

Full Council

26 February 2020

CONSERVATIVE AMENDMENT TO RECOMMENDATION 2 – ADOPTION OF THE NEW CONSTITUTION

Mover Councillor Crow and Seconder Councillor Lanzer

*(Those words in **BOLD** are proposed be added)*

RECOMMENDATION 2 (page 43 of the agenda pack)

That Full Council be recommended to

- a) adopt the new Constitution as set out in report LDS/157 and as amended in the Governance minutes, **with the Call-In Procedure Rules reverting back to the original wording as set in the Governance Committee Report LDS/157, (as shown in Annex A to the amendment)** noting the trial element of Written Public Questions and extending the provision for Public Question Times
- b) delegate that the Monitoring Officer bring the adoption of the new Constitution into effect as soon as practicable

*N.B - For clarity purposes a copy of the proposed amended Call-In Procedure Rules are included as Annex A to this amendment with Annex B containing the Call-In Procedure Rules as recommended by the Governance Committee. Relevant changes in each annex are shown in **bold and underlined**.*

Proposed Amended Recommendation 2, if approved, would now read:

RECOMMENDATION 2

That Full Council be recommended to

- a) adopt the new Constitution as set out in report LDS/157 and as amended in the Governance minutes, with the Call-In Procedure Rules reverting back to the original wording as set in the Governance Committee in Report LDS/157, (as shown in Annex A to the amendment) noting the trial element of Written Public Questions and extending the provision for Public Question Times
- b) delegate that the Monitoring Officer bring the adoption of the new Constitution into effect as soon as practicable

CALL-IN PROCEDURE RULES

1. SCOPE OF THESE RULES

- 1.1. All Councillors have the ability to Call-In the majority of “Executive Decisions”, and this is a fundamental aspect of the Council’s scrutiny processes. This power should only be used in exceptional circumstances where Councillor(s) Calling-In the decision believe **(and can evidence)** that the decision maker did not take the decision in accordance with the principles of decision making as listed below.
- 1.2. In addition, the Overview and Scrutiny Commission (“Commission”) has the ability to Call-In decisions which are contrary to a Policy Framework Document or contrary to, or not wholly in accordance with, the Budget. The procedure for such Call-Ins is set out separately in Paragraph 9 within these Rules.

2. PRINCIPLES OF DECISION MAKING

- 2.1. All decisions of the Council will be made in accordance with the following principles:
 - a) Proportionality (i.e. the action must be proportionate to the desired outcome).
 - b) Due consultation and the taking of professional advice from officers.
 - c) Respect for human rights.
 - d) A presumption in favour of openness.
 - e) Clarity of aims and desired outcomes.
 - f) Relevant matters have not been ignored.
 - g) Consideration and evaluation of alternatives and reasons for decisions.
 - h) Due regard to the statutory framework, guidance and Codes of Conduct.

3. REQUIREMENTS FOR CALL-IN CONSIDERATION

- 3.1. In order to ensure that Call-In is not abused, nor causes unreasonable delay, the following requirements must be fully satisfied before a matter will be considered for Call-In:
 - a) At least four Councillors (one of which will be the named signatory) must request Call-In of the decision.
 - b) **The request for Call-In must specify the reason for the Call-In and provide evidence which demonstrates the alleged breach of at least one principle of decision making.**
 - c) The request for Call-In must be received by the Monitoring Officer by 12 noon on the fifth day following publication of the decision. The request for Call-In should either be submitted:
 - In Hard Copy: including the signatures of the Councillor requesting the Call-In and those Councillors supporting the Call-In.
 - Electronically: to democratic.services@ Crawley.gov.uk. The Councillor requesting the Call-In must submit the form and each Councillor supporting the Call-In must send an email in support. All

emails must be sent from the Councillors' individual Crawley Borough Council email addresses.

- d) The decision for which Call-In is requested must not have been subject to a prior Call-In request.
- e) Should the proposed Call-In decision have been considered by the Commission, the justification must also explain why the Councillor requesting the Call-In is of the view that, either:
 - The Commission did **not fully** scrutinise the decision in advance of it being taken; or
 - The views of the Commission were **not fully** considered or addressed by the Cabinet in its decision making.

4. SUSPENSION AND PUBLICATION OF THE DECISION

- 4.1. Decisions taken by any of the following will become immediately suspended to allow the Call-In period to take place:
 - The Cabinet.
 - A Cabinet Member.
 - A Key Decision by an officer.
- 4.2. Decisions taken by the Cabinet, or a Committee of the Cabinet, will be published electronically, within 2 days of the decision being taken.
- 4.3. Delegated decisions taken by either a Cabinet Member, or a key decision taken by an officer or under joint arrangements, will be published electronically as soon as practically possible (normally through the Councillors' Information Bulletin).
- 4.4. The date on which a decision is published electronically will specify the Call-In deadline, after which the decision can be implemented.
- 4.5. The Call-In period will end at 12 noon on the fifth clear day following electronic publication. The decision will then come into force and may be implemented, unless a proper and timely Call-In request has been made (as defined above).

5. ASSESSING THE CALL-IN REQUEST

- 5.1. Upon receipt of any Call-In request, the Monitoring Officer will assess the Call-In form(s) and the **evidence** supporting the alleged breach(es) of the principles of decision making, to determine whether the request meets the requirements set out in these Rules.
- 5.2. The Monitoring Officer will have the final say as to whether the request is a valid Call-In, with the presumption in favour of it being valid.
- 5.3. The decision will remain suspended until the Monitoring Officer has completed their assessment of the request. If the Call-In request is deemed valid, the decision will remain suspended to enable the consideration of the Call-In to take place, as detailed below.

6. CONSIDERATION OF THE CALL-IN

- 6.1. The next ordinary meeting of the Full Council will consider the Call-In of any decision taken by the Cabinet, a Cabinet Member, or Key Decision of an Officer, that **has** been subject to scrutiny by the Commission following a referral.
- 6.2. Any other Called-In decision will be considered by the Commission, this may require a special meeting. However for expediency, should there be an ordinary meeting of the Full Council scheduled before the Commission is able to meet, the Full Council will consider the Call-In.

7. OUTCOMES OF CALL-IN

- 7.1. When considering the Call-In, the Commission/Full Council have the following options:
 - a) Uphold the original decision: In this case, the original decision stands and can be implemented.
 - b) Uphold the Call-In: In this case, the decision will be referred to either:
 - (i) The original decision maker for reconsideration.
 - (ii) The Cabinet for its consideration (where the original decision was taken under delegation).
 - (iii) The Full Council, if the decision was contrary to the Council's Policy Framework Documents or contrary to (or not wholly in accordance with) the approved Budget.

NB: In relation to (i) and (ii) above, the matter may not be Called-In a second time. Also, should the matter have previously been subject to a Scrutiny referral, the Commission may only refer the decision if there is new material to be considered.

8. PROTECTION FROM CALL-IN

- 8.1. The Call-In Procedure shall not apply where the decision being taken has been protected from Call-In by the Chief Executive. A decision may only be protected if any delay, likely to be caused by the Call-In process, would seriously prejudice the interests of the Council or the public.
- 8.2. To allow the protection to take place the Chief Executive, or their nominee, must indicate the rationale behind their decision to protect. This rationale should be published online as soon as practicable and included within both the consideration report and in any associated minute/record.
- 8.3. Any Protection from Call-In must be reported to the next meeting of the Full Council, including the rationale.
- 8.4. The Governance Committee will review Protection from Call-In provisions annually if any decisions have been protected from Call-In during that municipal year. After considering a review the Governance Committee may submit a report to the Full Council AGM with proposals for changes to the provisions.

9. CALLING-IN A DECISION CONTRARY TO A POLICY FRAMEWORK DOCUMENT OR THE BUDGET

- 9.1. Where the Commission is of the opinion that an “Executive” Decision is, or if made would be, contrary to a Policy Framework Document or contrary to, or not wholly in accordance with, the Budget then it shall seek advice from the Monitoring Officer.
- 9.2. The decision, if not yet made and/or implemented, will remain suspended until the Cabinet has considered the Monitoring Officer’s report as detailed below. In relation to the Budget, the Monitoring Officer will consult with the Chief Finance Officer when preparing their report.
- 9.3. Following consideration of the Call-In, the Monitoring Officer will submit a report to the Cabinet on the matter (a copy of which shall be made available to all Councillors). Regardless of whether the decision is delegated or not, the Cabinet must then meet to decide what action to take in respect of the Monitoring Officer’s report.
- 9.4. At that meeting the Cabinet must decide upon the action it wishes to make with regard to the Monitoring Officer’s findings and submit a report to either:
 - a) The Full Council if the Monitoring Officer concludes that the decision was a departure (*the decision will remain suspended until the Full Council has considered the matter*).
 - b) The Commission if the Monitoring Officer concludes that the decision was not a departure.
- 9.5. When the Full Council considers the Call-In and the Cabinet’s report on the matter it has the following options:
 - a) Endorse that the decision falls within the existing the Policy Framework Document or the Budget. In this case no further action is required, and the decision of the Full Council will be recorded in its minutes and circulated to all Councillors in the normal way.
 - b) Amend the existing the Policy Framework Document or the Budget to encompass the decision of the body or individual responsible for that “Executive” function, and agree to the decision with immediate effect. In this case, no further action is required, and that decision of the Full Council will be recorded in its minutes and circulated to all Councillors in the normal way.
 - c) Uphold the view that the decision is contrary to a Policy Framework Document or the Budget and choose not to amend policy to accommodate it, requiring the Cabinet to reconsider the matter in accordance with the advice of the Monitoring Officer.

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