

For General Release

REPORT TO:	ANNUAL COUNCIL 21 MAY 2015
AGENDA ITEM NO:	8
SUBJECT:	ANNUAL REVIEW OF THE CONSTITUTION AND RELATED CONSTITUTIONAL MATTERS
LEAD OFFICER	Gabriel MacGregor, Deputy Monitoring Officer and Head of Corporate Law
CABINET MEMBER	Councillor Tony Newman Leader of the Council
WARDS	All
CORPORATE PRIORITY/POLICY CONTEXT	The report is the first of a two part review of the Constitution and details the changes to the Constitution necessitated by recent legislative changes. Additional changes to the Constitution in furtherance of the Openness and Transparency agenda will be presented in the second report to Council in the autumn following consideration by a cross party working group convened for that specific purpose.
FINANCIAL SUMMARY	There are no direct costs arising from this report and as a result of the decision of Members not to take an uplift to Basic Allowances, Special Responsibility Allowances, Mayor's Allowances or Deputy Mayor Allowances there will be no increase in Members allowances for 2015/2016.

RECOMMENDATIONS

That Council:

1. Approve the changes to Part 4A of the Constitution detailed within the report in respect of petitions and poll votes;
2. Approve the amendment to the Members Scheme of Allowances as set out in Appendix 1;
3. Approve the changes to Part 4K of the Constitution as detailed within the report and set out more fully at Appendix 2;
4. Note the implications of the Local Government (Electronic Communications) (England) Order 2015 and support the proposals set out in section 3 below by consenting to receive summonses by electronic means;

5. Note the new provisions of the Transparency Code 2015;
6. Note the provisions of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and
 - 6.1 Approve the procedure set out within the body of the report, the changes to Part 4J of the Constitution as set out at Appendix 3 and the additional wording to Article 4.01 as detailed within the body of the report;
 - 6.2 Update the Membership details for Appointments Committee within Article 8 of Part 2 and the Appointments Committee Terms of Reference in Part 3 of the Constitution and to take account of the legislative changes, as set out in Appendix 4 and 5 respectively;
 - 6.3 Invite Mrs Anne Smith and Mr Ashok Kumar to sit as Independent Persons on the Appointments Committee for the specified purposes and if they agree, appoint them as co-opted voting Independent Members of the Committee as required by the provisions of the revised Part 4J of the Constitution and instruct the Council Solicitor to update their current letters of appointment accordingly;
 - 6.4 Delegate authority to the Ethics Committee to agree the processes and procedures for the Appointments Committee for the consideration of disciplinary action and suspension pursuant to Part 4J;
 - 6.5 Delegate authority to the Ethics Committee to make future invitations for appointment of Independent Persons in accordance with and for purposes of the Staff Employment Procedure Rules ;
 - 6.6 Note that with the increase in the scope of the Appointments Committee role and the sensitive nature of the employment matters and legal issues which it may hereafter be called upon to consider, all Members and reserve Members of the Appointments Committee will be invited to undertake Equalities and Diversity training prior to sitting on the Appointments Committee.
 - 6.7 That Part 4F of the Constitution be updated as set out in paragraph 3.38 below.
7. Note that the Departmental references and officer titles have been updated to reflect the revised organisational structure;
8. Note that the references to Strategic Scrutiny and Overview Committee within the Constitution will be amended throughout to reference Scrutiny and Overview Committee only;
9. Note and Approve the Changes to Article 8 Part 2, set out at Appendix 5, which will be incorporated by virtue of the Proportionality report which is presented to Members at this meeting.

2. EXECUTIVE SUMMARY

- 2.1 This report is the first of a two part report series. Additional changes to the Constitution in furtherance of the Council's Openness and Transparency agenda will be presented to Council in the Autumn in a second report, following consideration by a cross party working group convened for that purpose.

This report summarises the first series of proposed changes to the Constitution particularly relating to:

- Promoting Openness and Transparency;
- Securing further compliance with the Transparency Code;
- Allowing electronic summonses for meetings; and
- Disciplinary procedures for senior staff.

- 2.2 In addition, Members are asked to note that following the revision of the Council's departmental structures, the departmental titles and officer titles will be updated within the Constitution.
- 2.3 The Appendices to the report show extracts from the Constitution where changes are being made and not the entirety of the Part being altered. Subject to approval of this report the revised Constitution will be available on the Council's website in the usual way.

3. DETAIL

Promoting openness and transparency and public debate

Updates to Part 4 A of the Constitution:

Public petitions

- 3.1. In light of the abolition of the statutory scheme for public petitions, the Council is currently undertaking a review of the processes for public petitions which trigger a public debate at full Council with a view to making the procedures on such petitions more readily accessible to residents in the Borough. Further work is required to this process on a cross party basis.
- 3.2. As previously reported to Cabinet, there is the perception that requirements for 10,000 signatures to trigger a public debate at a meeting of the Full Council inhibited the use of such petitions. Accordingly, in the intervening period, and pending finalisation of the cross party work on the revised public petition process, the threshold is recommended to be set at 1,000 signatures to trigger a public debate at Full Council. The Council's Constitution would therefore provide as follows:

"3.21 Petitions presented by members of the Public are to be governed by the Petition Scheme as adopted by the Council from time to time. The number of signatures required in order to trigger a public debate at a Full Council

meeting shall be 1,000 signatures.”

In light of both legislative changes and the ongoing work regarding a revised protocol on public petitions it is recommended that the references to the public petition scheme be removed from the Constitution and the references to council tax petitions in the paragraph 4.03 of Part 4A be removed in the interim.

Poll Votes

3.3. Three separate provisions within Part 4A make reference to when a Poll Vote is either permitted or required. It is proposed to update these references so that they each, respectively, refer to one another.

3.4. Paragraph 1.19 sets out the general provisions which apply, which in turn are subject to the more specific provisions of paragraphs 3.59 and 4.13 which respectively deal with motions for debate and voting at Council tax meetings.

3.5. It is proposed that the following additions (underlined) be made to the respective paragraphs:

1.19 One Member may rise and ask that a Poll Vote be taken and if ten Members rise in their places in support of the request the Chair shall instruct the Chief Executive to call each Member by name and record their vote, with the Chair being called to vote last. These provisions are subject to paragraphs 3.59 and 4.13 of this Part 4A.

3.59 The proposer of a Motion for Debate shall have no right of reply but, where the motion is one promoted by a Political Group, a speaker from the same Political Group as the proposer shall close the debate and if necessary, the time limit referred to above shall be extended to enable the speech to be concluded and the vote taken. The Chair shall put any amendments to the vote before the substantive motion is considered. In the event that an amendment is carried, this will become the substantive motion and the Chair will put the amended motion immediately to the vote. Despite the general provisions of paragraph 1.19 above, it shall not be in order for a Motion or an amendment to the motion to become the subject of a poll vote.

4.13 At the conclusion of all speeches, the Chair shall immediately put the Council Budget recommendations contained in the Business Report of the Leader and Cabinet to the vote. Immediately after any vote is taken at a budget decision meeting of the Council there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting. For these purposes, references to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be. The provisions of this paragraph 4.13 are not subject to the requirements of paragraph 1.19 above.

This will have the effect of ensuring that in future a poll vote can be used to ensure accountability when Members are debating matters, including where petitions are being presented.

Allowances

- 3.6. The Scheme of Members' Allowances forms Part 6 of the Council's Constitution. There is a statutory requirement for the Council to review the scheme of member allowances every four years as a minimum and to agree the scheme pursuant to which allowances are paid to Members. The scheme is to be reviewed and adopted in accordance with the the Local Authorities (Members Allowances) (England) Regulations 2003 (No. 1021) as amended ("The regulations"). The Council undertook a full review of the Scheme of Members' Allowances in 2014.
- 3.7. The Council is required to have regard to the recommendations of the London Councils' Independent Panel on the Remuneration of Members in London ("The Independent Panel") in setting the scheme for the upcoming years.
- 3.8. The Scheme provides that the level of Basic Allowance, Special Responsibility Allowances, Mayor's and Deputy Mayor's Allowances shall not be subject to automatic annual adjustment. As such, unless Members specifically decide to review the scheme and amend it to provide for an annual adjustment for the 2015/16 Council year, there shall be no uplift to the scheme figures for this coming year. Members have however decided to update the scheme to provide that they will consider amendment to this aspect of the scheme no more frequently than annually. Accordingly paragraph 4 of Part 6A of the Constitution (Appendix 1) is amended to read:

The level of Basic Allowance, Special Responsibility Allowances, Mayor's and Deputy Mayor's Allowances shall not be subject to automatic annual adjustment however Members may review this aspect no more frequently than annually to determine whether there will be an adjustment for the upcoming Council year.

- 3.9 The Independent Panel recommended that any uplift to allowances is tied to the annual local government pay settlement. Because of the current financial climate, the local government pay settlement has been frozen in three of the last four years. In 2013/14 there was a 1% pay award. Had members been minded to agree an uplift to the current scheme for the upcoming year, the increased cost to the Council for 2015/16 would have been an increase of 2.2% on allowances which would have been an additional cost of £32,644.

However, it has been decided that no increase will be taken this year 2015/16.

Effective and Efficient Council

Changes to Planning Procedure Rules

- 3.10. Following revision of the Planning Procedure Rules by Council in July 2014, the Council has been monitoring the effectiveness of the changes, particularly in light of the Openness and Transparency agenda. In addition, the Council has received comments from residents regarding their perceptions of the operation of the revised procedures. In light of the monitoring which has been undertaken and the representations made, changes are proposed to Part 4K to the Constitution which is set out in full at Appendix 2 marked up in red. The effect of these changes will be that where an item is on the planning Committee agenda as a result of a referral but the referring person does not attend the meeting, the item will revert to being dealt with under officers' delegated powers.
- 3.11. In addition, there has been an officer title change which is marked up in Appendix 2 in tracked changes.

The Local Government (Electronic Communications) (England) Order 2015 (amending Schedule 12 to the Local Government Act 1972).

- 3.12. While at present, meeting summonses to Members must be sent in hard copy, these provisions now allow for the use of electronic communications to send summonses out. Agreeing their use will tie in with the Council's overarching aim to reduce the amount of paper used, thereby supporting both environmental and costs considerations associated with printing of extensive documentation for Council meetings. If agreed, these arrangements also have the potential to significantly reduce the amount of officer time expended in the production and sending of summonses to Members and the associated costs savings. In addition, this supports the Council's Digital and Enabling work stream.
- 3.13. Members will only receive summonses electronically where they have individually consented to summonses being transmitted by this method to them and Members are accordingly encouraged to give consideration to consenting to this and communicating this consent to the Democratic Services Manager.
- 3.14. In addition, Members of the Health and Wellbeing Board will similarly be encouraged to agree to receive service of summonses by electronic means.
- 3.15. There is, however, no need to amend the Constitution wording to accommodate these new provisions.

Open and Transparent Council

Transparency Code 2015

- 3.16. The Transparency Code 2015 places further publication requirements on C20150521 AR08

local authorities which need to be complied with by September 2015 relating to Social Housing Assets.

3.17. The increase in the types of information which the Transparency Code 2014 required to be published tied in with the Council's focus on open governance and were reflected within the Openness and Transparency report presented to Members at full Council in July 2014, including the changes to publication of contract matters and procurement and strategy information which illustrated that the Council was already working to promote the requirements which the Transparency Code will seek to impose on non-compliant Councils.

3.18. Data covered by the 2015 Code's requirement for quarterly publication includes:

- expenditure exceeding £500;
- Government Procurement Card transactions; and
- certain procurement information.

The first quarterly information publication date was 31 December 2014. Quarterly information must then be published not less than quarterly and not later than one month after the quarter to which the data and information is applicable. Accordingly the second set of quarterly data was published on 31 March 2015

3.19. In respect of data which must be published annually, it was first required to be published by no later than 2 February 2015 and thereafter not less than annually and not later than one month after the year to which the data and information is applicable.

3.20. Data covered by the 2015 Code's requirement for annual publication now includes certain data pertaining to:

- local authority land
- grants to voluntary, community and social enterprise organisations
- organisation chart
- trade union facility time
- parking account
- parking spaces
- senior salaries
- constitution
- pay multiple, and
- fraud.

3.21. The information for Croydon detailed in 3.18 and 3.20 above is available on the Council's website - <https://www.croydon.gov.uk/democracy/data-protection-freedom-information/dclg>

Additional Mandatory Requirements of the 2015 Code:

3.22. Officers are also working on preparing for compliance with the additional mandatory publication requirements of the 2015 Code relating to social

housing asset values, namely the details of the value of social housing stock that is held in their Housing Revenue Account.

3.23. The first set of annual social housing assets data must be published no later than 1 September 2015 (based on the Council's most up to date valuation data available at the time of the publication of the information). The next publication should then take place in April 2016 and thereafter, annually, every April.

3.24. The following social housing stock data must be published:

- valuation data to be listed at an appropriate postal sector level, without indicating individual dwelling values, and ensuring that data is not capable of enabling the disclosure of individual properties.

In publishing such information, the Council will have to take care that there is compliance with the requirements of the Data Protection Act 1998, which are not overridden in any way by the requirements of the 2015 Transparency Code.

- valuation data for the dwellings using both Existing Use Value for Social Housing and market value (valued in accordance with guidance) as at 1 April. This should be based on the authority's most up to date valuation data at the time of the publication of the information
- an explanation of the difference between the tenanted sale value of dwellings within the Housing Revenue Account and their market sale value, and assurance that the publication of this information is not intended to suggest that tenancies should end to realise the market value of properties.

3.25. The valuation data and information must be published in the following format:

- for each postal sector level, the valuation data should be classified within set bands of value. Authorities must set their valuation bands within the general parameters set out in the table below, in light of the local characteristics of the housing market in their area, in order to ensure that valuation data published by all authorities is consistent and clear to understand:

Valuation Band Range	Intervening bands value
< £50,000 -£99,999	6 Bands of £10,000
£100,000 - £299,999	10 Bands of £20,000
£300,000 - £499,999	4 Bands of £50,000
£500,000 - £999,999	5 Bands of £100,000
£1,000,000 – £2,999,999>	5 Bands of £500,000

- authorities should ensure that any band should only include values that fall within the band parameters (i.e. not give a top value band). If that is the case, the lowest and highest band should be further disaggregated
 - authorities should bear in mind that it is likely that the numbers of properties in the lowest and highest bands will be low, leading to potential identification of individual properties.
 - for each postal sector level, within the set band of value, the data should indicate:
 - the total number of dwellings
 - the aggregate value of the dwellings and their mean value, using both Existing Use Value for Social Housing and market value, and
 - the percentage of the dwellings that are occupied and the percentage that are vacant
 - authorities must publish the valuation data for both tenanted and vacant properties
- 3.26. The Transparency Code is issued by the Secretary of State for Communities and Local Government in exercise of his statutory powers to issue a Code of Recommended Practice as to the publication of information (termed “public data”) by local authorities about the discharge of their functions and other matters which he considers to be related. During 2014, the Secretary of State revised the transparency code twice – in May and in October. The Secretary of State has now published a further revised Local Government Transparency Code 2015 (the 2015 Code) which can be viewed in full via the link: <https://www.gov.uk/government/publications/local-government-transparency-code-2015> On 27 Feb 2015.

Designated Independent Persons Regulations

- 3.27. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 require local authorities to amend their Constitution so as to incorporate the new arrangements, set out in Schedule 3 to those regulations, for taking disciplinary action against the Head of Paid Service, Monitoring Officer and Section 151 Officer. This modification must be made by the first ordinary council meeting held after the 11 May 2015.
- 3.28. The Regulations now provide that the final decision to dismiss the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer must be taken by full Council. Before taking that decision, the Council must invite at least two Independent Persons to be members of a “Panel” which considers the matter and makes recommendations to full Council, and Council must take into account any recommendations of that “Panel” before taking a final decision to dismiss. The Regulations provide that the Panel is to be a committee of the authority and it is therefore subject to all the legal requirements for committees, including the proportionality rules unless Members specifically agree otherwise for these purposes.

- 3.29. For these purposes, the Council has previously agreed that that the Appointments Committee shall consider such disciplinary matters and it is recommended that the Appointments Committee Terms of Reference be updated to reflect these legislative changes, including the inclusion of two voting co-opted Independent Members for consideration of certain matters as specified in Part 4J of the Constitution.
- 3.30. As regards the appointment of Independent Persons, the Regulations provide that the invitations to sit as an Independent Person should be sent in accordance with the following priority order:
- an Independent Person who has been appointed by the council pursuant to section 28(7) of the Localism Act and who is a local government elector,
 - any other Independent Person who has been appointed by the council, and
 - an Independent Person who has been appointed by another council or councils.

The authority is required to appoint those independent persons invited to sit who accept the appointment.

- 3.31. Members will be aware that the Council currently has two Independent Persons appointed to the Ethics Committee under the provisions of section 28(7) of the Localism Act 2011 and who are both local government electors. Both Independent persons currently sit as Independent non-voting co-optees on the Ethics Committee to advise on ethics, probity and conduct-related matters pertaining to Members. In accordance with the 2015 Regulations, as reflected in paragraph 3.28 above, the Council should invite such persons to sit as Independent Persons on the Appointments Committee in preference to any other such Independent Persons when the Committee is called upon to consider matters in respect of the specified purposes within the Staff Employment Procedure Rules, Part 4J of the Constitution.
- 3.32. It is recommended that the invitation to sit as Independent Persons therefore be extended to Mrs. Anne Smith and Mr. Ashok Kumar and that authority to extend future invitations, as and when required, be delegated to Ethics Committee.
- 3.33. The provisions of Part 4J of the Constitution have been updated to incorporate the new legislative requirements. The proposed changes to Part 4J are set out in Appendix 3. Members should note that this is not the entirety of 4J but simply references those paragraphs which have changed. .
- 3.34. In addition, the functions of full Council need to be updated to include the additional role which full Council is required to fulfil in relation to the Staff Employment Procedure Rules. Therefore it is recommended that Article 4.01 be updated to insert the below additional function and that the remaining sub-paragraphs be renumbered accordingly:

“(k) Following receipt of a report from Appointments Committee under the Staff Employment Procedure Rules, to consider disciplinary action, including dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring

Officer. Before the taking of a vote at the relevant Council meeting on whether or not to approve such a dismissal, full Council must take into account, in particular—

*(a) any advice, views or recommendations of the Appointments Committee;
(b) the conclusions of any investigation into the proposed dismissal; and
(c) any representations from the relevant officer.”*

- 3.35. Processes and Procedures will need to be put in place to enable the Appointments Committee to undertake its role in relation to the consideration of disciplinary action which could result in dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer. It is considered that the Ethics Committee, with its experience in dealing with matters pertaining to Members conduct and issues of probity and ethics is uniquely well placed to consider and approve processes in this regard and accordingly it is recommended that authority be delegated to the Ethics Committee to agree the Processes and Procedures for the Appointments Committee for the consideration of disciplinary action which could result in dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.
- 3.36. It is considered that, in exceptional circumstances, it may be appropriate for the power of provisional suspension to be exercisable prior to the Appointments Committee being convened to consider whether it is appropriate to exercise the power of suspension in relation to the Head of Paid Service, Chief Finance Officer or the Monitoring Officer as provided for in paragraph 7.7 of the Staff Employment Procedure Rules at 4J of the Constitution.
- 3.37. Such a power would need to be exercised within carefully circumscribed circumstances including:
- a) that it is to be exercised only in exceptional circumstances;
 - b) that the decision maker take both HR and legal advice in advance of exercising such power,
 - c) that the provisional suspension does not itself constitute disciplinary action nor does it imply guilt,
 - d) that the officer is provisionally suspended on full pay and
 - e) that an Appointments Committee is be convened to consider whether to exercise the power of suspension within paragraph 7.7 of Part 4J within 10 working days following the decision to provisionally suspend.
- 3.38. Accordingly it is recommended that the Staff Employment Procedure Rules be updated to make provision for the Chair of the Appointments Committee to exercise such power of provisional suspension and that it be exercised within the parameters set out in paragraph 3.37 above. In addition, in order to facilitate these provisions, the Non-Executive Committee Procedure Rules at Part 4F of the Constitution need to be updated to remove reference to the Appointments Committee at 2.03 so that the Appointments Committee shall appoint a Chair and Vice-Chair for the duration of the Council year.
- 3.39. With the increase in the scope of the Appointments Committee role and the sensitive nature of the employment matters and legal issues which it may

hereafter be called upon to consider, all Members and reserve Members of the Appointments Committee will be invited to undertake Equalities and Diversity training before sitting on the Appointments Committee.

4. CONSULTATION

- 4.1 Officers have been in ongoing discussions with Members on realigning the Council's priorities to better progress the Council's Transparency and Openness agenda and to improve public participation in and understanding of the Council processes.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 5.1 The decision of Members not to take an uplift to Basic Allowances, Special Responsibility Allowances, Mayor's Allowances or Deputy Mayor Allowances for 2015/2016 will result in the allowances remaining the same and a possible increase in allowances of £32,644 not being taken.

5.2 The effect of the decision

There are no direct costs arising from this report.

5.3 Risks

The Council is required to implement the statutory changes and comply with the statutory guidance therefore the risk of not doing so is statutory non-compliance.

5.4 Options

As above.

5.5 Future savings/efficiencies

The decision not to take an annual adjustment to allowances could lead to savings in future years.

(Approved by: Dianne Ellender, Head of Finance and Deputy S151 Officer)

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 There are no additional legal implications arising from the report not already set out in the body of the report.

7. HUMAN RESOURCES IMPACT

- 7.1 There are direct implications for those senior staff to whom Part 4J of the Constitution applies as it alters procedures which need to be complied with in relation to disciplinary action against such staff and in respect of their appointment or dismissal. The changes in this regard represent statutory changes which the Council is obligated to institute by virtue of amendments introduced by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. The recommended delegation to Ethics Committee to

agree the processes and procedures for Appointments Committee pursuant to Part 4J ensure that necessary provisions are incorporated in this regard.

(Approved by: Colin Chadwick for and on behalf of Heather Daley, Director of Human Resources)

8. EQUALITIES IMPACT

8.1 There are no direct implications arising from the recommendations within this report

9. ENVIRONMENTAL IMPACT

9.1 There is a potential impact on the use of paper and printing costs should members choose to receive their meeting summonses electronically rather than in paper form. Beyond that, there are no direct implications arising from the recommendations in this report.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There are no direct implications arising from the recommendations in this report.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

11.1 The recommendations in this report are required to reflect statutory requirements and organisational changes to the Council structure that have been the subject of decision elsewhere.

12. OPTIONS CONSIDERED AND REJECTED

12.1 The changes detailed within this report have been necessitated by legislative and organisational changes and the Constitution needs to be updated to incorporate these requirements.

CONTACT OFFICER: Gabriel Macgregor, Deputy Monitoring Officer and Head of Corporate Law, ext 64036.

BACKGROUND PAPERS None

CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

PART 6A- SCHEME OF MEMBERS' ALLOWANCES

- 4 The level of the Basic Allowance, Special Responsibility Allowances, Mayor's and Deputy Mayor's Allowances shall not be subject to automatic annual adjustment however Members may review this aspect no more frequently than annually to determine whether there will be an adjustment for the upcoming Council year.

CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

Part 4K – Planning and Planning Sub-Committee Procedure Rules

Contents:

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1 INTRODUCTION

- 1.1 These Rules apply to all meetings of the Planning Committee and the Planning Sub-Committee in relation to the determination of planning applications and any other business dealt with at either of these Committees. Reference to Committee in these Rules is a reference to both or either of these Committees. Likewise reference to a Planning Committee Member also encompasses reference to a Planning Sub-Committee Member. Reference to the Chair is a reference to the Chair of both or either of these Committees.
- 1.2 The determination of planning applications is a formal statutory administrative process involving the application of national, regional and local planning policies that takes place within a legislative framework. Planning decisions can be appealed by unsuccessful applicants and challenged by way of judicial review by aggrieved parties. Complaints about maladministration and injustice can also be made to the Local Government Ombudsman.
- 1.3 In order to mitigate these risks, it is vital that those involved in the determination of planning applications and particularly officers and Members, at all times act reasonably and fairly to applicants, supporters and objectors. These rules are designed to help ensure this is achieved but they should not be read in isolation; Members need to also have regard to the Planning Code of Good Practice to be found at Part 5D of this Constitution. Both these Rules and the Planning Code of Good Practice are subordinate to the requirements set out in the Members' Code of Conduct and nothing in these Rules or the Code shall be read as implying greater obligations on Members than as set out in the Members' Code of Conduct in Part 5I of this Constitution.

2 COMMITTEE CONSIDERATION CRITERIA

- 2.1 Part 3 of the Constitution (Responsibilities for Functions: Planning Committee and Planning Sub-Committee) sets out the types of planning application that may be considered by these Committees. Part 4K of the Constitution and Rule 2 (Committee Consideration Criteria) sets out the circumstances where such an application will be referred to Committee for decision.
- 2.2 The Timescales, General Requirements and Criteria set out here (Rule 2 Committee Consideration Criteria) will be applied in determining whether any Representations received in respect of an application that may be considered by Committee would require that application to be determined by that Committee rather than dealt with under officer's delegated powers. The term Representation(s) also includes Petition(s).
- 2.3 Rule 2 contains:
- **Timescales:** within which all Representations must be with the Development Management service
 - **General Requirements:** that all Representations must comply with
 - **Criteria:** that apply to the Representations from specific people or bodies such as the Chair, a Member for the ward within which the application site is situated or adjoins (Ward Member), the Croydon member of the Greater London Assembly (GLA Member), the Member of Parliament for the constituency within which the application site is situated or adjoins (MP) and Resident Associations and Conservation Area Advisory Panels (RA/CAAP) plus Representations from other people or bodies
- 2.4 For probity reasons the Timescales, General Requirements and Criteria set out in Rule 2 must be adhered to. The decision of the **Director of Planning** Director of Planning and Strategic Transport will be final in determining whether the Timescales, General Requirements or Criteria are met.
- 2.5 Any Representation that does not meet the Timescales, General Requirements and Criteria will therefore not be a factor in deciding whether the application will be considered by Committee. Such Representations will still however be considered by the case officer in finalising their report and recommendation, provided he/she receives the Representation before submitting their report for authorisation.
- 2.6 Nothing in Rule 2 interferes with the absolute right of the **Director of Planning** Director of Planning and Strategic Transport to refer an application or planning matter to Committee as prescribed by Part 3 of the Constitution.
- 2.7 If an organisation or individual (including a Ward Member, GLA Member or MP) wishes to address the relevant Committee, that is dealt with under the Public Speaking Procedure (Rule 3).

Timescales

Statutory notification period

- 2.8 All applications are publicised via the display of one or more site notices and certain applications are advertised in a local paper. However, it does not matter how someone gets to hear about a proposal, anyone can submit Representations to the Development Management service. Representations on applications must be made in writing (letter or email). The time limit for doing this is specified on the notice or advert. The statutory period is 21 days.
- 2.9 Where amended plans for an application have been accepted by the Council and it is necessary to republicise them, the Council will display a new site notice on different coloured paper to the original so that local people can distinguish it.
- 2.10 Amended plans are often negotiated in response to Representations. The Council may consider that an amendment it receives has overcome the Representations previously made so it is therefore important that local people consider whether they need to make further Representations as follows.
- If the amendments do overcome their concerns, they may write to confirm this, but the General Requirements below (paragraph 2.15) are designed to take account of such circumstances, so people do not have to take any further action.
 - If someone has already made a Representation and the amendments do not overcome their concerns, they need to make further Representations to that effect.
 - If the amendments raise new concerns, such further Representations should also be made.

Chair, Ward and GLA Member timescales

- 2.11 All Members will be notified by email about planning applications in their ward. The Chair and the Croydon Member for the Greater London Assembly will be notified by email about planning applications in Croydon.
- 2.12 If the Chair, a Ward Member or the GLA Member wishes to make Representations on the application they must respond by replying to the notification email within the deadline specified in that email, which will be at least 21 days from the date of that email.
- 2.13 Where the Chair, a Ward Member or the GLA Member (as appropriate) receives an additional notification email informing them about amendments to an application, the deadline for making further Representations by replying to the additional email notification is specified in that email, which will be at least 14 days of the date of that email. If the Member indicated in the initial notification that they wished the application to be referred to Committee for consideration and the amendment overcomes their concerns, they should respond to the email explicitly withdrawing their wish for the Committee to

consider the application. See paragraph 2.10 above for additional advice on amendments.

- 2.14 Representations on a planning application should not be sent to any email address other than the one on the notification email as other email addresses may not be monitored (eg the officer may be on leave) and the email may therefore not be actioned.

General Requirements

- 2.15 In Rule 2, a Representation is a letter or an email that meets all the following requirements:
- It is in response to an application that has been publicised by the Council.
 - It raises planning considerations that are material and related to the application.
 - Any material planning objection raised cannot be overcome by scheme amendment, imposition of planning conditions or securing planning obligations.
- 2.16 Identical pro-forma letters or emails, which also meet the above requirements, will be treated as forming a Petition (ie each letter potentially being a single signature on a petition) for the purposes of deciding whether an application will be referred to Committee. See paragraphs 2.29 to 2.31 below for the Criteria for Petitions.

Committee Referral Criteria

Chair

- 2.17 An application may be reported to Committee where the Chair has indicated that he/she wishes the application to be referred to Committee for consideration provided that indication is received by the Development Management service within the Timescale indicated on the notification email (paragraphs 2.11 to 2.14 above).

Ward Members

- 2.18 An application may be reported to Committee where the Member for the ward within which the application site is situated or adjoins (Ward Member) has made a Representation that additionally meets all the following Criteria:
- It is received by the Development Management service within the Timescale indicated on the notification email (paragraphs 2.11 to 2.14 above).
 - The application is within, partly within or adjoining the Member's ward.
 - The Ward Member has stated that they either object to or support the application and given their reason(s).
 - The Ward Member has additionally clearly stated that they wish the application to be referred to Committee for consideration.

- 2.19 The application will only be reported to Committee under these Criteria where the recommendation by the ~~Director of Planning~~Director of Planning and Strategic Transport is either for approval and the Ward Member has objected to the application or for refusal and the Ward Member has supported the application.

Greater London Assembly Member

- 2.20 An application may be reported to Committee where the Croydon Member of the Greater London Assembly (GLA Member) has made a Representation that additionally meets all the following Criteria:
- It is received by the Development Management service within the Timescale indicated on the notification email (paragraphs 2.11 to 2.14 above).
 - It is an application for planning permission that is referable to the Mayor of London pursuant to the Town and Country Planning (Mayor of London) Order.
 - The GLA Member has stated that they either object to or support the application and given their reason(s).
 - The GLA Member has additionally clearly stated that they wish the application to be referred to Committee for consideration.

- 2.21 The application will only be reported to Committee under these Criteria where the recommendation by the ~~Director of Planning~~Director of Planning and Strategic Transport is either for approval and the GLA Member has objected to the application or for refusal and the GLA Member has supported the application.

Member of Parliament

- 2.22 An application may be reported to Committee where the Member of Parliament (MP) for the constituency within which the application site is situated or adjoins has made a Representation that additionally meets all the following Criteria:
- It is received by the Development Management service within the Statutory Notification Period (paragraphs 2.8 to 2.10 above).
 - It is an application for planning permission that is a Major Development or larger as defined by the Department for Communities and Local Government.
 - The application is within, partly within or adjoining the MP's constituency.
 - The MP has stated that they either object to or support the application and given their reason(s).
 - The MP has additionally clearly stated that they wish the application to be referred to Committee for consideration.

- 2.23 The application will only be reported to Committee under these Criteria where the recommendation by the ~~Director of Planning~~Director of Planning and

Strategic Transport is either for approval and the MP has objected to the application or for refusal and the MP has supported the application.

Criteria for Resident Associations (RA) and Conservation Area Advisory Panels (CAAP)

- 2.24 To benefit from the provisions in these Criteria, a RA will need to be registered with the Development Management service. To be registered the RA will need to supply a copy of its written constitution and that document would need to demonstrate that:
- It represents an area within the borough of Croydon that contains at least 50 residential properties.
 - It holds regular elections for association officers.
- 2.25 An application may be reported to Committee where the RA/CAAP has made Representations that additionally meet all the following Criteria:
- It is received by the Development Management service within the Statutory Notification Period (paragraphs 2.8 to 2.10 above).
 - The application is within, partly within or adjoining the area that the RA/CAAP covers.
 - The RA/CAAP has stated that they object to the application and given their reason(s).
 - The RA/CAAP has additionally clearly indicated that they wish the application to be referred to Committee for consideration so that they can address the Committee on their concerns.
- 2.26 The application will only be reported to Committee under these Criteria where the recommendation by the ~~Director of Planning~~Director of Planning and Strategic Transport is for approval.

Other Representations

- 2.27 An application may be reported to Committee where Representations have been received that additionally meet all the following Criteria:
- It is received by the Development Management service within the Statutory Notification Period (paragraphs 2.8 to 2.10 above).
 - It is from a person who lives at or operates from an address which is within the London Borough of Croydon.
 - The person has stated that they object to the application and given their reason(s).
 - At least 12 such Representations have been received from individual persons for each application.
- 2.28 The application will only be reported to Committee under these Criteria where the recommendation by the ~~Director of Planning~~Director of Planning and Strategic Transport is for approval.

Petitions

- 2.29 An application may be reported to Committee where one or more petitions (including pro-forma letters – paragraph 2.16 above) that meet the General Requirements for a Representation (paragraph 2.15 above) have been received that additionally meet all the following Criteria:
- Each Petition is received by the Development Management service within the Statutory Notification Period (paragraphs 2.8 to 2.10 above).
 - Each Petition is from a person who lives at or operates from an address which is within the London Borough of Croydon.
 - Each Petition objects to the application and contains the reason(s) for this.
 - All such Petitions contain a total of at least 20 signatures with clearly readable and bona fide names and addresses from within the Borough of Croydon.
- 2.30 The application will only be reported to Committee under these Criteria where the recommendation by the ~~Director of Planning~~Director of Planning and Strategic Transport is for approval.
- 2.31 Where such petition(s) (including pro-forma letters – paragraph 2.16 above) contain less than 20 such signatories, they will collectively be treated as forming a single Representation for the purposes of deciding whether an application will be referred to Committee.

3 PUBLIC SPEAKING PROCEDURE

- 3.1 For applications for planning permission for the following development types, a speaking slot shall be a maximum of five minutes each:
- a residential development containing 200 or more new dwellings or, where the number of dwellings is not given, the site area is 4 hectares or more; or
 - the erection of a building or buildings with a gross floor space of 10,000 square metres or more or, where the floor space is not given, the site area is 2 hectares or more.
- 3.2 For all other items, a speaking slot shall be a maximum of three minutes each.
- 3.3 **Subject always to the provisions of para 6.2**, for each planning application there are **up to** five separate speaking slots in the following order, allocated to:
1. Objectors
 2. The applicant or his/her agent/representative/supporters – hereinafter referred to as the Applicant
 3. The Member of Parliament for the constituency within which the application site is situated where they have clearly indicated that they wish to address the Committee in accordance with the Committee Consideration Criteria (Rule 2) – hereinafter referred to as the MP
 4. The Member of the Greater London Assembly for the constituency within which the application site is situated where they have clearly indicated

that they wish to address the Committee in accordance with the Committee Consideration Criteria (Rule 2) – hereinafter referred to as the GLA Member

5. A Member for the ward within which the application site is situated or adjoins who has clearly indicated that they wish the application to be referred to Committee for consideration in accordance with the Committee Consideration Criteria (Rule 2) – hereinafter referred to as a Ward Member
- 3.4 Where a planning application is reported on the “Planning Applications for Decision” part of the agenda, all of the individuals and organisations who have expressed views (by letter or email) on the application will be sent a letter/email that informs them that the application will be considered by Committee. The applicant (or his/her agent) will be sent a similar letter/email. The Ward Member, GLA Member and MP (where appropriate) will also be sent such a letter/email. The letter/email will also explain the provisions regarding public speaking.
 - 3.5 Requests to address Committee will not be accepted prior to the publication of the agenda.

Notification

- 3.6 Any Objector or Applicant who wishes to address Committee must notify the Democratic Services Manager by 4pm on the Tuesday prior to the day of the meeting. Email or telephone should be used for this purpose. This communication should provide the name and contact details (email address and/or phone number) of the intended speaker so that changes in arrangements can be communicated. In addition, if the parties agree, contact details will be shared so that where more than one person has registered to speak, contact can be made to resolve either who will address the Committee or how they will divide up the allocated speaking slot.
- 3.7 If a public speaker needs special arrangements (such as an interpreter) this must be brought to the attention of the Democratic Services Manager when notifying him/her of their wish to speak so that arrangements can be put in place.

Registration

- 3.8 **Subject always to the provisions of para 6.2**, on the night of the Committee meeting:
 - Objectors and Applicants who have notified the Democratic Services Manager that they wish to address the Committee in accordance with paragraph 3.7;
 - A Ward Member, GLA Member or MP who have clearly indicated that they wish to address the Committee in accordance with the Committee Consideration Criteria (Rule 2);

must register their attendance at the Town Hall with the Democratic Services representative in attendance at the meeting at least 15 minutes before the meeting starts.

- 3.9 Where more than one Objector has registered to speak and the arrangements have not been resolved in advance, the Democratic Services Manager will inform the parties involved as they register so that they can decide either who will address the Committee or how they will divide up the allocated speaking slot. Objectors are expected to come to an agreement between themselves on this. Where Objectors cannot come to an agreement, the chair will be notified of this through the Democratic Services Manager and the chair will decide who will be accorded the right to speak. Preference will normally be given to those who are potentially most affected by the planning application and particularly those closest to the application site. The chair may take advice from officers in making this decision. In order to ensure the most efficient progress of Committee business on the evening, the decision of the chair will be final and not be the subject of further debate, including in the Committee.
- 3.10 If more than one Ward Member or MP indicates that they wish to speak, they will share the speaking slot equally, unless they agree a different distribution of the time.
- 3.11 If a Ward Member wishes to speak but is unable to attend the Committee, they may nominate a substitute Member to address the Committee on their behalf.

Speaking

- 3.12 All those involved in public speaking are restricted to an oral presentation only. The officers' slide presentation is therefore not available for use by public speakers.
- 3.13 The distribution of additional material or information to Members of the Committee is not permitted once the meeting starts. If a speaker, or any other member of the public, wishes to bring material to the Committee's attention they need to either supply it to the Development Management service, if it is written material, by noon on the day of Committee, to include in the Addendum Report (see paragraphs 5.6 to 5.11 below for procedures, limitations and deadlines) or otherwise send it direct to Members before the meeting.
- 3.14 Following the completion of a speaker's address to the Committee, that speaker shall take no further part in the proceedings of the meeting unless permitted to do so by the chair of the Committee.

MP, GLA Member and Ward Members

- 3.15 An MP, GLA Member or Ward Member may address the Committee in accordance with the Procedures set out here (Rule 3 Public Speaking Procedure), but must additionally:

- declare, before making their speech, details of any material contact with the applicant, agent, adviser, neighbour, objector or other interested party and whether or not the speech is made on behalf of such person(s) or any other particular interest;
- sit separately from the Committee Members, so as to demonstrate clearly that he/she is not taking part in the discussion, consideration or vote; and
- not communicate in any way with Members of the Committee or pass papers or documents to them during the meeting.

In relation to Ward Members:

- be aware that if they have a disclosable pecuniary interest, they may only participate in any discussion of or vote on any matter in which they have a disclosable pecuniary interest if they have been granted a dispensation for this purpose.

Committee Member wishing to speak as a Ward Members

- 3.16 A Ward Member, who is also a Member of the determining Committee, may address the Committee in accordance with Rule 3 (Public Speaking Procedure) but, where they do so, they cannot take part in the debate or vote on the application they have referred. They may address the Committee on their referral in accordance with the above procedures provided they do not have a disclosable pecuniary interest in the matter. Where the Member has a disclosable pecuniary interest, the Member may only participate in any discussion of or vote on any matter in which they have a disclosable pecuniary interest if they have been granted a dispensation for this purpose.

Chair's discretion

- 3.17 At the discretion of the chair, such as in the interests of natural justice or in exceptional circumstances, the public speaking procedures may be varied. The reasons for any such variation shall be recorded in the minutes. The number of objectors or supporters would not, of itself, be a factor. If changes are made to the speaking times, the Applicant will be offered the same time to speak as Objectors.

4 FORMAT OF COMMITTEE AGENDA

- 4.1 The Committee's agenda may contain the following three sections for planning reports:
- **Planning applications for decision:** these items attract public speaking rights as detailed above.
 - **Other planning matters:** non-application matters that require Committee consideration (such as an Article 4 Direction, policy papers or a consultation from government) or reports that are for information only. These items do not normally attract public speaking rights, other than at the chair's discretion.
 - **Development presentations:** to enable the Committee to receive presentations on proposed developments, including when they are at the

pre-application stage. These items do not normally attract public speaking rights, other than at the chair's discretion.

5 REPORTS

- 5.1 Each planning application for decision is the subject of a written report with an officer recommendation. Reports will be produced in a standard form provided by the ~~Director of Planning~~Director of Planning and Strategic Transport, and will identify and analyse the material considerations, of which the Committee need to take account when considering the application on the planning merits
- 5.2 In addition to the written report, illustrative material will usually be presented at the meeting to explain the scheme. The planning files will also be available for inspection at the meeting by Members of the Committee.

Recommendations

- 5.3 The recommendations in the reports to Committee do not set out the full wording of planning conditions, reasons for refusal, informatives and planning obligations, but are a summary of them. There are two reasons for this:
- it communicates the details of the recommended decision more clearly to Members than many pages of detailed conditions or grounds; and
 - there can sometimes be a delay before a decision is issued (such as waiting for the signing of a legal agreement or views from the Mayor of London and/or the National Planning Case Unit and something may arise which necessitates an amendment, a deletion or an addition.
- 5.4 Delegated powers are therefore given to the ~~Director of Planning~~Director of Planning and Strategic Transport (Responsibility for Functions at Part 3 of the Constitution) to communicate the detailed wording to applicants. In addition, where the wording of a condition/ ground/informative/obligation has been amended, a new condition/ground/ informative/obligation introduced or an existing condition/ground/informative/ obligation deleted either at the meeting by the Committee or subsequent to the meeting by the Director, the Director will be responsible for finalising the wording. This obviates the need for further reference to Committee and delay to the process.
- 5.5 The exercise of this delegated power by the Director is limited to circumstances where the change(s) could not reasonably be regarded as deviating from the overall principle of the decision reached by the committee nor that such change(s) could reasonably have led to a different decision having been reached by the committee.

Addendum Report

- 5.6 It is common for material (such as late representations) to be received by the Development Management service after the close of the agenda. Such material will be placed on the public planning file along with all the other papers for the application, subject only to any public exclusion restrictions.

- 5.7 Where this material needs to be brought to the attention of the Committee, so that it can be taken into account, it will be presented in written form in the addendum report. It will comprise a summary of whatever has been raised, in the same way as representations are summarised in the main Committee report.
- 5.8 The Development Management service will email the addendum report to Planning Committee Councillors as soon as it is ready and make hard copies available before the meeting commences.
- 5.9 The practicality of producing such a report means there has to be a cut-off point for the receipt of late material by the Development Management service, which is noon on the day of the meeting. Generally material received after this time will not be reported to the Committee. The ~~Director of Planning~~Director of Planning and Strategic Transport has an absolute discretion in this regard.
- 5.10 Material must not be distributed to Committee Members by members of the public (including public speakers) or other Members of the Council during the course of the meeting. The distribution of such material should be done in advance of the meeting in accordance with 5.9 above.
- 5.11 The points raised in representations about a particular application, which are received prior to the cut-off point (paragraph 5.9 above) are summarised either in the main Committee report or in the addendum report. Copies of these representations are available for inspection at the meeting by Members of the Committee.

6 ORDER OF PROCEEDINGS

- 6.1 Except as otherwise stated on the agenda, generally meetings take place at the Town Hall in Katharine Street (CR0 1NX). The time the meeting is expected to begin will be stated on the agenda papers.
- 6.2 Where Any item ~~that~~ is on the agenda ~~only~~ because it has been referred by a Ward Member, GLA Member, MP, Resident Association or Conservation Area Advisory Panel, and none of the ~~referring~~ person(s)/organisation(s) or their representative(s) have registered their attendance at the Town Hall in accordance with paragraph 3.8, ~~and notwithstanding the fact that other parties may have also registered to speak~~, the item will ~~revert be reverted~~ to the ~~Director of Planning~~Director of Planning and Strategic Transport to deal with under delegated powers and not be considered by the ~~committee~~Committee.
- 6.3 At the discretion of the chair, the agenda may be re-ordered at the meeting.

Planning application for decision

- 6.4 The procedure for considering each application shall be as follows:
- the ~~Director of Planning~~Director of Planning and Strategic Transport, or his/her representative, will introduce the development the subject of the application;

- through the chair, Committee Members may ask questions of clarification;
- public speaking in accordance with Rule 3 (Public Speaking Procedure);
- the ~~Director of Planning~~Director of Planning and Strategic Transport, or his/her representative, will present the report and introduce the main issues; and
- the Committee will consider the item and reach a decision.

Other planning matters

6.5 The procedure for considering each item shall be as follows:

- the ~~Director of Planning~~Director of Planning and Strategic Transport, or his/her representative, will present the report and introduce the main issues;
- through the chair, Committee Members may ask questions of clarification; and
- the Committee will consider the item and reach a decision.

Development presentations

6.6 The procedure for considering each item shall be as follows:

- the developer will present their scheme for no longer than 15 minutes unless the Chair, exercising his/her discretion, has allowed a longer period; and
- through the chair, Committee Members may ask questions.

Other procedural issues

6.7 Where a decision is made on an agenda item, in order to be able to vote a Committee Member must be present throughout the whole of the Committee's consideration of that item, including the officer introduction and any public speaking.

6.8 The minutes of the meeting will record the Members and officers present at the meeting and record any disclosures of interest made by Members or officers. For each item the minutes will record the identity of any public speakers and the decision.

6.9 Meetings of the Committee are subject to a guillotine of 10.00pm. After that time, any item on the agenda that has not started to be considered by the Committee is delegated to the ~~Director of Planning~~Director of Planning and Strategic Transport to determine along the lines set out in the Committee report, unless the Committee has already voted (on a two thirds majority) to defer or adjourn the non-determined item earlier in the meeting.

7 DECISION MAKING

7.1 In making a decision on a planning application a Committee Member must:

- Come to meetings with an open mind.

- Comply with these Rules.
- Not allow anyone (except officers, other Committee Members and public speakers when they are addressing the Committee) to communicate with them during the Committee's proceedings (orally or in writing) as this may give the appearance of bias. For the same reason, it is best to avoid such contact before the meeting starts.
- Consider the advice that planning, legal or other officers give the Committee in respect of the recommendation or any proposed amendment to it.
- Comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the development plan unless there are good planning reasons to come to a different decision.
- Come to their decision only after due consideration of all of the information reasonably required to base a decision upon. This will include the local information that Members are uniquely placed to access, but always remembering to take decisions on planning grounds alone. If they feel there is insufficient time to digest new information or that there is insufficient information before them, then they should seek an adjournment to address these concerns.
- Not vote on a proposal unless they have been present to hear the entire debate, including the officers' introduction and any public speaking.
- Make sure that if they are proposing, seconding or supporting a decision contrary to the officer's recommendation or the Development Plan, that they clearly identify and understand the planning reasons leading to this conclusion and that they take into account any advice planning, legal or other officers give them. Their reasons must be given prior to the vote and be recorded. Be aware that they may have to justify the resulting decision by giving evidence in the event of any challenge.

7.2 The Council is expected to make a decision on all applications within statutory timescales. Whilst this may not always be possible, particularly for applications that are to be considered by Committee, applications are always included on the agenda of the first available Committee after completion of the officer's report so that a decision can be taken in the shortest possible time. For this reason, Members should avoid requests for officers to speed up or delay the determination or assessment of particular applications for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties.

8 VOTING PROCEDURES

- 8.1 The chair will bring the Committee to a vote when he/she considers that there has been sufficient debate of an item.
- 8.2 For any motion to be successful there needs to be a majority vote in favour of that motion. In the event of a deadlock (ie equality of votes) the chair may exercise his/her casting vote. This can be done irrespective of whether or not the chair has already voted on that motion.

When There Are Two Motions

- 8.3 If there are two motions before the Committee, each motion needs to be considered separately. When a motion has been moved and seconded, it becomes a complete motion. The motion which is completed first should be considered first.
- 8.4 If the first motion is successful (ie the vote is for it) the second motion automatically falls.
- 8.5 If the first motion is unsuccessful (ie the vote is against it) it falls and is thereby extinguished. Members then move to voting on the second motion.
- 8.6 To enable officers to give the Committee the best advice and to allow the business to run efficiently, it is preferable for the recommendation set out in the report to be moved and voted on first (unless a motion is made and seconded to defer or adjourn consideration of a particular item, for example for a site visit or further information/advice).
- 8.7 Amendments to the recommendation (such as an additional condition) may be made in the normal manner (as prescribed in the Non-Executive Committee Procedure Rules part 4 of the constitution).

Officer's Advice

- 8.8 If the recommendation is not supported, before a new motion to either grant or refuse the application is proposed the Committee must first receive advice from the ~~Director of Planning~~Director of Planning and Strategic Transport, or his/her representative, as to what form a new motion could take. That advice will be based upon the material considerations that have been discussed by the Committee and whether there are grounds that could be defended in the event of an appeal or legal challenge. The solicitor advising the Committee will be called upon as necessary to give advice on legal matters.
- 8.9 If the officer considers that he/she is unable to give that advice immediately, further consideration of the matter will be suspended and the agenda item will be adjourned so that the officer can bring a report to the next available Committee setting out his/her advice.

Decisions contrary to the Development Plan

- 8.10 The law requires that where the Development Plan is relevant, decisions must be taken in accordance with it unless there are good planning reasons to do otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004). If a Committee intends to approve an application which is contrary to the Development Plan, the material considerations must be clearly identified and the justification for overriding the Development Plan clearly demonstrated. The application will have to be advertised in accordance with Article 13 of the Town and Country Planning (Development Management Procedure) Order 2010 and, depending upon the type of development

proposed, may also have to be referred to the Department for Communities and Local Government.

- 8.11 If the recommendation in the officer report would be contrary to the Development Plan, the justification will be included in that report.
- 8.12 If a Committee is minded to make a decision contrary to the officer recommendation (whether for approval or refusal) and that decision would be contrary to the Development Plan, such a motion may only contain the Committee's initial view and must be subject to a further report detailing the planning issues raised by such a decision. Further consideration of the matter must be adjourned to a future meeting of the Committee when officers will present a report setting out the proposed new position and explaining the implications of the decision.
- 8.13 If, having considered the report, the Committee decides to determine the application contrary to the Development Plan, a detailed minute of the Committee's reasons, which as a matter of law must be clear and convincing, shall be made and a copy placed on the application file.

9 SITE VISITS BEFORE A COMMITTEE MEETING

- 9.1 It is advisable that Members are familiar with the sites of the applications on the agenda to enable them to make informed decisions on the planning applications before them and to avoid deferring or adjourning those decisions pending site visits.
- 9.2 Where Members visit the site themselves before the meeting, care must be taken to ensure that they comply with the Planning Code of Good Practice (part 5D of the constitution). Such visits should be carried out discreetly and Members should avoid making themselves known to the applicant or to neighbours. Accordingly Members should not go onto the actual application site or into a neighbouring property. The reason for this is that contact between a Member of the Committee and the applicant or a local resident could be misinterpreted as lobbying and may create a suspicion of bias. If such contact is made this should be declared in Committee, but this should not prevent that Member from taking part in the consideration of that application, provided that the Member has followed the advice in the Planning Code of Good Practice and acts in accordance with the Members' Code of Conduct.

10 FORMAL SITE VISITS BY THE COMMITTEE

- 10.1 A formal site visit will be arranged where the Committee have resolved, on a majority vote, to visit the site. Site visits should only be selected where there is a clear and substantial benefit to be gained. The ~~Director of Planning~~ Director of Planning and Strategic Transport may recommend that the Committee should conduct a site visit.
- 10.2 The procedure for formal site visits by the Committee shall be as follows:

- Any of the Members and substitute Members of the Committee and officers can attend a site visit.
- Arrangements for visits will not normally be publicised or made known to applicants, agents or third parties.
- Where permission is needed to go onto land, contact will be made with the owner by officers. The owner cannot take any part in the visit, other than to effect access onto the site.
- The purpose of a site visit is to enable Members to inspect the site and to better understand the impact of the development. The Committee should not receive representations or debate issues during a site visit.
- An application cannot be determined at a formal site visit by a Committee and must be considered at the next appropriate meeting of the Committee.
- The Democratic Services Manager will make a note of the site visit and it will be included in the Addendum Report.
- Failure to attend a formal site visit shall not bar a Member from voting on an item at the Committee meeting that considers it, provided the Member is satisfied that he/she is sufficiently familiar with the site.

10.3 When a site visit has taken place, Members are reminded about the principles referred to above under the heading 'Order of proceedings' concerning the need to have heard the whole of a planning application before taking part in the voting.

11 AMENDMENTS/ VARIATION

11.1 Where amendments/variation to these Rules are necessary due to legislative changes, the Council Solicitor, Director of Democratic and Legal Services may make such consequential changes to these Rules as are necessary to take such changes into account.

CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

Part 4.J - Staff Employment Procedure Rules

1 Explanatory Note

1.1 In these Rules -

"the 1989 Act" means the Local Government and Housing Act 1989;

"the 2000 Act" means the Local Government Act 2000;

"chief finance officer" means the officer having responsibility, for the purposes of—

(a) section 151 of the Local Government Act 1972 (financial administration); or

(b) section 6 of the 1989 Act (officer responsible for financial administration of certain authorities),

for the administration of the local authority's financial affairs;

"disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001 as amended;

"Executive Director" means a post holder designated as Executive Director by the Head of Paid Service;

"member of staff" means a person appointed to or holding a paid office or employment under the authority;

"monitoring officer" means the officer designated under section 5(1) of the 1989 Act (designation and reports of monitoring officer); and

"proper officer" means an officer appointed by the authority for the purposes of the provisions in these Rules.

- 1.2 Subject to paragraphs 1.3, 3.1 and 7.1 of these Rules, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of Head of Paid Service) as the head of the authority's paid service or by an officer nominated by him.

- 1.3 Nothing in paragraph 1.2 shall prevent a person from serving as a member of any committee or sub-committee established by the Authority to consider an appeal by -
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the Authority; or
 - (b) a member of staff of the Authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
- 7.2 (1) Where a committee, sub-committee or officer is discharging, on behalf of the Authority, the function of the dismissal of an officer designated as the Head of the Authority's Paid Service, the Chief Financial Officer or the Monitoring Officer, the Council must approve that dismissal before notice of dismissal is given to him/her.
- (2) Where a committee or a sub-committee of the Authority is discharging, on behalf of the Authority, the function of the dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 7.1, at least one Member of the Cabinet must be a member of that committee or sub-committee.
- 7.4 Consideration of disciplinary action which could result in dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer will be the responsibility of the Appointments Committee set up for this purpose. The Appointments Committee shall include at least one Member of the Cabinet and at least two voting co-opted Independent Persons when consideration is being given to dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer. Any such Appointments Committee shall be set up no less than 20 working days before the relevant council meeting is due to consider the matter. The Appointments Committee shall consider the matter in accordance with the processes and procedures approved by Ethics Committee for this purpose and make a report and recommendations to full Council for consideration and final determination. Any such report shall specifically include the Committees recommendations on appropriate action.
- 7.5 Before the taking of a vote at the relevant Council meeting on whether or not to approve such a dismissal, full Council must take into account, in particular—
- (a) any advice, views or recommendations of the Appointments Committee;
 - (b) the conclusions of any investigation into the proposed dismissal; and
 - (c) any representations from the relevant officer.
- 7.6 Where the decision relates to the dismissal of an Executive Director or other officer who falls within the descriptions set out in paragraph 7.1 but excluding the officers referenced in paragraph 7.4 above, the Appointments Committee shall make the decision regarding dismissal.

- 7.7 Suspension: The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended by resolution of the Appointments Committee on full pay while a disciplinary investigation and disciplinary proceedings are conducted into alleged misconduct or gross incapability. Suspension does not itself constitute disciplinary action and does not imply guilt. However a decision by the Appointments Committee on suspension shall require the involvement of Independent Persons.
- 7.8 Provisional Suspension: In exceptional circumstances, the Chair of the Appointments Committee, having taken legal and HR advice may temporarily suspend the Head of Paid Service, Monitoring Officer or Chief Finance Officer pending the Appointments Committee being convened to consider suspension under paragraph 7.7 above. The exercise of this power of provisional suspension shall be exercised within the following parameters:
- a) that it is to be exercised only in exceptional circumstances;
 - b) that the decision maker take both HR and legal advice in advance of exercising such power;
 - c) that the provisional suspension does not itself constitute disciplinary action nor does it imply guilt;
 - d) that the officer is suspended on full pay; and
 - e) that an Appointments Committee is be convened to consider whether to exercise the power of suspension within paragraph 7.7 above within 10 working days following the decision to provisionally suspend.

7.9 Independent Persons

In respect of the Head of Paid Service (Chief Executive), Chief Finance Officer and Monitoring Officer (Borough Solicitor, Director of Legal and Democratic Services), if the Council wishes to investigate any allegations of serious misconduct or incompetence, which might lead to dismissal, two Independent Persons, as appointed by the Ethics Committee from time to time to fulfil this role, will become co-opted voting members of the Appointments Committee set up for that purpose. At the end of any disciplinary hearing, the Independent Persons' views must be reflected specifically in the Report to full Council setting out the Appointment Committees recommendations. Such report shall include recommendations on what is considered to be the appropriate action or sanction to be applied (dismissal, verbal or written warning, demotion etc.) and the full Council shall have regard to the recommendations of the Appointments Committee in reaching its decision on the matter.

7.10 Other staff (not provided for elsewhere in 4J)

- 7.10.1 The Head of Paid Service shall have the power to suspend an Executive Director other than those referred to in Paragraph 7.7 above on full pay while a disciplinary investigation and disciplinary proceedings are conducted into alleged misconduct or gross incapability.

PART 3

RESPONSIBILITY FOR FUNCTIONS

2.01 **Appointments Committee** (Membership 6 + 2 Independent voting Co-optees for consideration of disciplinary matters as detailed below.)

6. Consideration of disciplinary action, as defined within the Staff Employment Procedure Rules in Part 4 of the Constitution which could result in dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer. For this purpose, the Appointments Committee shall include at least one Member of the Cabinet and at least two voting co-opted Independent Persons when consideration is being given to dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer. The Appointments Committee shall consider the matter in accordance with the processes and procedures approved by Ethics Committee for this purpose from time to time and make a report and recommendations to full Council for consideration and final determination. Any such report shall specifically include the Committees recommendations on appropriate action.
7. Consideration of suspension of Head of Paid Service, Chief Finance Officer or Monitoring Officer, including following provisional suspension by the Chair of the Appointments Committee in accordance with the Staff Employment Procedure Rules in Part 4 of the Constitution;
8. Any matter not reserved to the Council or delegated to another Committee which pertains to a staffing matter and is referred to the Committee by the Head of Paid Service for consideration

ARTICLE 8 Non-Executive Committees

8.01 Non-Executive Committees

The Council has established Committees in order to discharge its functions and has determined to appoint the Committees named below. Rules of Procedure for these Committees are set out in the Non-Executive Committee Procedure Rules contained in Part 4 of this Constitution.

<u>Committee</u>	<u>Membership</u>
Appointments Committee	6 Members + 2 Independent Voting Co-optees for specified purposes.
Ethics Committee	6 Members + 2 independent non-voting co-optees
General Purposes and Audit Committee	10 Members + 2 independent non-voting co-optees
General Purposes and Audit Urgency Sub-Committee	3
Mayoralty and Honorary Freedom Selection Sub-Committee	5
Licensing Committee	12
Licensing Sub-Committee (Ad Hoc)	3
Pension Committee	8 Members + 3 non-voting co-optees
Planning Committee	10
Planning Sub Committee	5

Scrutiny and Overview Committee

6 Members +1 Co-optee in respect of crime and disorder

Scrutiny Children and Young People Sub-Committee

8 Members + 4 voting and 1 non-voting co-optees

Scrutiny Health, Social Care and Housing Sub-Committee

6 Members + 1 non-voting co-optee from Healthwatch (Croydon)

Streets & Environment Scrutiny Sub-Committee

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