structure of the Rewritten Constitution and Notable Rewritten Sections

- 5.1 When the Governance Committee established the Review in 2017, it agreed that the redesigned Constitution should be divided into three clear sections for ease of use.
- 5.2 **Section 1: Decision Making:** This section includes details of the Council's decision making mechanisms and a scheme of delegation setting out who is responsible for taking which decisions.
- 5.3 **Section 2: Procedure Rules:** This section details how meetings are conducted and how decisions are taken.
- 5.4 **Section 3: Codes and Protocols:** This section sets out the expected standards of behaviour for Councillors and officers along with any other required Councillor related protocols.
- 5.5 The sections which have been significantly rewritten and redesigned are as follows.
- 5.6 **Employment Panel** (within Section 1: Decision Making): For the purposes of clarity, and to avoid duplication, all functions relating to staffing and employment issues have been combined into one committee named the "Employment Panel". This new section replaces and combines the original sections on the Appointments and Investigating Committee, Staff Appeals Board and Employment Procedure Rules. This change was undertaken in consultation with the relevant Head of Service.
- 5.7 **Full Council Procedure Rules** (within Section 2: Procedure Rules): As it was unclear in the original Council Procedure Rules which Rules only applied to Full Council meetings and which were relevant to all other committees, it was decided to produce separate Rules for Full Council and for other Committees in general. The Full Council Procedure Rules have been completely redesigned to make them easier to use during Full Council meetings. The Rules have been divided into two parts, one giving a breakdown of agenda items for ordinary Full Council meetings, and the other providing guidance on procedural matters. The new Rules include the provision for members of the public to

submit written questions, this is in addition to the process already in place for verbal Public Question Time. It is suggested that the provision for public written questions be trialled for a period of one year and that an evaluation report be submitted and considered by the Governance Committee in 2021.

- 5.8 **General Committee Procedure Rules** (within Section 2: Procedure Rules): As it was unclear in the original Council Procedure Rules which Rules only applied to Full Council meetings and which were relevant to all other committees, it was decided to produce separate Rules for Full Council and for other Committees in general.

Although provision has not been included within the new Constitution, the CRWG has requested that the Governance Committee consider whether the Constitution should include on the agendas of the Audit Committee, Governance Committee and Licensing Committee a provision for a Public Question Time (for issues relating to items on the agenda for that meeting). Should this be agreed by the Governance Committee it is suggested that such a provision be for a year-long trial mirroring that set out in paragraph 5.7 of this report.

- 5.9 **Licensing Sub-Committee (Hearings) Procedure Rules** (within Section 2: Procedure Rules):

Following advice from the Legal Team, the Licensing Sub-Committee (Hearings) Procedure Rules were revised to clarify the Review Hearing Procedures for new or variation Hearings, which had not previously been separated. These procedures are set in statute so the Council has no flexibility on how the Hearings are held, but is able to decide how those procedures are set out in the Constitution. Therefore, although the section has been rewritten, there have been no material changes to the way in which the Sub-Committees operate.

- 5.10 **Call-In Procedure Rules** (within Section 2: Procedure Rules): The procedure for Call-In (Call-In of Executive decisions) was originally contained within the Scrutiny Procedure Rules, however officers and Councillors often required signposting to it and it was therefore decided that, for ease of reference, it should be included as a stand-alone Procedure Rule.

A key change to these Rules has been to remove the requirement that a Councillor Calling-In a Cabinet decision is present at the meeting where the decision took place. Instead, the Rules now follow the same principle as that for delegated decisions and allow a request for Call-In to be received by the Monitoring Officer no later than 12 noon on the fifth day following publication of a decision.

- 5.11 **Access to Information Procedure Rules** (within Section 2: Procedure Rules): These Rules have been rewritten to be more easily understood, whilst covering all the statutory requirements, to ensure that the public and Councillors have access to all the information they are entitled to.

- 5.12 **Financial and Budget Procedure Rules** (within Section 2: Procedure Rules): Feedback from officers cited that the original Rules were both difficult to apply and interpret, a view also expressed by several officers in the Finance Team. Officers also expressed confusion at having three independent sections in the Constitution which related to finance, financial decision-making and budget setting (namely the Financial Procedure Rules, Budget Procedure Rules and Procurement Code). Due to the complexity and regulations surrounding these rules, the Head of Corporate Finance and the Chief Accountant undertook the rewrite of the Financial and Budget Procedure Rules.

- 5.13 It was felt that including the Procurement Code in its entirety in the Constitution was not necessary and that it would be more efficient to only include the procurement finance thresholds (as they align with the decision-making process) with access to the full Procurement Code being made available as a supporting document.

6. Legal Implications

- 6.1 The Council is required to keep its Constitution under review pursuant to Section 9P of the Local Government Act 2000 (as amended by the Localism Act 2011). The Constitution in its entirety has not been reviewed since its conception. A redesigned Constitution will enable Crawley to achieve its ambition to be a modern and dynamic council.

7. Background Papers

[Constitution of Crawley Borough Council](#)

[Constitution of Horsham District Council](#)

[Constitution of London Borough of Richmond Upon Thames](#)

[Section 9P of the Local Government Act 2000 \(as amended by the Localism Act 2011\).](#)

["Comprehensive Review of the Constitution" \(LDS/126\) Governance Committee on 15 March 2017](#)