

Crawley Borough Council

Report to Governance Committee

13 March 2023

Review of the Constitution

Report of the Head of Governance, People & Performance – LDS/197

1. Purpose

- 1.1. This report requests that the following matters be reviewed / considered by the Committee and decide whether any changes should be made to the Council's Constitution:
- Co-opting an independent member(s) onto the Audit Committee.
 - The allocation of Chair and Vice Chairs of Committees.
 - Future provision for webcasting formal meetings of the Council.
 - Protocol on the Appointment of Honorary Aldermen and Honorary Freemen.

2. Recommendations

- 2.1. Consider the recommendations set out in paragraphs 5.9, 6.5, 7.6 and 8.8 of this report and decide whether it wishes to recommend to the Full Council that changes be made to the Council's Constitution.
- 2.2. That, should the Committee recommend that changes to the Constitution be made, the Full Council be requested to instruct the Head of Governance, People & Performance to amend the Council's Constitution to reflect those changes to be in place from the municipal year 2023/24.

3. Reasons for the Recommendations

- 3.1. Paragraph 8.3 of the Introduction to Crawley Borough Council's Constitution section of the Council's Constitution states that the Governance Committee will monitor and review the operation of the Constitution. In recent times several areas for potential review have become apparent and therefore these issues are being brought before the Committee for its consideration before any changes are put before the Full Council for approval and adoption into the Constitution.

4. Background

- 4.1. A comprehensive review of the Constitution was undertaken in recent years with a revised Constitution being adopted by the Full Council on [26 February 2020](#) which came into effect on 1 April 2020. The new Constitution has received positive feedback.

- 4.2. Several matters relating to the Constitution have been raised as possible areas for review and the Governance Committee is therefore requested to consider these potential amendments. Namely these matters relate to:
- Considering whether an independent member/members should be co-opted onto the Audit Committee.
 - Reviewing the current process relating to the allocation of Chair and Vice Chairs of Committees.
 - Future provision for webcasting formal meetings of the Council.
 - Reviewing the Protocol on the Appointment of Honorary Aldermen and Honorary Freemen.
- 4.3. For ease, this report is divided into sections which consider each of the areas above. Any recommendations for consideration by the Committee are included within each related section of this report.
- 4.4. It is recommended that, should the Committee be minded to recommend that the Full Council make any amendments to the Constitution, that those changes be in place from the 2023/24 municipal year.

5. Appointment of Independent Member(s) to the Audit Committee

- 5.1. In 2022, The Chartered Institute of Public Finance and Accountancy (CIPFA) published its position statement '[Audit Committees in Local Authorities and Police 2022](#)', which sets out guidance for local authorities regarding the purpose and functions of Audit Committees. It is expected that all local government bodies 'make their best efforts to adopt the principles' outlined in the position statement.
- 5.2. The Council's Section 151 Officer and Chair of the Audit Committee have identified one of these principles in particular for consideration – that 'CIPFA recommends that each authority audit committee should include at least two co-opted independent members to provide appropriate technical expertise'. There is no legislative requirement for the Council to appoint an independent member (IM) to its Audit Committee, and it does not currently do so.
- 5.3. The purpose of co-opting one or more IMs to the Committee would be to supplement the knowledge of existing Audit Committee members by offering expert advice in an apolitical manner. The IM(s) would be experienced in the field and confident in providing specialist guidance at Committee meetings.
- 5.4. Following receipt of the position statement, officers have sought information from other local authorities regarding their protocol on the matter. Of those reviewed, it was found that the vast majority of local authorities do appoint an IM to their Audit Committee (or were in the process of doing so). Of these, most appointed one; a small proportion appointed two or three. All reported their IM(s) as being non-voting, and all reported not taking the presence of the IM into account when calculating the quorum of the Committee at a meeting.
- 5.5. CIPFA suggests that "at least two" IMs be appointed to the Committee; a decision must therefore be made as to the number of appointees to be sought. In doing so it is prudent to consider that it may be difficult to secure numerous experienced IMs. The term of office of any IM must also be agreed. A comparison could be drawn to the Independent Persons appointed to the Full Council, who serve a term of two years.

- 5.6. As per the Local Government & Housing Act 1989, co-optees on committees have no voting rights. It is therefore advisable that if co-opted, an IM should not serve as Chair of the Committee, as they would not be permitted to use the Chair's casting vote.
- 5.7. It is proposed that any IM(s) not acting as Chair of the Committee receive an annual allowance of £750 (equivalent to that received by an Independent Person of the Full Council). An IM acting as Chair of the Committee would receive the Chair's allowance as per the Councillors' Allowances Scheme (£2,781 for 2023/24). A co-optee could not receive both allowances.
- 5.8. The views of Audit Committee members were informally sought. Comments received included:
- Support for the appointment of an IM.
 - A preference for the IM not to be Committee Chair.
 - A suggestion to initially appoint one IM, with a view to appointing another in the future.
 - Agreement that a two-year term would be suitable.

5.9. **Recommendations:**

That the Committee consider whether to make recommendations to the Full Council on the following:

- a) ***Whether any independent member(s) be co-opted as a non-voting member to the Audit Committee as of the 2023/24 municipal year.***
- b) ***Whether any independent member(s) co-opted to the Audit Committee should be appointed as Chair of the Committee (and, if so, that they do not have voting rights).***

6. Allocation of Chairs and Vice Chair of Committees

- 6.1. At its meeting held on [24 February 2021](#) (minute 7 for that meeting refers) the Full Council (following consideration of the matter by the Governance Committee on [26 January 2021](#) - minute 5 and report [LDS/162](#) of that meeting refers) adopted a process whereby the allocation of Chairs and Vice Chairs would be set out in the Constitution.
- 6.2. At the request of the Chair of the Governance Committee, and as the current process has now been in place for over two years, the Committee is asked to review the current process and either reconfirm its support for the current process or propose to the Full Council that changes be made to way in which these positions are allocated.
- 6.3. The current allocation for Chairs and Vice-Chairs is set out in Paragraph 6.2 of the Introduction to Decision Making section of the Council's [Constitution](#) and states that those positions will be allocated as follows:

Largest Opposition Group (number of seats held)	OSC	Audit	Governance	Planning	Licensing
3	VC	VC			
6	C	VC			
9	C	VC	VC	VC	
12	C	C	VC	VC	VC
15	C	C	VC	C	VC
18*	C	C	C	C	C

* Non-Administration Party

6.4. It is important to note that any changes proposed by the Committee to the allocation of Chairs and Vice Chairs must take into account any decision it has taken regarding the possibility of co-opting an independent member(s) to the Audit Committee and whether any such co-optee should be appointed as Chair of that Committee.

6.5. **Recommendation:**

That the Committee review the current process for the allocation of Chairs and Vice-Chairs of Committees and consider whether to recommend any changes to the process to the Full Council.

7. Webcasting Formal Meetings of the Council

7.1. As a result of the Coronavirus pandemic, temporary legislation was passed (*The Local Authorities and Police and Crime Panels Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 No.392*) which allowed formal Council meetings to be held virtually. At its meeting on [22 June 2021](#) (minute 6 of that meeting refers) the Governance Committee was informed that, despite lobbying by Local Authorities, the legislation had not been extended and therefore the provisions for holding virtual/hybrid meetings had ceased and formal meetings of the Council must once again be held in-person.

7.2. Whilst considering the matter of the potential format for future formal Council meetings at that Committee meeting, several Committee members expressed their support for virtual and/or webcasting meetings, should that option become viable in the future. Webcasting formal meetings also forms part of the Council's strategy to reconnect with residents following the pandemic. In addition, Democratic Services have noticed an increasing number of queries from members of the public and interested parties as to whether it is possible to view Council meetings live and/or online rather than attending in person.

7.3. Although legislation is not yet in place to hold formal meetings either virtually or in hybrid format, it is intended that the Committee rooms at the new Town Hall will have the necessary facilities in place to webcast meetings. Whilst those facilities are not currently available, it is anticipated that they will be installed later this year. It is not yet possible to provide details regarding the process, practicalities or costings with regard to webcasting at this time as this is still under development.

- 7.4. The Committee is asked to consider whether to support the webcasting of formal meetings of the Council and, in line with the Council's Retention Policy, the [Virtual Committee Procedure Rules](#) and good practice, it is suggested that webcast recordings be retained for six months after the meeting.
- 7.5. It is hoped that, should the Committee be minded to support webcasting formal meetings, it will be financially and practically possible to webcast all formal meetings of the Council (with the exception of the Employment Panel and Grants Appeal Panel). However, should it not be financially viable or practicable to do so, it is suggested that priority for webcasting meetings be as follows:
1. Full Council
 2. Cabinet
 3. Planning
 4. Licensing
 5. OSC
 6. Audit
 7. Governance
 8. Licensing Sub-Committee

7.6. **Recommendations:**

That the Full Council be recommended that:

- a) ***Once the necessary functionality is available, all formal meetings of the Council (with the exception of the Employment Panel and Grants Appeal Panel), subject to cost and practicality, be webcast as soon as possible.***
- b) ***Recordings of webcast meetings be retained for six months after the meeting takes place.***
- c) ***The Head of Governance, People & Performance be delegated authority to make any necessary consequential amendments to the Council's Constitution.***

8. Protocol on the Appointment of Honorary Aldermen and Honorary Freemen

- 8.1. A review of the Protocol has been undertaken to ensure that it is clear, accords with current legislation and reflects the current process.
- 8.2. It is a requirement that, for a former Councillor to be nominated as an Honorary Alderman, they must have served a "significant amount of time" in that role. To define this phrase, it is proposed that this term be replaced to state that a former Councillor must have served a minimum total length of service of twenty years before they can be nominated. Bearing in mind that some Councillors have a break in service, "total length" will be their combined length of service minus any periods when they were not a serving Councillor.
- 8.3. There has been a misconception that a person cannot be nominated for an Honorary Alderman title until at least one year has lapsed since their role as Councillor has ceased, and the Council has always adopted this practice. As this practice is not set out in law it is proposed that an individual may be nominated for this title at any point following the conclusion of their term of office as a Borough Councillor.

- 8.4. The current Protocol states that any nomination will be considered by the Governance Committee with a recommendation to the Full Council. To formalise the process further, and to enable officers to more efficiently arrange an extraordinary meeting of the Full Council to consider any nominations, a revised process is proposed. It is suggested that following any Borough election, the Head of Governance, People & Performance consult with each Group Leader to decide whether to put forward any eligible former Councillors for considered of Honorary Alderman honours at the first Governance Committee post-Borough election. There is no proposal to significantly change the process for nominating Honorary Freeman/women.
- 8.5. In addition, Section 249 of the *Local Government Act 1972* was updated in 2010 (by the *Local Democracy, Economic Development and Construction Act 2009*) to amend Aldermen to include Alderwomen, it is therefore proposed that the Protocol be amended to reflect those changes.
- 8.6. Section 249 of the *Local Government Act 1972* also requires that a resolution to confer the title of Honorary Alderman/woman must be passed by no less than two thirds of the Councillors voting on the matter. For completeness it is proposed that this requirement be reflected in the Protocol and, although not a necessity by law, it is suggested that this process also be adopted for votes on whether to bestow the title of Honorary Freeman/women.
- 8.7. The proposed revised Protocol is attached as Appendix A to this report and the current Protocol is set out as Appendix B.
- 8.8. **Recommendation:**

That the Full Council be recommended that the revised Protocol on Appointment of Honorary Aldermen/Women or Honorary Freeman/Women which is set out as Appendix A to this report be adopted.

9. Financial Implications

- 9.1. If the appointment of any independent member(s) to the Audit Committee (in a non-Chair role) is agreed, an allowance of £750 per annum per member would need to be accounted for.
- 9.2. It is anticipated that each Honorary Alderman/woman / Honorary Freeman/woman title will cost approximately £1200-to bestow although, if several honours are bestowed at one Extraordinary Full Council meeting, the individual cost will be less than this. This cost will be funded through the Council's Ceremonial Budget.
- 9.3. It is not yet possible to provide detailed costings with regard to webcasting meetings at this time.

10. Background Papers

- [Constitution of Crawley Borough Council](#)
- Report [LDS/162](#) "Allocation of Committee Chairs and Vice-Chairs" considered by Governance Committee on 26 January 2021
- Governance Committee [minutes of 26 January 2021](#) relating to Allocation of Committee Chairs and Vice-Chairs

- Full Council [minutes of 24 February 2021](#) relating to Allocation of Committee Chairs and Vice-Chairs
- Governance Committee [minutes of 22 June 2021](#) relating to Update on Format of Council Meetings (Webcasting)
- [CIPFA's Position Statement: Audit Committees in Local Authorities and Police 2022](#) (*otherwise referred to in this report as the "Position Statement"*)
- [Section 248 of the Local Government Act 1972](#) relating to "Freemen and Inhabitants of Existing Boroughs"
- [Section 249 of the Local Government Act 1972](#) relating to "Honorary Titles"

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**PROPOSED Protocol on Appointment of Honorary Aldermen or Honorary
Freemen**

**PROTOCOL ON APPOINTMENT OF HONORARY ALDERMEN/WOMEN
OR HONORARY FREEMEN/WOMEN**

1. CRITERIA FOR NOMINATIONS OF HONORARY ALDERMEN/WOMEN

- 1.1. Nominees for Honorary Aldermen/women should be former Councillors who have served a minimum total length of 20 years in that capacity. Their length of service is normally substantially greater than the average length of service per Councillor. Nominees should also have given service to the wider community in a role outside of their duties as a Borough Councillor. This might include notable work with the voluntary sector, with educational bodies, with other Local Authorities covering the geographical areas of the Borough, or any other body that the Council deems appropriate.

2. CRITERIA FOR NOMINATIONS OF HONORARY FREEMEN/WOMEN

- 2.1. Nominees for Honorary Freeman/women should be either individuals that have given extraordinary service to the town over a prolonged period, or who, by their action, have brought significant distinction to the town.
- 2.2. These honours will be given infrequently as they are a reward for exceptional service.

3. PROCEDURE FOR NOMINATING HONORARY ALDERMEN/WOMEN

- 3.1. Following any Borough election, the Head of Governance, People & Performance will consult with each Group Leader to decide whether to put forward any eligible former Councillors for considered of Honorary Alderman honours. If any names are proposed for nomination. the first Governance Committee post-Borough election will consider a report which details the names and total length of service of those former Councillor.
- 3.2. This Governance Committee would be expected to recommend that the Mayor convene an Extraordinary Meeting of the Full Council to bestow the title of Honorary Alderman/woman on those former Councillors (this Extraordinary Meeting will usually be convened to take place immediately before, or at the conclusion of, the July meeting of the Full Council).
- 3.3. Before an Extraordinary Meeting of the Full Council is convened, the Head of Governance, People & Performance will contact any nominees to ensure they would like to receive the honour.

4. PROCEDURE FOR NOMINATING HONORARY FREEMEN/WOMEN

- 4.1. Before a nomination is made, the Head of Governance, People & Performance should be contacted, who will then consult the Mayor (as a matter of courtesy) and the Leader of each political group.
- 4.2. If the Head of Governance, People & Performance is satisfied that the person nominated is likely to receive the support of the Full Council, they will request that the Mayor convene an Extraordinary Meeting of the Full Council for that purpose.
- 4.3. Before any formal arrangements are made, the Head of Governance, People & Performance will contact the nominated person to ensure they would like to receive the honour.

5. APPOINTMENT OF HONORARY ALDERMEN/WOMEN OR HONORARY FREEMEN/WOMEN

- 5.1. Nominations for both Honorary Aldermen/women and Honorary Freemen/women will be considered at an Extraordinary Meeting of the Full Council which has been convened for the sole purpose of considering the nominations.
- 5.2. Any resolution by the Full Council to bestow these honours must be passed by no less than two thirds of the Councillors voting on the matter.

**CURRENT Protocol on Appointment of Honorary Aldermen or Honorary
Freemen (extracted from the Council's Constitution)**

**PROTOCOL ON APPOINTMENT OF HONORARY ALDERMEN
OR HONORARY FREEMEN**

1. CRITERIA FOR NOMINATIONS

- 1.1. **Nominees for Honorary Aldermen** should be former Councillors who have served in that capacity for a significant time. Their length of service is normally substantially greater than the average length of service per Councillor. Nominees should also have given service to the wider community in a role outside of their duties as a Borough Councillor. This might include notable work with the voluntary sector, with educational bodies, with other Local Authorities covering the geographical areas of the Borough, or any other body that the Council deems appropriate.
- 1.2. **Nominees for Honorary Freemen** should be either individuals that have given extraordinary service to the town over a prolonged period, or who, by their action, have brought significant distinction to the town.
- 1.3. These honours will be given infrequently as they are a reward for exceptional service. Many people provide good service both to the town and to the Council, but it should not be expected that retiring Councillors of many years' service will automatically receive such an honour.

2. PROCEDURE FOR NOMINATIONS

- 2.1. Before a nomination is made, the Head of Governance, People & Performance should be contacted, who will then consult the Mayor (as a matter of courtesy) and the Leader of each political group.
- 2.2. If the Head of Governance, People & Performance is satisfied that the person nominated is likely to receive the support of Full Council, they will report the matter to the Governance Committee. This Committee would be expected to recommend that the Mayor convene an Extraordinary Meeting of the Full Council for that purpose.
- 2.3. Then before any formal arrangements are made, the Head of Governance, People & Performance will contact the nominated person to ensure they would like to receive the honour.