

# Constitution



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**CONSTITUTION  
OF THE  
LONDON BOROUGH  
OF  
CROYDON**

This version of the Constitution was adopted by the Council on 21 May 2012.

It was amended on:

July 2012 and October 2012

January and July 2014

May 2015

January, May and September 2016

January 2017, June 2017 and September 2017

May 2018, July 2018, November 2018 and December 2018

Feb 2019 and April 2019

April 2019

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## PART 1

### SUMMARY AND EXPLANATION

#### 1 INTRODUCTION

- 1.1 Croydon Council (the London Borough of Croydon) has established decision-making arrangements that comply with the requirements of the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007 and the Localism Act 2011. They are known as the Executive Leader and Cabinet model.
- 1.2 This Constitution provides for all the Council's responsibilities and functions to be separated between Executive Leader and Council responsibilities and functions. The Articles (Part 2) of the Constitution set out the rules and framework which govern the operation of the Authority, and Parts 3 to 6 of the Constitution provide further details of the allocation of responsibility for functions; procedure rules, codes and protocols for specific parts of the decision-making structure. The main elements of the Council's Constitution are summarised below.

#### 2 THE COUNCIL

- 2.1 All 70 Members (also referred to as Councillors) are entitled to attend and take part in meetings of the Full Council. The Council Year begins in May each year with an Annual Meeting that appoints a new Mayor, and Deputy Mayor. It also appoints the Leader (for a period of four years) and makes appointments to Committees, Sub-Committees, Working Parties and Outside Bodies for that Municipal Year.
- 2.2 Ordinary Full Council meetings are held on six other occasions during the Council Year. One of the Ordinary Meetings is to set the Council Tax. Extraordinary and Special Meetings of the Full Council may also be convened.
- 2.3 Only the Full Council meeting may set the Budget for the Authority or approve the policies, plans and strategies that are specified in the Council's "Policy Framework", as defined in Article 4.02 of this Constitution.
- 2.4 Certain decision taking functions may be retained by the Full Council or delegated to a non-executive Committee or to Executive Directors. Other decision taking functions must be discharged by the Leader or by the Chief Executive. Part 3 of the Constitution sets out how the responsibility for functions is allocated to the Leader and Committees.

- 2.5 At Ordinary Meetings of the Full Council, the Leader and Cabinet:
- Reply to questions from the public (except at the meeting of the Council at which the Council sets the rate of Council Tax);
  - Present a Report including any recommendations for decision and replies to Members' questions on the Report; and
  - Reply to questions asked by Members.
- 2.6 Ordinary Full Council Meetings also deal with:
- The formal presentation to the Council of petitions by Members;
  - Petitions from Members of the Public for Debate in accordance with the Part 4A , 3.12 of this Constitution; and
  - Motions for Debate.
- 2.7 All meetings of the Council are open to the public and press, unless they are exempted.

### **3 THE LEADER AND CABINET**

- 3.1 The Cabinet comprises up to 10 Members including the Leader and Deputy Leader(s). Details of the responsibilities and functions allocated by the Leader to the Cabinet as a whole or to individual Cabinet Members are set out fully in the Leader's Scheme of Delegation. For the avoidance of doubt, such Cabinet arrangements may include provisions for job-share portfolios however there may not be more than 10 acting Members of Cabinet inclusive of the Leader at any one time and any non-acting job share Cabinet Member may not exercise any executive functions whilst not Acting Cabinet Member for the relevant portfolio.
- 3.2 The Leader is responsible, in consultation with others, for shaping the plans and strategies which form the Council's Policy Framework and recommending them to the Council; and for taking decisions on executive matters within that framework. The Leader gives political direction to the Chief Executive and Executive Directors in relation to the way in which services are managed within the budgets allocated to them. The Leader may establish one or more Cabinet Committees to exercise specified executive functions.
- 3.3 All meetings of the Cabinet are open to all Members, the public and press to attend. In the event of there being confidential or exempt business to discuss in accordance with the Council's Access to Information Procedure Rules, that part of the meeting is held in private. Notice of meetings and availability of papers prior to a meeting shall also comply with the Council's Access to Information Procedure Rules set out at Part 4 of the Constitution.
- 3.4 "Key Decisions", shall be published in accordance with the Council's Access to Information Procedure Rules set out fully in Part 4B of the Constitution.

- 3.5 Informal meetings of the Leader and Cabinet Members occur from time to time. No executive decision can be taken at an informal meeting of Cabinet Members. These meetings are not subject to the Access to Information Procedure Rules.
- 3.6 Cabinet Members may publish Bulletins at regular intervals as an added means of informing non-executive Members, the public and press of matters of significance but not requiring Cabinet consideration. Bulletins issued are included in the Leader and Cabinet Questions agenda item at Ordinary Council and are therefore open to questions.

### **Chief Executive**

- 3.7 Certain matters not reserved to the Council, Leader, Cabinet or a Cabinet Committee are decided by the Chief Executive acting under delegated powers.

### **The Scrutiny and Overview Committee**

- 3.8 The Scrutiny and Overview function is part of the Council's executive arrangements as required by the law. The Council has one overarching Scrutiny and Overview Committee encompassing all scrutiny functions required by Statute. Seats are allocated according to the rules of proportionality, which provide for the allocation of seats on committees so that they continue to reflect the overall political composition of the Council.
- 3.9 The Scrutiny and Overview Committee ensures the efficient and effective conduct of its responsibilities through the work of a number of Sub-Committees, and "task and finish" groups.
- 3.10 The Scrutiny and Overview Committee and its Sub-Committees hold the executive to account, monitor the performance of Council services and investigate matters affecting the wellbeing of Croydon. In addition the Scrutiny and Overview function has a statutory duty to scrutinise Health Services, Community Safety issues and education matters. They carry out these roles in a number of ways including:
- Reviews of services which often cut across organisational boundaries and roles.
  - The scrutiny of Action Plans and Implementation.
  - In certain circumstances and in accordance with the Scrutiny and Overview Procedure Rules at Part 4 of the Constitution, Members may request the review of an executive key decision taken by the Cabinet or a Cabinet Member but not yet implemented.
- 3.11 Any Councillor except a Cabinet Member is eligible to be appointed to the Scrutiny and Overview Committee or any of its Sub-Committees.

- 3.12 The Scrutiny and Overview Committee reports annually to the Council. During the year the Committee and its Sub-Committees may make recommendations to the Leader and Cabinet and exceptionally direct to the Council.
- 3.13 Members, the Chief Executive and Executive Directors or other senior staff are under a duty to attend the Scrutiny and Overview Committee or Sub-Committee to answer questions. There is a power to co-opt non-Council members onto the Committee or any Sub-Committee. There is a statutory requirement to co-opt church and parent-governor representatives when matters related to the duties of the Council relating to education functions **are** considered.
- 3.14 All meetings of the Scrutiny and Overview Committee and its Sub-Committees are open to the public and press, except where confidential or exempt information is considered. Confidential or exempt business is discussed in private in accordance with the Council's Access to Information Procedure Rules.

#### **4 NON-EXECUTIVE COMMITTEES**

- 4.1 The Full Council has made arrangements to delegate various powers and duties that are not executive functions to a number of Committees, Sub-Committees and the Chief Executive for the efficient conduct of business. These Delegations are set out in 'Responsibility for Functions' contained in Part 3 of the Constitution and the Non-Executive Committee Procedure Rules at Part 4. As with the Scrutiny and Overview Committee, seats on the non-executive committees are allocated between the party groups in proportion to their respective numbers of Members.

#### **5 SHADOW CABINET**

- 5.1 The Shadow Cabinet comprises the Leader of the Opposition and up to nine other Members nominated by the largest political Group represented on the Council having no executive members. Shadow Cabinet members hold policy portfolios that broadly mirror the portfolios held by members of the Cabinet. The Shadow Cabinet has no power to discharge any function of the Authority.

#### **6 PARTNERSHIPS**

- 6.1 The Council continues to develop a wide range of partnerships and other consultative bodies. These bodies are not part of the Council's formal decision making structure but are an important part of informing the policy process and of collaborative working.

#### **7. SCHEME OF MEMBERS' ALLOWANCES**

- 7.1 The Council has adopted a Scheme of Members' Allowances in



accordance with the relevant Regulations. This Scheme is set out at Part 6A of the Constitution.

- 7.2 Members also known as “Councillors” are not employees of the Council. They have a role description but do not have fixed “hours of work”. They carry out their duties at all and sundry times.
- 7.3 Some Members are in paid employment elsewhere. Although they are entitled to reasonable time off without pay for public duties some employers are very uncooperative and do not willingly allow the amount of time off required. However, Members have to balance the need to take time off for Council work and the impression given to their employer by the amount of time to take off work in order to perform their public duties.

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## PART 2

### ARTICLES OF THE CONSTITUTION

#### ARTICLE 1      **The Constitution**

##### 1.1      **The Constitution**

This Constitution and all its appendices, is the Constitution of the London Borough of Croydon, hereinafter referred to as 'The Authority'.

##### 1.2      **Powers of the Authority**

The Authority shall exercise all its powers and duties in accordance with the law and this Constitution.

##### 1.3      **Purpose of the Constitution**

The purpose of this Constitution is to:

- 1      enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- 2      support the active involvement of citizens in the process of local authority decision-making;
- 3      help Members represent their constituents more effectively;
- 4      enable decisions to be taken efficiently and effectively;
- 5      create a powerful and effective means of holding decision-makers to public account;
- 6      ensure that no one shall review or scrutinise a decision in which they were directly involved;
- 7      ensure that those responsible for decision making are clearly identifiable to local people and they explain the reasons for decisions; and
- 8      provide a means of improving delivery of services to the community.

##### 1.4      **Interpretation and review of the Constitution**

The Council shall monitor and evaluate the operation of the Constitution as set out in Article 15.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 2      **Members**

### 2.1      **Composition and eligibility**

- (a)      **Composition.** The Council shall comprise 70 Members. With the exception of the following Wards which shall each return two Members: Fieldway and New Addington, three Members shall be elected by the voters of each Ward in accordance with a scheme drawn up by the Boundary Committee for England and approved by the Electoral Commission.
- (b)      **Eligibility.** Only registered voters of the Borough or those living or working (as provided by statute) there shall be eligible to hold the office of Member.

### 2.2      **Election and terms of Members**

The regular election of Members shall be held on the first Thursday in May every four years. The terms of office of Members shall start on the fourth day after being elected and shall finish on the fourth day after the date of the next regular election. In the event of a vacancy occurring between regular elections, a by-election will be held in accordance with statutory provisions.

### 2.3      **Roles and functions of all Members.**

- (a)      **Key roles.** All Members shall:
  - (i)      collectively as members of the Council be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii)     represent their communities and bring their views into the Council's decision-making process, i.e. become an advocate of and for their communities;
  - (iii)    deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (iv)    balance different interests identified within their Ward and represent the Ward as a whole;
  - (v)    be involved in decision taking and/or the scrutiny function;
  - (vi)    be available to represent the Council on other bodies; and
  - (vii)   maintain the highest standards of conduct and ethics.

(b) **Rights and Duties**

- (i) Members shall have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Members shall not make public, information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Member or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Procedure Rules in Part 4B of this Constitution.

**2.4 Conduct**

Members shall at all times observe the Members’ Code of Conduct Members and co-opted Members as set out in Part 5I of this Constitution.

**2.5 Allowances**

Members shall be entitled to receive allowances in accordance with the Scheme of Members’ Allowances set out in Part 6A of this Constitution.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 3 Citizens and the Council

### 3.1 Citizens' Rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- (a) **Voting.** Citizens on the electoral roll for the Borough have the right to vote in local, national and European elections in accordance with statutory provisions.
- (b) **Petitions.** i) Citizens on the electoral roll for the Borough may sign a petition to request a referendum for an Elected Mayor form of Constitution. ii) Local People (working, studying or resident in the Borough) may sign a petition to request particular actions.
- (c) **Information.** Citizens have the right to:
  - (i) attend meetings of the Full Council, its Committees and Sub Committees, the Cabinet and its Committees except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
  - (ii) find out what key decisions shall be taken and when;
  - (iii) see reports and background papers and any records of decisions made by the Council, its Committees or Sub Committees, the Cabinet or its Committees except where these contain confidential or exempt information;
  - (iv) inspect the Council's accounts and make their views known to the external auditor; and
  - (v) inspect the Register of Members' Interests.
- (d) **Participation.** Citizens have the right to participate at Full Council meetings through Public Question Time and may be invited to contribute to investigations by any Committee or Sub Committee charged with a scrutiny role.
- (e) **Complaints.** Citizens have the right to complain to:
  - (i) the Council itself under its complaints schemes;
  - (ii) the Ombudsman after using the Council's own complaints scheme;

- (iii) the Monitoring Officer of the London Borough of Croydon about an alleged breach of the Members' Code of Conduct.

### **3.2 Citizens' Responsibilities**

Citizens must not be violent, abusive or threatening to Members or staff and must not wilfully harm things owned by the Council, Members or staff.

Citizens are encouraged to make conscientious use of their roles as both voters and members of a wider community. In particular by:

- (a) voting at every opportunity;
- (b) respecting the expression of differing opinions in public debate;
- (c) promoting tolerance and respect between their fellow citizens; and
- (d) individually and collectively seeking information about the decision-making role of Members and respecting the Authority's procedures which give effect to a representative democracy.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 4 The Full Council

### 4.1 Functions of the Full Council

Unless otherwise delegated to a Committee or Officer the Council shall exercise the following functions:

- (a) adopting and changing the Constitution with the exception of matters allocated to the Leader (and or Cabinet as appropriate) and related Procedure Rules and subject to the provisions of Article 15 in relation to minor and consequential amendments and of Article 16 in relation to the powers of the Leader and Cabinet and certain Committees to agree protocols;
- (b) defining, approving or adopting the Policy Framework, approving and adopting the Budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the special urgency procedure contained in the Access to Information Procedure Rules in Part 4B of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget if the procedure for approval in Part 4E has not been complied with;
- (d) appointing the Mayor and notes the appointment of the Deputy Mayor;
- (e) appointing and removing the Leader;
- (f) agreeing and amending the terms of reference for non-executive Committees, deciding on their composition and making appointments to them; [The Council Solicitor is empowered to make in year appointment to committees after consultation with party whips];
- (g) appointing representatives to outside bodies at the Annual Meeting [In respect of Executive appointments the Leader and Cabinet or the Council Solicitor, after consultation with the relevant Cabinet Member may make appointments to outside bodies as necessary during the year. In respect of Non-Executive appointments the General Purposes and Audit Committee or the Council Solicitor after consultation with the Chair of the General Purposes and Audit Committee may make appointments to outside bodies as necessary during the year.];



- (h) adopting an allowances scheme under Article 2.05;
- (i) changing the name of the area, conferring the title of Honorary Alderman or Alderwoman or granting Freedom of the Borough, conferring the title of Honorary Recorder;
- (j) confirming the appointment of the Head of the Paid Service;
- (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.
- (l) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or Private Members' bills and/or Local Acts;
- (m) any other non-executive functions which the Council has decided should be undertaken by itself;
- (n) consider reports of the Scrutiny and Overview Committee, together where necessary with the response of the Leader and Cabinet or relevant non-executive Committee as appropriate;
- (o) approval of a three-year Statement of Principles under section 349 of the Gambling Act 2005 and passing a resolution that no casino premises licences will be granted by the Authority under section 166 of the Gambling Act 2005;
- (p) approve the pay policy statement; and
- (q) any other matters which by law must be reserved to the Council.

## 4.2 Meanings

- (a) **Policy Framework.** The policy framework which the Council has reserved to itself to approve, means the Plans Policies and Strategies set out in the appendix to this Article.
- (b) The Council may add further significant plans and strategies to the Policy Framework as it sees fit from time to time.
- (c) **Budget.** The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement,

the control of its capital expenditure and the setting of virement limits.

- (d) **Housing Land Transfers.** To authorise applications under Section 135 of the Leasehold Reform, Housing and Urban Development Act 1993 to the Secretary of State to include a qualifying disposal in the disposals programme or to dispose of land under Section 32 or 43 of the Housing Act 1985 where the specific consent of the Secretary of State is required.

#### 4.3 Full Council Meetings

There are four types of Full Council meetings:

- (a) the Annual Meeting;
- (b) Ordinary Meetings;
- (c) Extraordinary Meetings; and
- (d) Special Meetings.

These meetings shall be conducted in accordance with the Council Procedure Rules in Part 4A of this Constitution.

#### 4.4 Responsibility for Functions

The Council has set out in Part 3 of this Constitution the responsibilities for the Council's functions, which are not the responsibility of the Leader and Cabinet.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Appendix to Article 4.02

### Policy Framework.

1. Equality Strategy;
2. Health and Well Being Strategy;
3. Community Safety Strategy;
4. Children and Young Persons Plan;
5. Initial Local Implementation (Transport) Plan;
6. Annual Council Budget
7. Licensing Statement;
8. Gambling Strategy;
9. The Admission arrangements for Community schools;
10. The plans and strategies for planning, development and conservation in the Borough comprising the Croydon Plan and other approved and adopted development plan documents and supplementary planning documents which make up the Local Development Framework for Croydon;
11. Plans, Policies and Strategies which together make up the Housing Strategy;
12. Youth Justice Plan.
13. The Making or revising of a Council Tax Reduction Scheme

14. Exercise of the power to determine further discounts for certain dwellings and set higher amount of council tax in respect of long term empty dwellings under sections 11A and 11B of the LGFA 1992, as amended

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 5 The Mayor

### 5.1 Role and functions of the Mayor

A Mayor shall be elected by the Council annually and shall have the following roles and functions:

- (a) The Mayor shall be the ceremonial representative of the Council, taking precedence on all such occasions.
- (b) The Mayor, or in the Mayor's absence the Deputy Mayor, shall chair meetings of the Full Council and in this connection, shall exercise all the powers and duties described in the Council Procedure Rules as set out in Part 4 of this Constitution.

The Mayor shall have the following responsibilities:

- (c) to uphold and promote the purpose of the Constitution and to interpret it when necessary;
- (d) to preside over meetings of the Full Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community;
- (e) to ensure that the Full Council meeting is a forum for the debate of matters of concern to the local community and, subject to the arrangements for Scrutiny and Overview set out at Article 6, the place at which Members who are not Members of the Cabinet or a Committee Chair are able to hold the Leader and Cabinet and Committee Chairs to account;
- (f) to promote public involvement in the Council's activities; and
- (g) to attend such civic and ceremonial functions as are appropriate.

### 5.2 Continuing Membership in Council Election Year

In a year when the term of office of the Mayor spans full Council elections the Mayor shall, unless he/she resigns or becomes disqualified, continue in office and remain as a Member of the Council until his/her successor becomes entitled to act as Mayor notwithstanding that he/she does not seek or achieve re-election as a Member.

In a year when the term of office of the Deputy Mayor spans full Council elections the Deputy Mayor shall, unless he/she resigns or becomes disqualified, continue in office until his/her successor

becomes entitled to act as Deputy Mayor, but shall not remain as a Member of the Council unless he/she achieves re-election as a Member.

### **5.3 Voting Rights at the Annual Council Meeting**

- (a) If the person presiding at the Annual Meeting of the Council would have ceased to be a Member of the Council but for the provision at 5.02 above, he/she shall not be entitled to vote at the Annual Meeting except in accordance with (b) below.
- (b) In the case of an equality of votes, the person presiding at the meeting shall give a casting vote in addition to any other vote he/she may have.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 6      **Scrutiny and Overview**

### 6.1      **Terms of reference**

The Council shall appoint a Scrutiny and Overview Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000, any Regulations made under Section 32 of that Act, the Health and Social Care Act 2001, the Local Government Act 2003, the Police and Justice Act 2006, National Health Service Act 2006, the Local Government and Public Involvement in Health Act 2007, the Localism Act 2011 and the Health and Social Care Act 2012 and any other subsequent legislation. Without prejudice to this legislation, the terms of reference of the Committee are as set out in Part 4 of this Constitution.

### 6.2      **General Role**

The Scrutiny and Overview Committee may:

- (a) review or scrutinise decisions made or actions taken in connection with the discharge of any of the Executive's or Council's functions;
- (b) review and scrutinise the performance of the Council in relation to its policy objectives, community needs and particular service areas;
- (c) in accordance with statute and statutory regulations, review and scrutinise the work of partner agencies, partnership boards and any other body providing services to the public;
- (d) question members of the Cabinet, Committee Chairs, Council Officers and representatives of partner agencies, partnership boards and any other body providing public services about decisions and performance, whether generally in comparison of service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (e) make reports or recommendations on matters affecting the area or its inhabitants;
- (f) question and gather evidence from any other person and conduct research and consultation in the analysis of policy issues and possible options;
- (g) make reports and recommendations to the Full Council, the Executive or relevant non-executive Committee, partner agency or Partnership Board in connection with the discharge of any functions;

- (h) discharge the functions relating to petitions as set out elsewhere in this Constitution;
- (i) receive and discharge the Council's functions in relation to Health Watch referrals and Councillor Call for Action;
- (j) recommend that a key decision made by the Executive but not yet implemented be reconsidered by the Executive;
- (k) appoint such Sub-Committees as may be required in order to discharge the Scrutiny and Overview role and shall allocate areas of responsibility to each Sub-Committee, determine the terms of reference of the Sub-Committees when they are established, appoint the members to the Sub-Committee, including any co-optees and co-ordinate the work programmes of the Sub Committees;
- (l) receive the reports and recommendations of its Sub- Committees;
- (m) report annually to the Council on its work;
- (n) Establish or join Joint Scrutiny Committees in partnership with any other authority to scrutinise Executive decisions taken by Joint Committees established in accordance with Article 11 of this Constitution.

### **6.3 Application to Scrutiny and Overview Sub-Committees**

Article 6.2 shall apply to any Sub-Committees appointed by the Scrutiny and Overview Committee acting within their respective delegations with the following exceptions:

- Any Scrutiny and Overview Sub-Committees established shall not be permitted to appoint further members or co-optees onto the Sub- Committee.
- With the exception of reports and recommendations from the Children & Young People Scrutiny Sub- Committee, Health & Social Care Scrutiny Sub-Committee and Streets Environment and Homes Scrutiny Sub Committee, any reports and recommendations from the Sub- Committees established by Scrutiny and Overview Committee shall, in the first instance, be considered by the Scrutiny and Overview Committee, and Scrutiny and Overview Committee may thereafter take any of the actions specified in 6.2

If, however, the Council's Health Scrutiny functions have been delegated to a Sub-Committee, any referrals from the Health Watch shall be considered by that Sub-Committee alone.



**6.4 Proceedings of the Scrutiny and Overview Committee and its Sub Committees**

The Committee and Sub Committees shall conduct their proceedings in accordance with the Scrutiny and Overview Procedure Rules set out in Part 4 of this Constitution.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 7 Executive Arrangements

### 7.1 Role

The Council has allocated to the Leader under the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007, and any subsequent related legislation, all the powers and duties of the Authority, other than those reserved to the Council or delegated to a non-executive Committee or Sub-Committee, or the Chief Executive of the Council by Statute or this Constitution.

### 7.2 Form and composition

The Cabinet shall consist of the Leader appointed by Full Council together with not more than 9 other Members appointed by the Leader at least one of whom shall be the Statutory Deputy Leader.

### 7.3 Leader

1. The Leader shall be a Member appointed to the position of Leader by the Council, normally at the Annual Meeting or at the next meeting of the Council after a vacancy arises. Except in an election year when the Leader's term of office ends on the day of the post election Annual Council meeting, the Leader shall hold office for four years or until he/she:
  - (a) resigns from office; or
  - (b) is suspended from being a Member under relevant statutory provisions (although he/she may resume office at the end of the period of suspension); or
  - (c) he/she ceases to be a Member except where the Leader fails to be returned as a Member following an ordinary election of all Members when, unless the Leader resigns, he/she is disqualified or is otherwise removed from office he/she shall continue as Leader until the day of the Annual Meeting; or
  - (d) is removed from office by resolution of the Extraordinary Council meeting (such a resolution may only be moved on 10 working days' notice in writing to the Head of the Paid Service of the Council); or
  - (e) by resolution of the Council where he/she fails for six months to attend any meeting of the Cabinet, or any Cabinet Committee or, acting alone, fails to discharge any functions which are the responsibility of the Leader then unless the failure was due to

some reason approved by the Council, he/she shall cease to be a Member of the Council.

2.

- a. Where the Annual Council Meeting or any other meeting of the Council fails to elect a Leader an Extraordinary Meeting of the Council shall be held within a maximum of ten working days for the purpose of electing a Leader.
- b. Where a meeting of the Council removes a Leader from office then a new Leader is to be elected at that meeting.
- c. Where a Leader resigns then an Extraordinary Meeting of the Council shall be held within ten working days of the receipt of the letter of resignation for the purpose of electing a Leader.

3. In the period between the ordinary election of Members and the appointment of a Leader, if for any reason there is not a Leader in place then any Executive decisions normally reserved to Members which need to be taken as a matter of urgency to protect the interest of the Council or which cannot be delayed until after the appointment of the Leader shall be taken by the Chief Executive in consultation with the Leader of the Group with the overall majority of seats following the election. In the event of there being no Group with an overall majority of seats the Chief Executive shall consult with all Group Leaders.

4. Where the Leader ("Original Leader") ceases to be a Leader in accordance with 7.03.1 (above) the Statutory Deputy Leader shall exercise the powers of the Leader until a new Leader is appointed by the Full Council ("New Leader"). The New Leader shall hold the office for the balance of the remaining term of office of the Original Leader or until such of the conditions of paragraph 7.03.1 shall apply.

#### **7.4 Statutory Deputy Leader**

The Leader shall appoint one Cabinet Member to the position of Statutory Deputy Leader. The Statutory Deputy Leader shall hold office for a period determined by the Leader until he/she:

- (a) resigns from office;
- (b) is suspended from being a Member under relevant statutory provisions;
- (c) is no longer a Member; or
- (d) is removed from office by the Leader.

#### **7.5 Cabinet Members**

1. Cabinet Members shall be Members appointed by the Leader to the position of Cabinet Member with a specific portfolio responsibility

for a period determined by the Leader. Cabinet Members shall hold office until they:

- (a) resign from office;
  - (b) are suspended from being Members under relevant statutory provisions;
  - (c) are no longer Members; or
  - (d) are removed from office by the Leader.
2. In an election year, the Cabinet Members shall continue to hold office until the day of the Election.

#### **7.6 Cabinet Committees**

The Leader may establish one or more Cabinet Committees to exercise specified delegated executive functions.

#### **7.7 Deputies to Cabinet Members**

The Leader may appoint one or more Members as Deputies to advise a Cabinet Member or Members on particular areas within their portfolio(s). Any such Deputies are not Executive Members and may not exercise the powers of the Executive or vote on any matter for decision at a Cabinet or Cabinet Committee meeting. The areas of responsibility of any Deputies appointed shall be determined and may be varied by the Leader of the Council.

#### **7.8 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 8 Non-Executive Committees

### 8.1 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>
<b>Appointments Committee</b>	6 Members + 2 independent voting co-optees for specified purposes
<b>Ethics Committee</b>	6 Members + 2 independent non-voting co-optees
<b>General Purposes &amp; Audit Committee</b>	10 Members + 2 independent non-voting co-optees
<b>General Purposes &amp; Audit Urgency Sub-Committee</b>	3 Members drawn from the membership of the General Purposes and Audit Committee

## **Committee**

### **Health and Wellbeing Board**

## **Membership**

5 Majority Group Members (voting) –such members to include the Cabinet Member for Families Health and Social Care and the Cabinet Member for Children, Young People and Learning  
2 Minority Group Members (voting)  
Executive Director  
People (non-voting)  
Director of Public Health (non-voting)  
CCG Representative (voting)  
Croydon Health Services NHS Trust Chair (non-voting)  
Healthwatch (Croydon) Representative (voting)  
South London & Maudsley NHS Foundation Trust Representative (non-voting)  
Croydon Voluntary Action Representative (non-voting)

### **Licensing Committee**

12 voting members (+ pool of 12 reserve Members)

#### Licensing Sub-Committee (ad hoc)

3 voting members drawn from Membership of Licensing Committee

### **Mayoralty & Honorary Freedom Selection Sub- Committee**

5 Members

### **Pension Board**

Independent non-voting Chair and 3 Employer representatives (one to be a Councillor) & 3 Employee representatives

<b>Pension Committee</b>	8 Members + 1 voting co-optee and 2 non-voting co-optees
<b>Committee</b>	<b>Membership</b>
<b>Planning Committee</b>	10 Members
Planning Sub-Committee	5 Members drawn from the membership of the Planning Committee
<b>Scrutiny &amp; Overview Committee</b>	6 Members + 1 non-voting co-optee in respect of crime & disorder matters
Children & Young People Scrutiny Sub-Committee	8 Members + 4 voting and 1 non-voting co-optees
Health & Social Care Scrutiny Sub-Committee	6 Members + 1 non-voting co-optee from Healthwatch (Croydon)
Streets Environment and Homes Scrutiny Sub Committee-	7 Members

## 8.2 Delegations

The Council delegations to the above Committees are as set out in Responsibility for Functions contained in Part 3 of this Constitution.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 9      **The Ethics Committee**

### 9.1      **Ethics Committee**

The Council has established an Ethics Committee.

### 9.2      **Composition**

- (a)      The Ethics Committee shall be composed of five Members (none of whom shall be the Mayor or Leader).
- (b)      No Cabinet Member appointed to the Committee shall be eligible to Chair meetings of the Ethics Committee.
- (c)      Appointed "Independent Persons" shall be entitled to attend and may vote at meetings of the Ethics Committee, where the committee is dealing with a specific allegation against a Member.

### 9.3      **Role and Function**

The roles and functions of the Ethics Committee are set out in Responsibility for Functions contained in Part 3 of this Constitution.



# **CONSTITUTION OF THE LONDON BOROUGH OF CROYDON**

## **ARTICLE 10      Community Governance**

The Council may, at its discretion, create, facilitate or participate in neighbourhood partnerships, area forums, area committees, focus groups and service or user based consultative groups as part of its community leadership role and in order to aid transparent and accountable decision-making. If invited to do so, the Council may appoint representatives to serve on existing (and any subsequently established) community forums/partnerships.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 11 Joint Arrangements

### 11.1 Arrangements to promote well-being

The Council or the Leader may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

### 11.2 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Leader may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Leader may only appoint Cabinet Members to a joint committee and those Members need not reflect the political composition of the local authority as a whole.
- (d) The Leader may appoint Members who are not Cabinet Members to a joint committee in the following circumstances:  
  
Where the joint committee has functions for only part of the Borough, and that part is smaller than two-fifths of the Authority by area or population. In such cases, the Leader may appoint to the joint committee any Member for a Ward, which is wholly or partly contained within the area concerned.
- (e) The Council or the Leader have established Joint Committees with terms of reference which are set out in Schedule 1 to this Article.

### **11.3 Access to Information**

- (a) The Access to Information Rules set out in Part 4B of this Constitution shall apply to any joint committees established under paragraph 11.02 above unless the Constitution of the joint committee specifies alternative Access to Information Rules.
- (b) If all the members of a joint committee are Executive Members in each of the participating authorities, then its access to information regime is the same as that applied under the Executive Procedure Rules.
- (c) If the joint committee contains Members who are not on the executive of any participating authority then the access to information rules in Part VI of the Local Government Act 1972 shall apply.

### **11.4 Delegation to and from other local authorities**

- (a) The Council may delegate non-executive functions to another local authority.
- (b) The Leader may delegate executive functions to the executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

### **11.5 Contracting Out**

Any contracting out arrangements which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994 will appear at Schedule 2 to this article.

## **ARTICLE 11 - SCHEDULE 1**

### **The Bandon Hill Cemetery Joint Committee**

The provision and management of the Bandon Hill Cemetery with the London Borough of Sutton

### **The Coast to Capital Joint Committee**

### **The Croydon/Lewisham Street Lighting Joint Committee**

The joint governance of a street lighting PFI contract.

### **South London Partnership Joint Committee**

The setting and reviewing of objectives for strategic growth, regeneration and investment with the London Boroughs of Merton, Sutton and Richmond upon Thames and the Royal Borough of Kingston upon Thames.

### **South London Waste Partnership Joint Committee**

The joint procurement and management of waste disposal contracts with the London Boroughs of Merton, Sutton and the Royal Borough of Kingston upon Thames.

### **London Councils**

The effective coordination and formulation of policy and discharge of functions and any other related Joint Committees acting on behalf of the constituent authorities and as set out in the Schedules of the Agreement made under sections 101 and 102 of the Local Government Act 1972.

### **The Pensions Collective Investment Vehicle (CIV) Sectoral Joint Committee**

Hosted by London Councils, the joint committee is established under section 102 of the Local Government Act 1972 with a view to pooling pension investments and with functions necessary for the proper functioning of the Authorised Contractual Scheme (ACS) Operator (which is the company that would manage the ACS), including the effective oversight of the ACS Operator.

**ARTICLE 11 - SCHEDULE 2**

None

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 12 Staff

### 12.1 Definition

“Staff” includes all persons with a permanent, short term, fixed or temporary contract with the Authority.

### 12.2 Management Structure

- (a) **General.** The Authority may engage such staff as it considers necessary to carry out its functions.
- (b) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.**

The Council designates the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Executive Director of Resources and Council Solicitor	Monitoring Officer
Director of Finance Investment and Risk	Chief Finance Officer and Section 151 Officer

### 12.3 Functions of the Chief Executive as Head of Paid Service

- (a) **Discharge of functions by the Council.** The Chief Executive shall report to the Council on the manner in which the discharge of the Council’s functions is co-ordinated and the staff required for the discharge of functions.
- (b) **Restrictions on functions.** The Chief Executive may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

- (c) **Consideration of applications for dispensation by Executive Members in relation to Conflicts of Interest relating to Executive Decisions in which they are involved.** The Chief Executive, by virtue of the Access to Information Procedure Rules in Part 4B of the Constitution, is required to consider applications for a dispensation from Members of the Executive in relation to an Executive Decision where they are either:
- (i) a Member of the executive decision making body and have a conflict of interest; or
  - (ii) are consulted by a Member taking an Executive Decision and the Executive Member consulted has a conflict of interest; or
  - (iii) are consulted by an officer taking an Executive Decision and the Executive Member consulted has a conflict of interest

And grant a note of dispensation if satisfied that it is appropriate to do so

#### 12.4 **Functions of the Monitoring Officer (Council Solicitor)**

- (a) **Maintaining the Constitution.** The Monitoring Officer shall maintain an up-to-date version of the Constitution including making such changes as envisaged by paragraph 15.02 and shall ensure that it is widely available for Members, staff and the public to consult.
- (b) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Chief Executive and the Chief Finance Officer, the Monitoring Officer shall report to the Full Council, or the Leader in relation to an executive function, if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission would give rise to unlawful action. Such a report shall have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Ethics Committee.** The Monitoring Officer shall contribute to the promotion and maintenance of high standards of conduct through provision of support to the Ethics Committee.
- (d) **Conducting investigations.** The Monitoring Officer shall conduct investigations into matters referred by the Ethics Committee and make reports and recommendations in respect of them to the Ethics Committee.
- (e) **Dispensations where Disclosable pecuniary interests exist:** The Monitoring Officer shall consider applications for a grant of a dispensation for a Member with a Disclosable Pecuniary Interest in the following circumstances:

- i. That so many Members of the decision-making body have disclosable pecuniary interests (DPIs) in a matter that it would impede the transaction of the business; or
- ii. That, without a dispensation, no Member of the Cabinet would be able to participate in consideration of this matter.

And may refer the dispensation request to the Ethics Committee to advise on or express a view should the Monitoring Officer consider it appropriate to do so. Granting dispensations in other circumstances is a matter reserved to the Ethics Committee.

- (f) **Proper Officer for Access to Information.** The Monitoring Officer shall ensure that Cabinet and other executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Advising whether decisions are within the Budget and Policy Framework.** The Monitoring Officer shall advise whether decisions of the Council, a Committee, or Sub-Committee, the Leader, the Cabinet, or Cabinet Committee or an Officer under their allocated or delegated powers are in accordance with the budget and policy framework.
- (h) **Contributing to corporate management.** The Monitoring Officer shall contribute to the corporate management of the Council, in particular through the provision of professional legal advice.
- (i) **Providing advice.** The Monitoring Officer shall provide advice on the scope of powers and authority to take decisions, maladministration, probity and Policy Framework issues to all Members.
- (j) **A Monitoring Officer Protocol** is included at Part 5C of this Constitution.
- (k) **Restrictions on functions.** The Monitoring Officer cannot be the Chief Finance Officer or the Chief Executive.

## 12.5 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision-making.** After consulting with the Chief Executive and the Monitoring Officer, the Chief Finance Officer shall report to the Full Council, or to the Leader (and/or Cabinet as appropriate) in



relation to an executive function, and the Council's external auditor if they consider that any proposal, decision or course of action shall involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

- (b) **Administration of financial affairs.** The Chief Finance Officer shall have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer shall contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer shall provide advice on the scope of powers and authority to take financial decisions, financial impropriety, probity and budget issues to all Members and shall support and advise Members and staff in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer shall provide financial information to the media, members of the public and the community.
- (f) **Restrictions of Functions.** The Chief Finance Officer cannot be the Monitoring Officer.

#### 12.6 **Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

The Council shall provide the Monitoring Officer and Chief Finance Officer, with such staff, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

#### 12.7 **Conduct**

Staff shall comply with the Staff Code of Conduct and the protocol on Staff-Member Relations as set out in Part 5B of this Constitution.

#### 12.8 **Employment**

The recruitment, selection and dismissal of staff shall comply with the Staff Employment Procedure Rules set out in Part 4 of this Constitution.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 13 Decision making

### 13.1 Responsibility for decision making

The Authority shall issue and keep up to date a record of the body or individual that has responsibility on behalf of the Council for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### 13.2 Types of decision

- (a) Various levels of decision making provided for under this Constitution can be described as follows:
  - (i) **Non-Executive functions:** Council - Committees - Sub-Committees - delegations to the Chief Executive.
  - (ii) **Executive functions:** The Leader, the Cabinet - Cabinet Committees - Cabinet Member - delegations to the Chief Executive.

Whilst specific functions are reserved to the Full Council by statute a purpose of this Constitution is to encourage delegation of decision making to individual officers. Where such decisions have been delegated it remains open to the body or person making the delegation to call back for their own decision, issues of significance or sensitivity and for the decision maker to refer matters upwards for determination.

Except where a decision is taken by the Chief Executive on grounds of urgency, as a matter of principle all Key Decisions shall be taken by the Leader, or Cabinet at a meeting of the Cabinet or a Cabinet Committee, or by a Cabinet Member or Chief Officer using powers as specifically delegated.

Decisions which the Council are delegating to Committees are identified in Article 8 and Part 3, Responsibility for Functions, of this Constitution.

- (b) Decisions reserved to the Full Council. Decisions relating to the functions listed in Article 4.1 shall be made by the Full Council and not delegated, except to the General Purposes and Audit Committee or the Chief Executive on grounds of urgency and where this is not in conflict with a statutory provision.
- (c) Urgency shall mean a decision that is required where the interests of the Council are prejudiced if a decision were not to be taken prior to the next scheduled ordinary meeting of the Full Council. Decisions taken under this urgency procedure shall be reported to the next Council meeting. Matters reserved by statute to the Full Council may not be dealt with under this urgency procedure.
- (d) Key Decisions: Subject to the provision that a decision taker may only

take a decision in accordance with the requirements of the Executive Procedure Rules and in compliance with the provisions of the Access to Information Procedure Rules set out, respectively in Part 4 of this Constitution, a Key Decision is an executive decision which is likely to:

- (i) result in the Council incurring expenditure, or making savings, of more than £1,000,000 or such smaller sum which the decision-taker considers is significant having regard to the Council's budget for the service or function to which the decision relates; or
- (ii) significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Borough.

### **13.3 Decision making by the Full Council**

Subject to article 13.8, the Council meeting shall follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

### **13.4 Decision making by the Leader and Cabinet**

Subject to article 13.8, the Leader and Cabinet shall follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter. No executive decision or Key Decision shall be taken in private unless it complies with the Access to Information Procedure Rules.

### **13.5 Decision Making by Officers**

Subject to article 13.8, Officers shall follow the Decision Making Procedure Rules set out in Part 4 of this Constitution when considering any matter.

### **13.6 Decision making by the Scrutiny and Overview Committee**

The Scrutiny and Overview Committee and its sub committees shall follow the Scrutiny and Overview Procedure Rules set out in Part 4E of this Constitution when considering any matter.

### **13.7 Decision making by other Committees and Sub Committees established by the Council**

Subject to article 13.8 and 13.9, other Council Committees and Sub-Committees shall follow the Non-Executive Committee Procedure Rules set out in Part 4 of this Constitution when considering any matter.

### **13.8 Decision making by Council bodies acting as tribunals**

The Authority or Members acting as a tribunal or in a quasi-judicial manner in respect of any person shall follow a proper procedure which accords with the requirements of natural justice and the right to a fair hearing contained in Article 6 of the European Convention on Human Rights

### **13.9 Decision making by Health and Wellbeing Board**

The Authority has established a Health and Wellbeing Board with functions and terms of reference as set out in Part 4L. The Health and Wellbeing Board

is, save for the following exceptions, to be treated as a Council Committee and subject to the Non-Executive Procedure Rules as set out in Part 4 of this Constitution. The exceptions are:

- 13.9.1 The Health and Wellbeing Board is not permitted to establish or delegate functions to a Sub-Committee
- 13.9.2 The Health and Wellbeing Board is not permitted to appoint additional members or co-opt members onto the Board
- 13.9.3 The Health and Wellbeing Board is not subject to the Rules on proportionality or the duty to allocate seats under the provisions of the Local Government and Housing Act 1989
- 13.9.4 All Board members who are also elected Members of the authority, and all statutory members of the Health and Wellbeing Board, except the Executive Director People and the Director of Public Health, shall be voting members of the Board. Any non-statutory members of the Board shall be non-voting members.
- 13.9.5 The Health and Wellbeing Board may only perform those functions specifically assigned to it by statute or delegated by this Constitution
- 13.9.6 Health and Wellbeing board is not permitted to undertake Health Scrutiny functions.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## **ARTICLE 14 Finance, contracts and legal matters**

### **14.1 Financial management**

The management of the Council's financial affairs shall be conducted in accordance with the Financial Regulations set out in Part 4H of this Constitution.

### **14.2 Contracts**

Every contract which falls within the remit of the Council's Tenders and Contracts Regulations must comply with the provisions of those Regulations, as set out in Part 4I of this Constitution.

### **14.3 Legal proceedings**

The Council Solicitor is authorised to institute, defend or participate in any proceedings or to settle claims where such action is necessary to give effect to decisions of the Authority, protect the interests of the Authority, the Borough or some or all of its citizens. Only the Council Solicitor may authorise the engagement of a lawyer to act for the Council.

### **14.4 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Authority, or to give effect to any decision of the Authority, it shall be signed by the Council Solicitor, or other person authorised by the Council Solicitor.

The Common Seal of the Council shall be kept in a safe place in the custody of the Council Solicitor. A decision of the Council, or any part of it, shall be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal shall be affixed to those documents, which in the opinion of the Council Solicitor should be sealed. The affixing of the Common Seal shall be attested by the Council Solicitor, a Deputy Council Solicitor or some other person so authorised by the Council Solicitor. Where the affixing of the Common Seal follows a decision of the Council it may instead be attested by the Mayor and Chief Executive.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 15      Review and revision of the Constitution

### 15.1    Duty to monitor the Constitution

The Council shall monitor and review the operation of the Constitution to ensure the aims and principles of the Constitution are given full effect.

### 15.2    Changes to the Constitution

- (a)    Subject to paragraph (b) below, changes to this Constitution shall only be approved by the Full Council after consideration of written proposals made by the Leader, Cabinet, General Purposes and Audit Committee or Monitoring Officer and the submission of a recommendation to a meeting of the Council. Changes approved by the Council shall take effect from the conclusion of the meeting at which those changes are agreed unless the recommendation specifies otherwise.
- (b)    Provision exists within the remit of the General Purposes and Audit Committee to approve changes on the grounds of urgency. The Leader and certain Council Committees are also authorised to make changes to certain matters included in the Constitution, for example the establishment of sub-committees, as indicated in the Constitution. The Council Solicitor is authorised, after consultation with the Leader or Committee Chair, to make any necessary amendments to the Constitution consequent on legislation or a decision of the Council, the Leader, the Cabinet or a Committee.
- (c)    The Chief Finance and Section 151 Officer may agree changes to the Council's Financial Regulations in consultation with the Chief Executive and the Monitoring Officer.
- (d)    The Council Solicitor shall be empowered to make any changes to the Constitution which arise as a result of legislative changes and any changes necessitated by administrative convenience.
- (e)    The Head of Paid Service is empowered to make any changes to the job titles and/or descriptions of Officers within the Constitution as necessitated by changes to these titles/descriptions.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## **ARTICLE 16      Suspension, interpretation and publication of the Constitution**

### **16.1    Suspension of the Constitution**

- (a)    Limit to Suspension. The articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Full Council to the extent permitted within those Rules and the law:

Council Procedure Rules

- (b)    Procedure to Suspend. A motion to suspend Council Procedure Rules shall not be moved without notice unless at least one half of the total number of Members are present.

### **16.2    Interpretation**

The ruling of the Chair of the Council as to the construction or application of the Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation shall have regard to the purposes of this Constitution contained in Article 1.

The Council may agree protocols to give guidance on the detailed operation of any part of the Constitution. In addition the following bodies may agree protocols in respect of the matters shown:

The Scrutiny and Overview Committee – Scrutiny and Overview Committee/Sub-Committee Protocols.

General Purposes and Audit Committee – Protocols relating to the exercise of non-executive functions delegated to the Committee.

The Planning Committee and Planning Sub-Committee – Protocols relating to participation at meetings of the Committee, the conduct of Members in relation to planning matters and other aspects of the operation of the Committee.

The Licensing Committee – Protocols relating to the licensing function and the conduct of hearings under the Licensing Act 2003 and Gambling Act 2005.

Any protocol agreed under this Article shall be fully in accordance with the Articles of the Constitution and shall be included at Part 5 of the Constitution.

### 16.3 **Publication**

- (a) The Council Solicitor may give a copy of this Constitution to every Member at an appropriate time.
- (b) The Council Solicitor shall ensure that copies of this Constitution are available for inspection at Bernard Weatherill House, Council Libraries and any other appropriate locations and can be purchased by members of the local press and the public on payment of a reasonable fee. The Constitution shall also be published on the Council's website.



# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## SCHEDULE 1 Description of Executive Arrangements

The following parts of this Constitution constitute Executive Arrangements under the provisions of the Local Government Act 2000 as amended:

1	Article 6	Scrutiny and Overview
2	Article 7	The Leader and Cabinet
3	Article 10	Community Governance
4	Article 11	Joint Arrangements;
5	Article 13	Decision Making
6	Part 3	Responsibility for Functions.
7	Part 4B	Access to Information Procedure Rules;
8	Part 4D	Executive Procedure Rules; and
9	Part 4E	Scrutiny & Overview Procedure Rules

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## PART 3 - RESPONSIBILITY FOR FUNCTIONS

### 1 RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

The Council has determined that all local choice functions contained in Schedules 2 and 3 of The Local Authorities (Functions and Responsibilities) Regulations (to be known as the Functions Regulations) except approval of non- executive contracts, are to be Executive functions.

### 2 RESPONSIBILITY FOR COUNCIL FUNCTIONS

The Council has delegated the responsibilities and functions to the Committees and Sub-Committees named below. These Committees may consider and decide any matter of relevant non-executive business referred to the Committee by a Sub-Committee, the Chief Executive or an Executive Director.

All Committees have power to create such Sub-Committees as are necessary for the efficient conduct of their business.

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

1. To appoint Executive Directors and the Chief Executive and to such other senior posts in accordance with the Staff Employment Procedure Rules in Part 4 of this Constitution
2. The Authority's Consultation requirements with the staff side
3. Consideration and recommendation to Full Council of the Pay Policy Statement as required.
4. The functions in respect of voting on salary packages upon appointment and severance packages of staff above such specified threshold as may, from time to time, be updated by statutory guidance.
5. The function of deciding, in respect of severance packages, whether the Council wishes to vote on a severance package above the specified threshold
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

## 2.2 **Ethics Committee** (Membership 6 + 2 Independent non-voting co-optees)

1. Supporting the statutory role of the Monitoring Officer.
2. Receiving reports from the Monitoring Officer on matters of probity and ethics, and to consider and recommend any necessary revisions of the Members' Conduct of Conduct (the Code) to the Council.
3. Reviewing the operation of the Code and recommending revisions for the consideration of full Council as necessary.
4. Monitoring compliance with the Code and granting any dispensations church and parent governor representatives from requirements relating to interests set out in the Code.
5. To comment on the content of guidance and advice to be issued to elected and non-elected Members.
6. Agreeing programmes of advice and training for elected, co-opted and non-elected Members on ethics and probity, and on the Code.
7. To consider applications for a grant of dispensation in the following circumstances:
  - a) That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.
  - b) That the authority considers that the dispensation is in the interests of persons living in the authority's area.
  - c) That the authority considers that it is otherwise appropriate to grant a dispensation.
  - d) If referred to them for consideration by the Monitoring Officer, to advise on or express a view on whether a dispensation would be appropriate in either of the following circumstances:
    - i. That so many Members of the decision-making body have disclosable pecuniary interests (DPIs) in a matter that it would impede the transaction of the business; or
    - ii. That, without a dispensation, no Member of the Cabinet would be able to participate on this matter.

8. To agree the processes and procedures for the Appointments Committee for the consideration of disciplinary action and suspension pursuant to Part 4J of the Constitution.
9. To make future invitations for appointment of Independent Persons in accordance with and for the purposes of the Staff Procedure Rules.
10. To undertake the role of Hearings Panel in respect of a complaint that a Member or co-opted Member has failed to comply with the Code of Conduct upon the matter being referred to the Committee by the Monitoring Officer in accordance with the arrangements adopted by the Council under the Localism Act 2011.

### **2.3 General Purposes and Audit Committee**

(Membership 10 including 2 independent non-voting co-opted Members who may not be Members or officers of the Council and who are involved only in relation to Audit Functions)

#### **General Purposes Functions:**

1. Periodic review of the Scheme of Members' Allowances and approval of arrangements in respect of the scheme to reimburse costs incurred for childcare/dependent relative care, travel and subsistence whilst a Member is on Council business.
2. Appointments to outside bodies, subsequent to the Annual Council Meeting. [Note: The Council Solicitor, after consultation with the Chair of the General Purposes and Audit Committee or (in respect of Executive appointments) the relevant Cabinet Member, may also make appointments to outside bodies as necessary during the year.]
3. Any matter not reserved to the Council or delegated to another Committee and related to a non-executive function.
4. Any matter reserved to the Council and a non-executive function, or a matter reserved to a non-executive committee or sub-committee of the Council which requires, in the Committee's view or on the recommendation of the Cabinet, the Chief Executive or an Executive Director, action as a matter of urgency.
5. Any protocol concerning the exercise of relevant delegated powers of the Committee.

#### **Audit Functions:**

1. In exercising its audit functions the Committee's purpose is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the Council's financial and non-financial performance to the extent it affects the Council's exposure to risk and weakens the control environment, and to oversee financial reporting.

2. To consider the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
3. To seek assurances that action is being taken on risk-related issues identified by auditors and inspectors.
4. To be satisfied that the Council's assurance statements, including the Statement on Internal Control, properly reflect the risk environment and any actions required to improve it.
5. To review (but not direct) internal audit's strategy, plan and monitor performance and make recommendations as appropriate to Cabinet and/or Full Council.
6. To review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary.
7. To receive the annual report of the Head of Internal Audit and make recommendations as appropriate to Cabinet and/or Full Council.
8. To consider the reports of external audit and inspection agencies and make recommendations as appropriate to Cabinet and/or Full Council.
9. To ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
10. To review the financial statements, external auditor's opinion and reports to Members, and monitor management action in response to the issues raised by external audit.
11. To make an annual report to the full Council.

### **General Purposes and Audit Urgency Sub-Committee**

(Membership of 3 drawn from the Membership of the General Purposes and Audit Committee and constituted as and when necessary by the Council Solicitor)

All of the responsibilities and functions of the General Purposes and Audit Committee where in the opinion of the Council Solicitor it is necessary for a decision to be taken before the next meeting of the Committee.

- 2.4. **Health and Wellbeing Board** ( Membership: 5 Majority Group Members (voting) such members to include the Cabinet Member for Families Health and Social Care and the Cabinet Member for Children, Young People and Learning , 2 Minority Group Members (voting), Executive Director People (non-voting), Director of Public Health (non-voting), CCG Representative (voting), Croydon University Hospital Chair (non-voting), Healthwatch Representative (voting), SLAM representative (non-voting), Croydon Voluntary Action representative (non-voting). The terms of Reference of the Health and Wellbeing Board are set out in Part 4L

As amended 06.2019 and 08.2019

2.5. **Licensing Committee** (Membership 12. A further 12 Members shall form a pool of reserve Members for the Committee).

1. All licensing, registration and related functions as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended and the Licensing Act 2003 (Note: Applications and other matters under the Licensing Act 2003 shall be determined in accordance with the schedule of delegations at Annex 2 to the Protocol on Licensing Hearings. Responsibility for hearing and determining applications where a hearing is required under the provisions of the Licensing Act 2003 shall be delegated to the Licensing Sub-Committee).
2. Matters relating to the adoption or review of the Authority's Licensing Statement prior to final consideration by the Council as part of the policy framework.
3. Subject to any matters reserved to the full Council by statute, to exercise all functions of the Council as Licensing Authority under the Gambling Act 2005 including the power to set fees under s212 of the Act. (Note: Responsibility for hearing and determining applications where a hearing is required under the Gambling Act 2005 shall be delegated to the Licensing Sub-Committee).
4. To comment on the three year Statement of Principles in respect of the Authority's functions under the Gambling Act 2005 prior to its adoption by the full Council; and to make recommendations to the full Council on all Licensing functions under both the Gambling Act 2005 and the Licensing Act 2003 where those functions are reserved to full Council.
5. Health and Safety functions under the relevant statutory provision within the meaning of Part 1 of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer.
6. Registration of births, deaths and marriages.
7. To agree any protocol concerning the exercise of relevant delegated powers.

**Licensing Sub-Committee** (Membership 3, drawn from the Membership of the Licensing Committee and constituted as and when necessary by the Council Solicitor)

Hearing and determining applications when a hearing is required under the provisions of the Licensing Act 2003 and the Gambling Act 2005. Hearings will be conducted in accordance with the requirements of the relevant Act, Regulations issued under the Act, and the Council's agreed Protocol for Licensing Hearings.

2.6 **Mayoralty and Honorary Freedom Selection Sub-Committee** (Membership 5)

To make recommendations directly to the Council on the selection of:

- a) The Mayor;
- b) Persons that should be admitted to the Roll of Honorary Aldermen and Alderwomen;
- c) Persons or organisations that should be granted Freedom of the Borough; and
- d) Honorary Recorder.

2.7. **Pension Board** (Membership 1 Independent non-voting Chair, 3 Employer representatives (one to be a Councillor) & 3 Employee representatives)

The Pension Board, with an independent non-voting Chair, is formed of three employer representatives and three representatives of the Pension Fund.

The Board secures the effective and efficient governance and administration of the Croydon Council Pension Fund.

2.8. **Pension Committee** (Membership 8, plus 1 Staff Side non-voting co-opted member and 2 Pensioner Side co-opted Members (1 voting co-opted member and one non-voting co-opted member). Staff side and Pensioners' side members are appointed on an annual basis following consultation with the Staff side and Pensioners of the Pension Fund. Pensioners' side members are appointed in keeping with the outcome of an election by ballot of Pensioners of the Fund, normally for a term of four years. Terms of Reference are set out at Part 4N. Functions of the Pensions Committee are:

2.8.1. To ensure that the Fund is properly operated in accordance with the Local Government Pensions Scheme Regulations ("the Regulations") all other relevant legislation and best practice as advised by the Pensions Regulator, including financial, governance and administrative matters.

2.8.2. To adopt Fund specific policies concerning the administration of the Fund, investing of Fund monies and the management of the Fund's solvency level. In addition, the Committee is responsible for compliance with all financial and regulatory requirements of the Fund.

2.8.3. To discharge its fiduciary responsibility in the best interest of the Fund, in particular:

- a) To set the investment policy and review the performance of the Fund's investment managers, pooling operators, scheme administration, and external advisors;
- b) To make arrangements for the triennial actuarial valuation;
- c) To determine the Pension Administration Strategy;
- d) To approve and monitor compliance of statutory statements and policies required under the Regulations;
- e) To approve the Fund's Statements of Accounts and annual report;
- f) To ensure that the Council discharges its obligation, as administering



- authority for the local government pension scheme, to other scheme employers;
- g) To make representations to government as appropriate concerning any proposed changes to the Local Government Pension Scheme; and
- h) To keep these terms of reference under review.

2.9. **Planning Committee** (Membership: 10. A further 10 councillors shall form a pool of reserve members for the committee.)

1. To determine applications for planning permission, where the recommendation is for approval by the Director of Planning and Strategic Transport, and the development is for:
  - a) 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
  - b) the erection of a building or buildings with a gross floor space of 10,000 square metres or more or, where the floorspace is not given, the site area is 2 hectares or more.
  
2. To determine applications for planning permission where the recommendation is for approval and the application exceeds the Sub Committee thresholds (see 2.10 below) and the development is for:
  - a) a residential development containing less than 200 new dwellings or, where the number of dwellings is not given, the site area is less than 4 hectares; or
  - b) the erection of a building or buildings with a gross floor space of less than 10,000 square metres or, where the floor space is not given, the site area is 2 hectares or more:

where the Committee Consideration Criteria (part 4K of this Constitution) are met.

3. The confirmation of Directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 – as amended.
4. Any other application or planning matter referred to the Planning Committee by the Director of Planning and Strategic Transport acting in his or her discretion.
5. Planning Committee will only deal with reserved matters pursuant to outline planning permission where the Planning Committee have expressly requested (when determining applications for outline planning permission) that the subsequent reserved matters should be referred to Planning Committee for determination. This request should be included in the minutes and specified by way of an informative attached to the outline planning permission.
6. Applications for minor material amendments, variations of planning conditions and non-material amendments submitted under S.73 and S.96A of the Town and Country Planning Act 1990 will be determined by officers under

delegated authority in all instances unless they fall within the remit of Planning Sub Committee (see 2.10 below).

7. Where the Planning Committee determines an item on an agenda:
  - a) In the event of changes being made to an officer recommendation by the committee, the task of formalising the wording of those changes, in accordance with the substantive nature of the committee's decision, is delegated to the Director of Planning and Strategic Transport;
  - b) The Director of Planning and Strategic Transport has delegated authority to make changes to the wording of the committee's decision (such as to delete, vary or add conditions, informatives, planning obligations or reasons for the decision) prior to the decision being actioned, provided that the Director of Planning and Strategic Transport is satisfied that any such changes 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.
  
8. Where a report has been placed on the agenda of the Planning Committee but the meeting fails to start to consider the item prior to its 10pm guillotine, the determination of that matter shall be automatically delegated to the Director of Planning and Strategic Transport, unless the meeting determines otherwise by way of a resolution made prior to the 10pm meeting deadline and agreed on a two thirds majority.

2.10. **Planning Sub-Committee** (Membership: for each meeting, 5 drawn from the membership of the Planning Committee).

1. To determine the following application types where the recommendation is for approval:
  - a) Applications for Planning Permission made under the Town & Country Planning Act 1990 for the construction of or a development in relation to building(s) with an existing
  - b) floorspace of no greater than 500 square or building(s) or extension(s) within the curtilage of such qualifying building(s);
  - c) Applications for planning permission made under the Town & Country Planning Act 1990 for development providing up to 5 units of residential accommodation;
  - d) Applications for listed building consent made under the Planning and Conservation Areas Act 1990;
  - e) Variations of planning conditions (covering issues such as variations in hours of use or other related changes in how a use operates pursuant to previous grants of planning permission)

where the Committee Consideration Criteria (part 4K of this Constitution) are met.

2. All applications submitted pursuant to the Town and Country Planning (General Permitted Development) Order, applications for advertisement

As amended 06.2019 and 08.2019

consent, minor material amendments and non-material amendments submitted under S.73 and 96A of the Town and Country Planning Act 1990, applications to discharge planning conditions and notwithstanding the above, minor extensions and alterations (including boundaries and rear outbuildings) involving less than 20 square metres of additional internal accommodation (gross internal) will be determined by officers under delegated authority in all instances

3. Any other application or planning matter referred to the Planning Sub-Committee by the Director of Planning and Strategic Transport acting in his or her discretion.
4. The Planning Sub-Committee may refer agenda items to Planning Committee for consideration and determination if they consider it necessary or appropriate to do so.
5. Where the Planning Sub-Committee determine an item on an agenda:
  - a) In the event of changes being made to an officer recommendation by the committee, the task of formalising the wording of those changes in accordance with the substantive nature of the committee's decision, is delegated to the Director of Planning and Strategic Transport;
  - b) The Director of Planning and Strategic Transport has delegated authority to make changes to the wording of the committee's decision (such as to delete, vary or add conditions, informatives, planning obligations or reasons for the decision) prior to the decision being actioned, provided that the Director of Planning and Strategic Transport is satisfied that any such changes 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.
6. Where items for consideration and determination by the Planning Sub Committee have not been considered or have not started to be considered by 10pm, the determination of those matters shall be automatically delegated to the Director of Planning and Strategic Transport.

### **3. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS**

Other than those matters reserved to the Council or delegated to a non- executive Committee or to the Chief Executive as a non-executive function, all other remaining functions are allocated as executive functions.

The Leader has power to create Cabinet Committees, agree protocols on matters relating to the operation of their remit and, between Annual Meetings of the Council, to make nominations to outside bodies where Executive Members are required to be appointed.

### **4. EXECUTIVE DIRECTORS**

- 4.1. The following posts shall be Executive Directors for the purposes of this Constitution:

As amended 06.2019 and 08.2019

Chief Executive

Executive Director /DCS Children, Families & Education Executive Director/DASS

Health Wellbeing & Adults Executive Director for Place

Executive Director for Resources

Executive Director Gateway Strategy and Engagement

Non-Executive delegations to the Chief Executive

- 4.2. The Chief Executive has delegated to him/her all the powers of the Council other than those reserved to the Council or to a Non-Executive Committee or Sub-Committee or allocated to the Leader by Statute or this Constitution. This delegation is subject to:
- 4.2.1. such protocols as may be approved by a Committee or Sub-Committee from time to time and deposited with the Council Solicitor;
  - 4.2.2. all Policies of the Authority;
  - 4.2.3. any consequent expenditure being included in the Council's Revenue Budget or approved Capital Programme;
  - 4.2.4. the requirements of the Tenders and Contracts and Financial Regulations;
  - 4.2.5. compliance with any legal requirements and the provisions of any statutory codes of conduct or statutory guidance;
  - 4.2.6. the approval of the Council Solicitor to the instigation and conduct and settlement of legal proceedings and to the engagement of any lawyer to act for the Council;
  - 4.2.7. compliance with any legal requirements and the provisions of any statutory codes of conduct or statutory guidance;
  - 4.2.8. the approval of the Director of Human Resources to the grading and conditions of service of staff (other than those based in schools or subject to the conditions of service of the Chief Officers and Chief Executives J.N.C.);
  - 4.2.9. the approval of the Appointments Committee to the grading and conditions of service of staff employed subject to the conditions of service of the Chief Officers and Chief Executives J.N.C.

#### **Executive delegations to the Chief Executive**

- 4.3. The Leader's delegation of Executive functions is contained in Part 6C of this Constitution.

# **CONSTITUTION OF THE LONDON BOROUGH OF CROYDON**

## **PART 4**

### **PROCEDURE RULES**

- 4.A Council Procedure Rules
- 4.B Access to Information Procedure Rules
- 4.C Budget and Policy Framework Procedure Rules
- 4.D Executive Procedure Rules
- 4.E Scrutiny and Overview Procedure Rules
- 4.F Non Executive Committee Procedure Rules
- 4.G Delegations to Executive Directors Decision Making Procedure Rules
- 4.H Financial Regulations
- 4.I Tenders and Contracts Regulations
- 4.J Staff Employment Procedure Rules
- 4.K Planning and Planning Sub Committee Procedure Rules
- 4.L Rules of Procedure of the Croydon Health and Wellbeing Board
- 4.M Local Pension Board Procedure Rules
- 4.N Pension Committee Terms of Reference

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 4.A - Council Procedure Rules

### 1 GENERAL PROCEDURES APPLYING TO ALL FULL COUNCIL MEETINGS

#### Quorum

- 1.1 No business shall be considered unless 18 Members are present in the Chamber or meeting room. If the Chair considers the meeting to be inquorate, the meeting shall stand deferred for 15 minutes. If after 15 minutes deferment there is still no quorum then the consideration of any business not transacted shall be held over to the next ordinary meeting of the Council, unless an alternative date is fixed by the Chair.

#### Powers of the Chair

- 1.2 The Chair shall decide all matters of order, competence, relevancy, interpretation of Procedure Rules relating to the conduct of the meeting or the appropriateness of Council Questions. The Chair shall have the power to vary the order of business so as to give precedence to any Report, Motion or other matter. The decision of the Chair shall be final.
- 1.3 A Member may be directed to discontinue speaking if the Chair considers the Member is being repetitive, tedious or irrelevant, uses unbecoming language, or is in some other way breaching the order of the meeting. When necessary, the Chair, having warned the Member shall move that the Member called by name, leaves the meeting. The motion, if seconded, shall be put immediately to the vote without further debate and if carried the Member shall leave immediately. In the event of a general disturbance within the Chamber by Members the Chair may order an adjournment for up to 15 minutes.
- 1.4 In the case of a member of the public disrupting the meeting, the Chair may order the removal of a person or that the public areas be cleared. Re-admission shall be at the discretion of the Chair.
- 1.5 Council Members, officers and members of the public are reminded that the use of mobile electronic devices during the meeting is permitted for the use of wifi services. You are asked to leave the meeting should you wish to make or receive a telephone call.

The recording/reporting of meetings using any type of audio or visual equipment is permitted subject to the proviso that any such reporting/filming/photography does not become distracting, disruptive or

contrary to the good order or conduct of the meeting. Should any such reporting/filming/photography become distracting, disruptive or contrary to the good order or conduct of a meeting, the person/s responsible may be asked by the Chair to terminate this, regardless of the format in which the reporting/filming/photography is taking place.

### **Disclosure of Interests**

- 1.6 Members shall abide by the Members' Code of Conduct. It is the responsibility of every Member to declare any disclosable pecuniary interest not already recorded on their register of interests or subject to a pending notification at the beginning of the meeting or as soon as the relevant item of business is reached. These disclosures shall be minuted.

### **Rules of Debate**

- 1.7 A Member may indicate their desire to speak by standing or by raising their hand, but shall only speak when called by name by the Chair. When speaking the Member shall stand, unless unable to do so.
- 1.8 Members shall when speaking address the Chair and:
- 1 refer to each other as Mayor, Deputy Mayor, Leader, Cabinet Member, Chair or Councillor, as the case may be;
  - 2 refrain from using unbecoming language;
  - 3 refrain from comments of a personal nature about another Member;
  - 4 not attribute improper motives to another Member.
- 1.9 No debate shall be allowed except in relation to a motion or amendment under consideration. Only one motion or amendment may be considered at a time. A motion or amendment once moved and seconded may be withdrawn only by the mover and with the consent of the meeting. No further debate shall take place on a motion or amendment once it has been withdrawn.
- 1.10 Every motion or amendment must be moved and seconded and if the Chair requires, be put in writing for the Chief Executive to read out before it is debated and put to the meeting. A Member may not move more than one amendment or motion on the same subject.
- 1.11 The following procedural motions may be moved without prior notice at the discretion of the Chair to:
- 1 appoint the Deputy Mayor or another Member to chair the meeting if the Mayor is absent;



- 2 amend the minutes of the previous meeting when these are submitted for approval, for reasons of accuracy;
  - 3 change the order of business from that printed in the Agenda, other than where this has already been determined by the Chair;
  - 4 receive reports and decide recommendations presented as part of the agenda;
  - 5 extend the termination of the meeting by not more than 20 minutes to enable business set out on the agenda to be transacted;
  - 6 refer an item of business to the Leader (and/or Cabinet as appropriate) or a Committee;
  - 7 permit the withdrawal of a motion or a question;
  - 8 suspend specific Procedure Rules for the purpose stated in the Motion provided that at least one half of the whole Council are present;
  - 9 proceed to the next item of business or put to a vote the matter under debate;
  - 10 adjourn the debate or the meeting;
  - 11 exclude the public from the meeting under statutory provisions for that purpose;
  - 12 exclude a Member from further participation in the debate or from the meeting.
- 1.12 An amendment to a motion may be proposed, provided it is seconded and:
- 1 is not moved whilst another amendment is under discussion;
  - 2 does not have the same intent as one already defeated at the meeting;
  - 3 refers to the subject matter under discussion and does not introduce a new subject;
  - 4 does not render ineffective the motion under consideration.
- 1.13 Only in respect of a planning application referred to the Council for decision may an amendment specify that the application be refused and must in that event include the proposed grounds for refusal in the amendment.
- 1.14 A Member may not move a motion to rescind or amend a resolution passed within the previous six months, nor may a Member move a motion or

amendment to the same effect as one rejected within the previous six months. An exception shall be allowed in either case where not less than fifteen Members sign a notice in support of such a motion in which case an item shall be placed on the Agenda.

- 1.15 A Member may raise a point of order by declaring “point of order”, in which case the Chair shall ask the Member speaking to give way. The Chair shall invite the point of order to be explained by the Member concerned.
- 1.16 A Member may assert a right to be heard immediately on a point of personal explanation by declaring “point of personal explanation”, in which case the Chair shall ask the Member speaking to give way. The Chair shall invite the point of personal explanation to be made by the Member concerned.

## **Voting**

- 1.17 Unless required otherwise by law, all matters shall be decided by a simple majority. Voting shall in the first instance be by voices saying “Yes” or “No” as appropriate. The Chair shall declare that either the Yes vote or the No vote is successful, as the case may be. In the event that the Council introduces electronic voting, voting may take place electronically.
- 1.18 Where immediately after a vote is taken at a meeting of the Council, if any Member so requires there shall be recorded in the minutes of the proceedings of that meeting whether the person cast their vote for or against the question or whether they abstained from voting.
- 1.19 If the result is unchallenged, the Chair shall declare the result. If the result is challenged, the Chair shall ask Members to indicate their vote. The method of voting shall be determined by the Chair.
- 1.20 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 where this voting takes place orally, or to confirm their vote where this takes place electronically, with the Chair being called upon to vote last. These provisions are subject to paragraph 3.37 of this Part 4A.
- 1.21 In the event of an equality of votes on either side, the Chair (including where this is the Mayor) shall have a second or casting vote and may use their casting vote even where they have not used their first vote.

## **2 THE ANNUAL MEETING**

- 2.1 In a year when there is an ordinary election of Members, the Annual Meeting shall take place within 21 days of the retirement of the outgoing Members. In any other year, the Council has determined that the Annual Meeting shall take place in May unless it decides otherwise.

- 2.2 The Council Solicitor, shall prepare and provide lists of appointments to be made by the Council to the Secretary of each Political Group represented on the Council prior to the Annual General Meeting of each Political Group, taking account of the statutory rules of proportionality, where these apply. The Secretary of each Political Group shall submit a list of the members of the Group together with nominations for all appointments, as listed, to the Council Solicitor not less than eight working days prior to the day of the Annual Council meeting.
- 2.3 The Annual Meeting of the Council shall be reserved for the election of the Mayor, Deputy Mayor who shall be the Vice Chair of the Council meeting, the Leader and all other Members holding an Office of Special Responsibility; appointments to Committees and outside bodies, receiving the Annual Reports from Committees, including Overview and Scrutiny, which are required to be presented to full Council and approval of the minutes of the last meeting. No other business shall be transacted at the Annual Meeting unless in the opinion of the Mayor or the Monitoring Officer there is business that the Council is required urgently to consider before the next Ordinary Meeting.
- 2.4 The Mayor shall determine the order of business for the meeting.

#### **Appointment of substitute Members of Committees and Sub-Committees**

- 2.5 As well as allocating seats on Committees and Sub-Committees, the Annual Meeting of the Council will allocate seats for substitute Members.
- 2.6 For all non-Executive Committees, the Council will appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on that Committee or Sub-Committee.
- 2.7 Those substitute Members will be required to undertake any mandatory training required of ordinary Members of those Committees prior to participating in any meeting of those Committees.
- 2.8 Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

#### **Leader, Cabinet and Shadow Cabinet**

- 2.9 The Leader of the Council shall be appointed at the Annual Meeting of the Council or at an Ordinary or Extraordinary Council Meeting as necessary. The Leader shall act within the powers allocated to him/her, be a member of the Cabinet and Chair its meetings.
- 2.10 In addition to the Leader of the Council, the appointment of up to nine other Members to serve as members of the Cabinet shall also be noted.

- 2.11 The Leader and up to nine other members of the Cabinet shall compose the Executive Members of the Council.
- 2.12 Other Political Groups represented on the Council may nominate a Member to act as their Leader. The Leader of the largest Political Group represented on the Council having no Executive Members shall be known as the Leader of the Opposition and shall act as the spokesperson for the Opposition on all matters of general policy and business.
- 2.13 In addition to the Leader of the Opposition, up to nine other Members of the largest Political Group having no Executive Members shall be appointed by that Group and their appointment shall be noted at the Annual Meeting of the Council or at an Ordinary or Extraordinary Council Meeting as necessary, to serve as members of the Shadow Cabinet.
- 2.14 One or more members of the Shadow Cabinet may be appointed Opposition Deputy Leader(s) by that Group. Each Shadow Cabinet Member, except the Opposition Leader, shall be nominated by their Political Group to act as Opposition Spokesperson for a portfolio.

### **3 COUNCIL MEETINGS**

#### **Dates, Time and Frequency of Meetings**

- 3.1 Seven meetings of the Council, including the Annual and Council Tax Meetings, shall be scheduled to be held at the Town Hall, Croydon, on such dates as the General Purposes and Audit Committee may agree on behalf of the Council and occasionally as the Mayor shall direct during each Council Year.
- 3.2 Unless the Mayor or the Council determines otherwise Ordinary Council Meetings and the Council Tax Meeting shall begin at 6.30 p.m. The Annual Meeting shall begin at 6.30 p.m. or such other time determined by the Mayor or the General Purposes and Audit Committee. Ordinary Council Meetings shall conclude by 10.00 p.m. The Council Tax Meeting shall conclude by 9.35 p.m.
- 3.3 In the event that business remains outstanding at the time specified for the meeting to conclude and the Council does not agree to a motion to extend the meeting under Procedure Rule 1.11, or if no such motion is moved, the following Guillotine procedure shall apply:
- 1) The Chair shall put to the vote without further debate any motion or amendment currently under discussion;
  - 2) The Chair shall then put to the vote in turn, without further debate, any further recommendations included in the Leader and Cabinet Business Report, reports from Committees or other agenda item which remains outstanding for consideration;

- 3) Any other outstanding business shall be taken as read;
  - 4) The Chair shall then close the meeting.
- 3.4 The date and time of any Special or Extraordinary Council Meeting may be determined by the Mayor or the General Purposes and Audit Committee. On occasions when a Special or Extraordinary Meeting is on the same date as an Ordinary Meeting, the Mayor or General Purposes and Audit Committee may determine the arrangements for a shortened Ordinary Council Meeting.

### **Order of Business at Ordinary Council Meetings**

- 3.5 The business at an Ordinary Meeting shall be as follows, taken in the sequence indicated unless otherwise directed by the Chair or agreed following a motion carried:
1. Apologies for absence;
  2. Minutes of the previous meeting;
  3. Disclosures of interests;
  4. Urgent business (if any);
  5. Announcements by the Mayor, the Leader, Head of Paid Service and/or Returning Officer;
  6. The Croydon Debate:
    - a) Borough Petition Debate;
    - b) Local Petition Debate.
  7. Croydon Question Time:
    - a) Public Questions from the public gallery;
    - b) Leader and Cabinet Questions.
  8. Member Petitions
  9. Maiden Speeches (Only taken as an item at Ordinary Council meetings following the/an election and permits newly elected Members to speak for up to three minutes each. No more than 5 maiden speeches shall be taken at any Ordinary Council meeting and Members who have previously been elected or have been re-elected shall be ineligible to make a Maiden Speech.)
  10. Council Debate Motions;

11. Recommendations of Cabinet or Committees referred to the Council for decision (if any);
12. Any other relevant business specified in the Agenda, included at the discretion of the Mayor or required by law (e.g. Section 151, Monitoring Officer reports);
13. Any exempt or confidential business where the Public are excluded from the meeting.

### **Agendas and Minutes**

- 3.6 The Council Solicitor shall ensure that an Agenda and Summons for the meeting is dispatched to Members and available to the public and press in advance of the meeting.
- 3.7 The Council Solicitor shall ensure that a record is made of the decisions taken at every meeting of the Council. The minutes shall also include a record of the Members in attendance, those absent and any apologies received.
- 3.8 The disclosure of any disclosable pecuniary interest shall be recorded in the minutes of the meeting
- 3.9 Minutes shall be considered for approval at the next meeting and shall be only open to question as to their accuracy before being signed. Minutes of an Extraordinary Meeting shall be signed at the next convenient Ordinary Meeting following the Extraordinary Meeting.

### **Announcements**

- 3.10 Up to 5 minutes shall be available at each Ordinary Council Meeting for announcements by the Mayor or other Member chairing the meeting; the Leader; the Head of Paid Service; and/or the Returning Officer, and Council Solicitor, which shall be limited to civic and statutory matters. The number and order of any such announcements shall be at the discretion of the Chair.

### **The Croydon Debate**

- 3.11 The Croydon Debate item shall not be taken at Annual Council or the Council Tax Meeting. The Croydon Debate item shall, where relevant, comprise the following matters: Borough Petitions Debate and Local Petitions Debate.
- 3.12 **Petitions: General requirements for all Petitions and Croydon Debate items**
- 3.12.1 Three types of petition may be presented to full Council under the Croydon Debate item: Borough Petitions; Local Petitions; and Member Petitions each of

which are governed by these Rules and, where relevant, the provisions of the Council's Petition Protocol.

- 3.12.2 Petitions presented to full Council under the Croydon Debate item shall not include any petitions in respect of which there is a statutory petitions process, for example Statutory Petitions with regard to changes to Governance Arrangements for the Council. Statutory Petitions shall be governed in accordance with their respective statutory processes and are not set out in these Rules. Nor may they include Petitions presented in response to a statutory process or associated consultations being undertaken by the Council
- 3.12.3 Petitions shall not be received or debated by the Council at the Annual or Council Tax Meeting.
- 3.12.4 Petitions shall not be received or debated by the Council under the Croydon Debate Item where they relate to a current planning or licensing matter or any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment. In addition, the Council shall not receive or debate items under the Croydon Debate item which pertain to anticipated or ongoing litigation, conciliation or mediation or any employment or personnel related disputes. Petitions may address other issues within the direct responsibility of the Council or where the Council could be reasonably expected to lobby on behalf of citizens of the Borough.
- 3.12.5 Petitions may only be submitted for the Croydon Debate item by "Local People" who appear on the electoral register within the Borough, are a person who lives and/or works in the area or a child or young person who lives in, or attends a school or college in, the Borough.
- 3.12.6 In order to be valid:
- a) Petitions must be materially accurate in respect of the facts upon which the Petition is based. Petitions which are defamatory, discriminatory or which incite civil unrest shall not be received or debated by the Council.
  - b) A full Copy of any Petition to be submitted to the Council, including the full Petition wording and any supporting petitioners' details and signatures, including the date upon which they have appended their signature to the Petition, must be delivered to the Council Solicitor or his/her nominee by noon fifteen (15) clear working days before the Council meeting to which it seeks to be presented. Any Petition submitted less than fifteen (15) clear working days before the Council meeting shall, if successfully verified, be presented to the following Council meeting.
- 3.12.7 The Council shall be responsible for verifying that the qualifying numbers of Local People have signed the Petition in question based on the information provided by the petitioners. If the qualifying number of Local People have

signed the petition, and provided the above requirements for a valid petition are met, the Petition will be presented to the next available Ordinary Council meeting.

3.12.8 The subject matter of a Petition which has been debated at Full Council shall not be the subject of a further Petition to the Council within a period of twelve months and where a similar or substantially similar matter has been debated by the Council in the previous six months or is due to be debated within the next six months the Petition shall not be deemed to be valid.

### **3.13 Petitions by Members of the Public**

3.13.1 Other than Statutory Petitions, which are not dealt with in these Rules, members of the public may submit two different types of Petition to the Council: Borough Petitions and Local Petitions.

3.13.2 Only one Borough and one Local Petition debate shall be considered at each Ordinary Council Meeting. Where two or more Borough or two or more Local Petitions are received in accordance with these Rules, subject to validation of the necessary number of signatures, the first Local and the first Borough petition submitted shall be the petitions that go forward to be received and debated at the next Ordinary Council Meeting.

3.13.3 Where two or more Borough or Local petitions are received, or where a Borough or Local Petition is received in accordance with these Rules and the next meeting of Council is the Council Tax Meeting or Annual Meeting, receipt and debate of any additional Petitions will be dealt with at the next Ordinary Council Meeting in the order they have been submitted and in accordance with 3.13.2.

3.13.4 At the conclusion of a Borough or Local Petition debate the relevant Cabinet Member will announce what steps the Council will take in response. These steps will take into account whether the matter debated relates to an executive or non-executive function or responsibility of the Council and whether a decision has or has not yet been taken.

3.13.5 Borough Petitions:

3.13.5 (a) The number of signatures required in order to trigger a Borough Petition Debate at a Full Council meeting shall be 2000 signatures of Local People.

3.13.5(b) The rules of debate for a Borough Petition will be as follows:

- i. The Lead Petitioner or their representative may address the Council on the Petition for up to three minutes from the public gallery;
- ii. A member from the Majority group may address the Council for up to three minutes;



- iii. A member of the Opposition group may address the Council for up to three minutes;
- iv. A second member from the Majority group may address the Council for up to three minutes;
- v. A second member of the Opposition group may address the Council for up to three minutes;
- vi. The Lead Petitioner or their representative may address the Council for a further three minutes;
- vii. A member from the Majority group may address the Council for a final response for up to one minute and summarise the next steps to be taken in the matter.
- viii. No further debate shall take place on the Borough Petition thereafter.

### 3.13.6 Local Petitions

3.13.6(a) The number of signatures required in order to trigger a Local Petition Debate at a Full Council meeting shall be 1000 signatures of Local People living, working or studying in the Ward where the matter which is the subject of the Local Petition arises.

3.13.6(b) The rules of debate for a Local Petition will be as follows:

- i. The Lead Petitioner or their representative may address the Council on the Petition for up to 3 minutes from the public gallery;
- ii. A Member of the Majority Group may then speak for up to three minutes
- iii. A Member of the Opposition Group may then speak for up to three minutes;
- iv. A Member of the Majority Group may then make a final response for up to one minute and summarise the next steps to be taken in the matter;
- v. No further debate shall take place on the Local Petition thereafter.

### **Croydon Question Time**

3.14 The Croydon Question Time item shall not be taken at the Annual Council Meeting or at the Council Tax Meeting.

3.15 The Croydon Question Time item shall comprise Leader and Cabinet Questions and Public Questions at meetings.

### **Public Questions:**

3.16 Public questions can be asked of the Leader or Cabinet Members on issues of policy at the Meeting as set out within these Rules. Any questions of a purely factual or of a detailed nature shall be noted and shall receive a written

response within 3 weeks following the meeting. The responses shall be published on the Council's website.

- 3.17 Questions which relate to a current planning or licensing matter or any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment shall not be permitted. In addition, questions shall not be received or responded to where they pertain to anticipated or ongoing litigation, conciliation or mediation or any employment or personnel related issues or disputes. A named member of staff shall not be the subject of a question. If necessary, the Council Solicitor shall provide guidance for members of the public and staff on the above.
- 3.18 Public Questions shall only be taken at Ordinary Council meetings and shall be allocated a total time of 30 minutes. This time frame shall include both the response by the relevant Cabinet Member or Leader and any supplementary questions permitted under Paragraph 3.20.
- 3.19 The Mayor has absolute discretion to decline to allow any question to be dealt with under this procedure on the grounds that it addresses matters that would be inappropriate to consider at the meeting, including where the questions being asked are repetitive or have already been addressed.
- 3.20(i) At the Mayor's discretion, questions shall be dealt with in the following order: questions from members of the public present in the public gallery who have emailed in their questions in advance in accordance with 3.20(ii); questions from members of the public in the public gallery who did not email their questions in advance, followed by the Mayor reading out public questions from members of the public not present in the public gallery but who emailed their questions in advance in accordance with 3.20 (ii) below. Members of the public seated in the public gallery may be invited in turn by the Mayor to address the Leader or Cabinet Member. Members of the public invited to put their questions will also be permitted to ask a single supplementary question but shall do so only if called upon by the Mayor to do so as this may be subject to time constraints.
- 3.20(ii) The Mayor may also accept questions from Members of the Public submitted by email to the designated email address by 12 noon on the Friday prior to an ordinary Council meeting. The Mayor will put questions received by email to the relevant Cabinet Member and, where a number of questions are received on the same subject, the Mayor may put a summary of those questions instead.

#### **Leader and Cabinet Questions:**

- 3.21 This item is to enable Members to ask questions of the Leader and Cabinet on issues of policy. Any questions of a purely factual or of a detailed nature shall be noted and shall receive a written response within 3 weeks following the meeting. The responses shall be published on the Council's website. Questions which relate to a current planning or licensing matter or any matter relating to an individual or entity in respect of which that individual or entity has

a right of recourse to a review or right of appeal conferred by or under any enactment shall not be permitted. In addition, questions shall not be received or responded to where they pertain to anticipated or ongoing litigation, conciliation or mediation or any employment or personnel related issues or disputes.

- 3.22 The Leader shall be the first to respond to questions under this item and the total time allocated to questions by Members to, and responses from the Leader, shall be 15 minutes. The first two minutes of the Leader's 15 minute slot may be used by the Leader to make any announcements.
- 3.23 Cabinet Members, divided up into three 'pools' of three Members each, shall thereafter respond to questions by other Members of the Council. The total time allocated to each 'pool' of Cabinet Members shall be 30 minutes. The three Cabinet Members shall each be permitted to use two minutes of this 30 minute slot to make announcements.
- 3.24 Representatives of political groups may give advance notice to the Council Solicitor by 12 noon on the Friday preceding an ordinary Council Meeting, the names of the first two Members of their respective political group that they wish the Mayor to call to ask a question of each Member of the Cabinet, including the Leader of the Council. After those Members have been called, the Mayor will call Members that indicate they have a question, with a presumption of inviting questions from as many different Members as possible. Each Member asking a question will also be allowed to ask a supplementary question.
- 3.25 The Leader of the Council and Cabinet Members may submit bulletins to be included in the Council agenda papers for this item. Bulletins may summarise the business undertaken by a Cabinet Member since the last ordinary meeting of the Council.

### **Petitions Presented by Members**

- 3.26 Subject to the provisions set out in Rule 3.12, any Member may formally present a Member Petition in accordance with the Rules 3.27 – 3.31 below
- 3.27 In order to be valid, a Member Petition shall contain the signatures of at least 100 Local People or 50% of the Local People affected by the subject of the Petition.
- 3.28 No Member Petitions shall be received at Annual Council or the Council Tax meeting.
- 3.29 Where more than three Member Petitions are received in accordance with these Rules, subject to validation of the necessary number of signatures, the first three Valid Member Petitions submitted shall be the petitions which go forward to be received at the next Ordinary Council Meeting. The remaining Petitions shall not automatically be received at the following Ordinary Council meeting but may be resubmitted by the Member subject to Paragraph 3.12.
- 3.30 The full Petition wording of each of the three Member Petitions to be received

will be included in the Council agenda. The Member Petitions will be received but shall not be the subject of a debate or questions at that or a subsequent Council meeting. Where possible, the Cabinet Member shall provide a response at the Council meeting at which the Member's Petition is received. Where a response is not provided at the meeting, a written response shall be provided within three weeks of the meeting.

- 3.31 A copy of the wording of any Petition to be submitted to the Council must be delivered to the Council Solicitor, or his/her nominee by noon, seven clear working days before the Council meeting by the Member who is to formally present it to the Council meeting.

### **The Council Debate Motions;**

- 3.32 The Leader of the Council and the Leader of the Opposition may each put forward a single motion for debate at an Ordinary Council meeting on a matter which they respectively consider as being of importance to the Borough, which pertains to a matter that is within the direct responsibility of the Council, or where the Council could reasonably be expected to lobby on behalf of citizens of the Borough. Despite the provisions of paragraph 1.09 and 1.10 above, no amendments may be made or proposed to the Council Debate Motion submitted by either the Leader of the Council or the Leader of the Opposition under this item.
- 3.33 The subject of such a motion shall not be a current planning or licensing application or a public petition that has been received and debated by Full Council within the previous six months or has been received and is to be debated within the next six months.
- 3.34 The wording of the motion shall be contained on the notice submitted to the Council Solicitor. Such notices shall be received by the Council Solicitor no later than noon of the third clear working day prior to the day of the Council meeting. The names of the Councillors proposing the motion and seconding the motion are to be submitted by 12 noon on the Friday prior to the Council meeting and a composite list will be circulated to political group leaders.
- 3.35 The time available for Council Debate Motions shall be divided equally between them subject to each motion having no more than 12 minutes for debate. If the amount of time available prior to 10.00 p.m. to debate two Motions for Debate is less than 24 minutes, the Chair shall confirm that the Motions have fallen. In the event that only one Council Debate Motion is presented to the Council for debate, if the time available prior to 10.00 p.m. to debate the Motion is less than 12 minutes, the Chair shall confirm that the Motion has fallen.
- 3.36 The proposer of a Motion for Debate shall be allowed to speak for a maximum of 3 minutes. All other speakers shall be restricted to a maximum of 3 minutes. There shall be no more than four speakers (including the proposer) called to speak in respect of each Motion.

- 3.37 The proposer of a Motion for Debate shall have no right of reply but, 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. Despite the general provisions of paragraph 1.20 above, it shall not be in order for a Motion to become the subject of a poll vote.
- 3.38 If any Motion is considered to be not in order it shall be submitted to the Mayor for consideration. If the Mayor considers that the Motion is out of order, the Member responsible for proposing the Motion shall be informed.
- 3.39 Any Motion, which is listed, if not moved at the meeting shall be deemed to have fallen.
- 3.40 For the purposes of these rules, a Political Group shall be as defined by statute.
- 3.41 No Motions for Debate shall be submitted or dealt with at the Annual Council Meeting or at an Ordinary Meeting called for the purposes of setting the Council Tax.

#### **Annual Report of the Scrutiny and Overview Committee**

- 3.42 In accordance with 2.03 the Annual report of the Scrutiny and Overview Committee shall be received at the Annual Council meeting.
- 3.43 The overall time, which may be devoted to questioning the Annual Report of the Scrutiny and Overview Committee, shall be not more than 20 minutes. The Chair of the Committee (or in the absence of the Chair, the Deputy Chair) and the Chairs of each Sub-Committee shall introduce and answer questions on the Report. The Chair of the Committee shall have not more than 3 minutes' speaking time and the Chairs of each Sub-Committee shall each have not more than 3 minutes' speaking time to introduce the report.
- 3.44 For the remaining time available, the report will be open to questions. In the event that any recommendation in the report has not been reached when the overall time limit has expired, it shall be put immediately to the vote.
- 3.45 Any Member, except the Secunder of the Report, may ask the Chair, Deputy or Vice Chair, as appropriate, not more than two questions on each paragraph of the Report.

#### **Annual Reports**

- 3.46 In accordance with 2.03 the Annual reports shall be received at the Annual Council meeting.
- 3.47 The overall time which may be devoted to questioning any Annual Reports shall be not more than ten minutes per report. The Chair of the relevant Committee (or in the absence of the Chair, the Vice-Chair) shall introduce and answer

questions on the report. The Chair of the Committee shall not have more than 3 minutes speaking time to introduce the report.

- 3.48 For the remaining time available, the report will be open to questions. In the event that any recommendation in the report has not been reached when the overall time limit has expired, it shall be put immediately to the vote.
- 3.49 Any Member, except the seconder of the report, may ask the Chair or Vice-Chair (as appropriate) not more than two questions on each paragraph of the report.
- 3.49 (i) The outgoing Young Mayor, elected annually, will be permitted to present their annual report to an ordinary meeting of the Council in October of each year or as close to the end of the Young Mayor's annual term as possible. Following the presentation of the annual report, the report will be open to questions from Members.
- 3.49 (ii) The overall time available for this item will be ten minutes.

### **Recommendations from Cabinet and Committees**

- 3.50 These rules do not apply to any recommendations contained in the Annual Report of the Scrutiny and Overview Committee. The Leader or Chair of the Committee making the recommendation may exercise a right to introduce the recommendation; in so doing the Leader or Chair of the Committee shall speak for a maximum of 3 minutes.
- 3.51 The recommendation shall be seconded without any further speakers and if not deferred for debate shall immediately be put to the vote.
- 3.52 Any Member supported by a seconder, may ask that a recommendation be deferred for debate and the recommendation shall immediately stand deferred.
- 3.53 In the event that any Cabinet or Committee recommendations have not been reached when the time limit for the meeting has expired, those recommendations shall immediately be put to the vote without further debate.

### **Cabinet and Committee Recommendations Deferred for Debate**

- 3.54 No more than one recommendation shall be the subject of debate at any one time. The Member moving the deferral debate shall indicate in writing to the Chair their intention by way of the form of any amendment proposed to the recommendation, or that the recommendation be referred back to the Cabinet or relevant Committee for further consideration.
- 3.55 The time allowed for consideration of each Cabinet or Committee recommendation that is the subject of a deferral debate shall not exceed 21 minutes, or 6 speakers in total. The Member moving the amendment or reference back shall speak for not more than five minutes. The Cabinet Member or Committee Chair exercising a right of reply shall not speak for more than four minutes. Up to four other speakers shall be called, including the Member seconding the motion, each of whom shall not speak for more than three minutes.
- 3.56 If a Member simply seconds the motion they shall be deemed to have reserved the right to speak until later in the debate.

## 4 THE COUNCIL TAX MEETING

4.1 The Council Tax shall be discussed annually at a meeting of the Council called for the purpose of discussing the proposed level of Council Tax, the Budget and to deal with questions from Members on those matters. There shall be no Public Questions, Petition Debates or Council Debate Motions. The Mayor shall exercise discretion as to any other relevant urgent business that shall be included on the agenda.

4.2 The business to be transacted shall include approval of the Minutes of the previous Council meeting. Unless the Mayor or the Council agrees otherwise, the meeting will begin at 6.30 p.m. and terminate no later than 9.35 p.m.

1. The business at the Council Tax Meeting shall be as follows, taken in the sequence indicated unless otherwise directed by the Chair or agreed following a motion carried:

1. Apologies for absence;
2. Minutes of the previous meeting;
3. Disclosures of interests;
4. Urgent business (if any);
5. Announcements by the Mayor, the Leader, Head of Paid Service and/or Returning Officer;
6. Council tax and Budget report
  - Questions to the Leader and Cabinet Member for Finance incorporating questions on the items contained in the Council Tax Report ;
  - Scrutiny Business report – specific to the Council Tax setting ;
  - Council Tax Debate –Vote

### **Council Tax and Budget report: Questions to Leader and Cabinet Member for Finance**

4.3 This report will contain the recommendations to the Cabinet Member for Finance made by the Cabinet on the Council tax and Budget to Council

4.4 This item is to enable Members to ask questions of the Leader and Cabinet for Finance on a matter related to the Council Tax or draft Budget. Any questions of a detailed nature regarding a specific budget item shall be noted and shall receive a written response within 3 weeks following the meeting. The responses shall be published on the Council's website. Questions asked under this item are also subject to the rules detailed in 3.21 above. In case of doubt, the Mayor shall decide whether it is appropriate for the matter to be considered at a Council Tax Meeting and shall disallow any questions considered inappropriate

- 4.5 The Leader shall be the first to respond to questions under this item and the total time allocated to questions by Members to, and responses from the Leader, shall be 15 minutes. The first three minutes of the Leader's 15 minute slot may be used by the Leader to make any announcements. The Cabinet Member for Finance shall be the second party to respond to questions under this item and the total time allocated to questions by Members to, and responses from the Cabinet Member for Finance, shall be 15 minutes. The first three minutes of the Cabinet Member for Finances' 15 minute slot may be used by the Cabinet Member for Finance to make any announcements.
- 4.6 Representatives of political groups can give advance notice to the Council Solicitor by 12 noon on the Friday preceding the Council Tax Meeting, the names of the first two Members of their respective political group that they wish the Mayor to call to ask a question. After those Members have been called, the Mayor will call Members that indicate they have a question, with a presumption of inviting questions from as many different Members as possible. Each Member asking a question will also be allowed to ask a supplementary question.

#### **Business Report of the Scrutiny and Overview Committee**

- 4.8 The Business Report of the Scrutiny and Overview Committee shall comprise a written scrutiny update following the Scrutiny Council Tax meeting with a brief opportunity for questions to the Chair of the Committee, subject to a time limit of 10 minutes including up to 2 minutes for announcements.

#### **Council Tax Debate**

- 4.9 The Leader of the Council or other Cabinet Member in moving the motion for the Council Budget shall have not more than 10 minutes. The seconder of the motion shall be deemed to have reserved their right to speak later in the debate. The Leader of the Opposition shall have not more than 10 minutes to speak.
- 4.10 Five further Members from each Group shall be called alternately by the Chair and shall each speak for not more than 3 minutes.
- 4.11 The Chair shall exercise complete discretion in calling any other Member from a third or other Group or any ungrouped Member to speak for not more than 3 minutes each, before inviting the Leader of the Council or other Cabinet Member to wind up the debate. The Leader, or other Cabinet Member, in exercising a right of reply shall be allowed to speak for a maximum of 5 minutes.
- 4.12 At the conclusion of all speeches, the Chair shall immediately put the Council Tax and budget report recommendations 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 4.12 are not subject to the requirements of paragraph 1.20 above.



## **5 Extraordinary Meetings**

- 5.1 Extraordinary Meetings of the Council may be called by the Mayor.
- 5.2 Any five or more Members may submit a requisition for an Extraordinary Council Meeting. The requisition shall bear the signatures of the Members and shall specify the business to be transacted at the meeting. If the Mayor does not call an Extraordinary Council Meeting within 7 days of receiving a valid requisition, the Members submitting that requisition may themselves call such a meeting.
- 5.3 The Mayor shall determine the order of business in respect of any Extraordinary Meeting.
- 5.4 The business to be transacted may include approval of the Minutes of the previous Council meeting as the first item and confirmation of the date of the next meeting as the last item. Unless the Council agrees otherwise, the time limit for each remaining item of business shall be equal to that for 6 speakers. The proposer of the item shall be allowed to speak for a maximum of 5 minutes. The Leader, other Cabinet Member, or Committee Chair exercising a right of reply shall be allowed to speak for a maximum of 5 minutes. Four other speakers shall be permitted, each restricted to a maximum of 3 minutes.
- 5.5 At the conclusion of the sixth speaker, the Chair shall immediately put the item of business to the vote.

## **6 SPECIAL MEETINGS**

- 6.1 The Council at an Ordinary or Extraordinary Meeting may resolve to hold a Special Meeting for the purposes of admitting former Members to the Roll of Honorary Aldermen and Alderwomen, or for the grant of Freedom of the Borough to any person, organisation or body that meets the criteria approved by the Council and as set out below:

### **Honorary Aldermen and Alderwomen**

Former Members of the London Borough of Croydon, nominated by the Leader of a political group represented on the Council, who have either:

(i) rendered eminent service in their capacity as Member, considering the contribution that they have made to the borough, including roles served and how their service rendered is above and beyond that expected of all Members; or

(ii) served a period of twelve years on the Council

### **Freedom of the Borough**

Persons of distinction who have rendered eminent service to Croydon.

- 6.2 The Mayor shall determine the order of business in respect of any Special Council Meeting.

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 4.B - Access to Information Procedure Rules

### I. Access to information procedure rules: Council, Council non-executive committees and Scrutiny and Overview Committee

#### 1 SCOPE

These rules apply to all meetings of the Council, the Scrutiny and Overview Committee and all other non-executive Committees and any non-executive Sub-Committees which together are referred to hereafter as “non-executive meetings”.

#### 2 ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in the Constitution or the law.

#### 3 RIGHTS TO ATTEND MEETINGS

Members of the public and media may attend all non-executive meetings of the Council, Committees and Sub-Committees subject only to the exceptions in these rules.

#### 4. NOTICE OF MEETINGS

The Council Solicitor shall, on behalf of the Authority give at least five clear working days' notice of any meeting (unless called at a later time) by posting details of the meeting at Bernard Weatherill House (8 Mint Walk, Croydon) and on the Council's website.

#### 5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council Solicitor shall, on behalf of the Authority, make copies of the agenda and reports open to the public and press available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon at least five clear working days before the meeting or as soon as available if later. These documents will also be posted on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)).

If an item is added to the agenda later, as an item of urgent business at the direction of the Chair, the Council Solicitor shall make each such report available to the public and press and open to inspection as soon as the report is available to Members attending the meeting.

## **6 SUPPLY OF COPIES**

The Authority shall supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any background documents identified in the report;

to any person on payment of a charge for postage and any other costs.

## **7. ACCESS TO MINUTES ETC. AFTER THE MEETING**

The Authority shall make available copies of the following for six years after a meeting listed in paragraph 1 of these rules:

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

## **8. BACKGROUND PAPERS**

### **List of Background Papers**

The Lead Officer named at the head of every report shall set out at the end of every report a list of those documents (under the heading Background Papers) relating to the subject matter of the report which in their opinion:

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

The List of Background Papers shall not include published works or those which disclose exempt or confidential information as defined in rule 10 below.

## **Public Inspection of Background Papers**

Every Executive Director shall make arrangements to ensure that documents referred to in any report written by them or by a member of their staff are available for inspection for four years after the date of the non-executive meeting concerned. One copy of each of the background documents listed shall be retained for this purpose.

## **9. SUMMARY OF PUBLIC'S RIGHTS**

These Rules, as part of the Constitution of the Council, shall be regarded as the written summary of the public's rights to attend non-executive meetings and to inspect and copy documents. These Rules together with the whole Constitution are available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon, and shall be available on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)).

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO NON-EXECUTIVE MEETINGS**

### **Confidential Information – Requirement to Exclude Public**

The public must be excluded from non-executive meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### **Exempt Information – Discretion to Exclude Public**

The public may be excluded from non-executive meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the non-executive meeting shall determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the non-executive meeting shall be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### **Meaning of Confidential Information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

## **Meaning of Exempt Information**

Exempt information means information falling within the categories set out in Part 1 of Schedule 12a of the Local Government Act 1972 (as amended) and as reproduced in Appendix 1 attached to these rules.

Information falling within those categories is not exempt by virtue of that paragraph if it relates to proposed development for which the Council as local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

## **Licensing Sub-Committee**

At any meeting of a Licensing Sub-Committee convened for the purpose of a hearing under the provisions of the Licensing Act 2003, the Press and Public may be excluded at any time to enable the Sub-Committee to deliberate in private on any matter.

## **11 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Council Solicitor thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 10, the non-executive meeting is likely not to be open to the public. Such reports shall be marked "Not for publication" together with the category of information likely to be disclosed.

## **II. Access to information procedure rules: Leader, Cabinet and Cabinet Committees and sub-committees**

### **12 SCOPE**

These rules apply to all meetings of the Cabinet, Cabinet Committees and all other executive Committees, executive Committees and executive Joint Committees which together are referred to hereafter as "executive meetings".

For the purposes of these Rules "executive decision" means a decision made or to be made by a decision maker in connection with the discharge of a function which is the responsibility of the executive of a local authority.

A decision is regarded as being "in connection with the discharge of a function which is the responsibility of the executive" if it is closely connected to the discharge of the executive function in question and not merely an administrative action.

For the purposes of these Rules "decision maker" means the decision making body by which or the individual by whom an executive decision is made.

### **13 GENERAL PROVISIONS RELATING TO INFORMATION AND REPORTING OF MEETINGS**

13.1 Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

13.2 Nothing in these Rules—

- (a) authorises or requires a local authority to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or may contain confidential information; or
- (b) requires a local authority to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information or the advice of a political adviser or assistant.

13.3 Where a member of the executive or an officer makes an executive decision in accordance with executive arrangements, nothing in these Rules—

- (a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain confidential information; or
- (b) requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the member or officer making the decision, give rise to the disclosure of exempt information or the advice of a political adviser or assistant.

13.4 For the purposes of these Rules:

13.4.1 Reporting on proceedings at a meeting means-

- (a) Filming, photography, or making an audio recording of the proceedings at the meeting;
- (b) Using any other means for enabling persons not present to see or hear proceedings at the meeting as it takes place or later; or
- (c) Reporting or providing commentary on proceedings at the meeting, orally or in writing, so that the report or commentary is available to a person not present, as the meeting takes place or later.

13.4.2 Whilst the meeting is open to the public, any person attending is permitted to report the proceedings;

13.4.3 Subject to 13.4.4,

- A person who attends the meeting to report the proceedings may use any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities; and
- Publication and dissemination of the report may take place at the time of the meeting or occur after the meeting.

13.4.4 Paragraphs 13.4.1 - 13.4.3 above do not permit the oral reporting or oral commentary on a meeting as it takes place if the person reporting or providing the commentary is present at the meeting. In addition, any reporting is subject to the Chair's power to require that any person terminate their reporting if such reporting is distracting, disruptive or contrary to the good order or conduct of the meeting.

13.4.4 Where the public are excluded from a meeting pursuant to these Rules, no person may report on the proceedings using methods which can be used without that person's presence at the meeting or which enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later;

13.5 These rules do not affect any more specific rights to information contained elsewhere in the Constitution or the law.

## **14. RIGHTS TO ATTEND EXECUTIVE MEETINGS**

Members of the public and media may attend all executive meetings of the Cabinet and Executive Committees, Sub-Committees and Joint Committees subject only to the exceptions in these rules.

## **15 NOTICE OF PUBLIC EXECUTIVE MEETINGS**

The Council Solicitor shall, on behalf of the Authority give at least five clear working days' notice of any executive meeting (unless called at a later time) by posting details of the executive meeting at Bernard Weatherill House (8 Mint Walk, Croydon) and on the Council's website

## **16 ACCESS TO AGENDA AND REPORTS BEFORE PUBLIC EXECUTIVE MEETINGS**

The Council Solicitor shall, on behalf of the Authority, make copies of the agenda and reports open to the public and press available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon at least five clear working days before the executive meeting or as soon as available if later. These



documents will also be posted on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)).

If an item is added to the agenda later, as an item of urgent business at the direction of the Chair, the Council Solicitor shall make each such report available to the public and press and open to inspection as soon as the report is available to Members attending the executive meeting.

## **17. NOTICE OF PRIVATE EXECUTIVE MEETINGS**

At least twenty eight clear days before a private executive meeting the Council Solicitor shall, on behalf of the Authority, make available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon and on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)), a notice of intention to hold a meeting or part thereof in private and the reasons for doing so.

The Council Solicitor shall, on behalf of the Authority make available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon and on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)), at least five clear working days before the date of the private executive meeting, a further notice of its intention to hold a meeting or part thereof in private. The notice shall include the reasons for holding the meeting in private, any representations received about why the meeting should be open to the public and a statement of the Council's response to any such representations.

## **18. URGENT PRIVATE EXECUTIVE MEETINGS**

Where the date by which an executive meeting must be held makes compliance with Rule 17 impractical, the executive meeting may only be held in private where the decision making body has obtained agreement from:

- (a) the Chairman of the Scrutiny and Overview Committee; or
- (b) if the Chairman of the Scrutiny and Overview Committee is unable to act, the Mayor, or
- (c) if neither the Chairman of the Scrutiny and Overview Committee nor the Mayor is able to act, the Deputy Mayor

that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after agreement has been obtained to hold a private meeting, the Council Solicitor shall, on behalf of the Authority, make available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon, CR0 1EA and on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)), a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

## **19. ACCESS TO REPORTS BEFORE PRIVATE EXECUTIVE MEETINGS**

Where the Council Solicitor considers that whole or any part of a report relates to matters during which it is likely the meeting will be a private meeting the report or part thereof shall not be available for inspection by the public.

Where the whole or any part of a report for a public meeting is not available for inspection by the public—

- (a) every copy of the whole report or of the part of the report, as the case may be, must be marked “not for publication”; and
- (b) there must be stated on every copy of the whole or the part of the report—
  - (i) that it contains confidential information; or
  - (ii) by reference to the descriptions in Schedule 12A to the Local Government Act 1972 the description of exempt information by virtue of which the decision-making body discharging the executive function are likely to exclude the public during the item to which the report relates.

## **20. RECORD OF EXECUTIVE DECISIONS MADE AT EXECUTIVE MEETINGS**

As soon as reasonably practicable after any meeting of a decision-making body at which an executive decision was made, the Council Solicitor must ensure that a written statement is produced for every executive decision made which includes the following information —

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

## **21. RECORD OF EXECUTIVE DECISIONS MADE BY INDIVIDUAL MEMBERS**

As soon as reasonably practicable after an individual Member has made an executive decision, the Council Solicitor must ensure that a written statement is produced for that executive decision which includes the following information —

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the Member when making the decision ;
- (d) a record of any conflict of interest declared by any Executive Member who is consulted by the Member which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service

## **22 RECORD OF EXECUTIVE DECISIONS MADE BY OFFICERS**

As soon as reasonably practicable after an individual officer has made an executive decision, the Council Solicitor must ensure that a written statement is produced for that executive decision which includes the following information —

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer when making the decision ;
- (d) a record of any conflict of interest declared by any Executive Member who is consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service

## **23. ACCESS TO MINUTES ETC. AFTER THE EXECUTIVE MEETING**

The Authority shall make available copies of the following for six years after an executive meeting:

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

## **24. BACKGROUND PAPERS**

### **24.1 List of Background Papers**

The Lead Officer named at the head of every report shall set out at the end of every report a list of those documents (under the heading Background Papers) relating to the subject matter of the report which in their opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and
- (c) does not include published works

The list of Background Papers shall not include published works or those which disclose exempt information, confidential information or advice of a political advisor or assistant as defined in Rule 27 below.

### **24.2 Public Inspection of Background Papers**

Every Executive Director shall make arrangements to ensure that any background papers listed in any report written by them or by a member of their staff are available for inspection for four years after the date of the executive decision concerned. One copy of each of the background documents listed shall be retained for this purpose.

## **25. SUPPLY OF COPIES**

The Authority shall supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any background documents identified in the report which are open to public inspection;
- (c) such further statements or particulars as are necessary to indicate the nature of the items contained in the agenda; and
- (d) if the Council Solicitor thinks fit in the case of any item, a copy of any other document supplied to Members of the Executive in connection with the item
- (e) Any records prepared in accordance with Rules 20-22 and any reports considered by the individual Member or officer and relevant to the decision taken, or where only part of the report is relevant to such decision, only that part.

to any person on request and payment of a charge for postage, copying or other necessary charge for transmission. The supply of copies is subject to the restriction that such supply shall not occur in respect of documentation which is not open to the public by virtue of containing confidential information, exempt information or advice of a political advisor or assistance as set out in Rule 27.

## **26. SUMMARY OF PUBLIC'S RIGHTS**

These Rules, as part of the Constitution of the Council, shall be regarded as the written summary of the public's rights to attend executive meetings and to inspect, copy and request copy documents. These Rules together with the whole Constitution are available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon, and shall be available on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)).

## **27 EXCLUSION OF ACCESS BY THE PUBLIC TO EXECUTIVE MEETINGS**

### **Confidential Information – Requirement to Exclude Public**

The public must be excluded from Executive meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### **Meaning of Confidential Information**

Confidential information means information given to the Council by a Government Department on terms (however expressed) which forbid its public

disclosure or information which cannot be publicly disclosed by virtue of a prohibition by or under any enactment or by a Court Order.

### **Exempt Information – Requirement to Exclude Public**

The public shall be excluded from executive meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the executive meeting shall determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the executive meeting shall be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### **Meaning of Exempt Information**

Exempt information means information falling within the categories set out in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) and as reproduced in Appendix 1 attached to these rules.

Information falling within those categories is not exempt by virtue of that paragraph if it relates to proposed development for which the Council as local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

### **Exclusion to maintain orderly conduct or prevent misbehaviour**

The public must be excluded from a meeting during an item of business whenever a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehavior at an executive meeting.

## **28. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Monitoring Officer or Council Solicitor thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 27, the executive meeting is likely not to be open to the public. Such reports shall be marked "Not for publication" together with a statement that it contains confidential information or if it contains exempt information, the category of information likely to be disclosed.

## **29 KEY DECISION RULES**

In these Rules a "key decision" is as defined in Article 13.02 namely an executive decision, which is likely to—

- (a) result in the Council incurring expenditure, or making savings, of more than £1,000,000 or such smaller sum which the decision-taker considers is significant having regard to the Council's budget for the service or function to which the decision relates; or
- (b) be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Borough.

Key decision rules apply only in respect of Executive decisions and not to non-executive decisions.

### **30 PUBLICITY IN CONNECTION WITH KEY DECISIONS:**

30.1 Subject to Rule 31 (General Exception) and Rule 32 (Special Urgency) a Key Decision may not be taken unless:

- (a) a notice has been made available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon and published on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)) in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the notice; and
- (c) if the decision is to be taken at an executive meeting, notice of the executive meeting has been given in accordance with Rule 15 (Notice of executive meetings) and where applicable Rule 17 (Procedures before private meetings).

30.2 The notice shall contain matters, which shall be the subject of a Key Decision to be taken by the decision maker in accordance with any agreed Protocol in the course of the discharge of an executive function and shall state:

- (a) that a key decision is to be made on behalf of the relevant local authority;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
- (d) the date on which, or the period within which, the decision is to be made;

- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

30.3 Where, in relation to any matter—

- (a) the public are to be excluded under Rule 27 from the meeting at which the matter is to be discussed; or
- (b) documents relating to the decision contain confidential information, exempt information or advice of a political advisor or assistant,

the notice shall contain particulars of the matter but may not contain any confidential information, exempt information or particulars of the advice of a political advisor or assistant.

## **31 GENERAL EXCEPTION**

31.1 Subject to Rule 32 (Special Urgency), where the publication of the intention to make a key decision under Rule 30 is impracticable, that decision may only be made where—

- (a) the Chairman of Scrutiny and Overview Committee has been informed of the matter about which the decision is to be made by notice in writing or where there is no Chairman, each Member of the Scrutiny and Overview Committee ;
- (b) the Council Solicitor has made available for inspection at Bernard Weatherill House, 8 Mint Walk Croydon and published on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)) a copy of the notice provided in accordance with Rule 31.1(a) above; and
- (c) Five clear working days have elapsed following the day on which the notice required by Rule 31.1(a) was made available for inspection and published on the Council's website.

31.2 As soon as reasonably practicable after Rule 31.1 has been complied with, the Council Solicitor shall make available for inspection at Bernard Weatherill



House, 8 Mint Walk, Croydon and published on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)) a copy of a notice setting out the reasons why compliance with Rule 30 are impractical

## **32 CASES OF SPECIAL URGENCY**

32.1 Where the date by which a key decision must be made, makes compliance with Rule 31 (General Exception) impracticable, the decision may only be made where the decision maker has obtained agreement from—

- (a) the Chairman of the Scrutiny and Overview Committee; or
- (b) if there is no such person, or if the Chairman of the Scrutiny and Overview Committee is unable to act, the Mayor; or
- (c) where there is no Chairman of the Scrutiny and Overview Committee or Mayor, the Deputy Mayor of the Council,

that the making of the decision is urgent and cannot reasonably be deferred.

32.2 As soon as reasonably practicable after Rule 32.1 has been complied with the Council Solicitor shall make available for inspection at Bernard Weatherill House, 8 Mint Walk, Croydon, CR0 1EA and published on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)) a copy of a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred

## **33. REPORTS TO COUNCIL: WHEN SCRUTINY AND OVERVIEW COMMITTEE CAN REQUIRE REPORTS**

33.1 Where an executive decision has been made and—

- (a) was not treated as being a key decision; and
- (b) Scrutiny and Overview Committee are of the opinion that the decision should have been treated as a key decision,

Scrutiny and Overview Committee may require the Leader or executive decision maker which is responsible for the decision to submit a report to the Council within such reasonable period as the Committee may specify.

33.2 The report must include details of—

- (a) the decision and the reasons for the decision;
- (b) the decision maker by which the decision was made; and

- (c) if the Leader and/or Cabinet are of the opinion that the decision was not a key decision, the reasons for that opinion.

33.3 The power to require a report rests with the Scrutiny and Overview Committee who shall raise it by resolution passed at a meeting of the Committee.

33.4 The Leader and/or Cabinet shall submit a report to the next available meeting of the Council. However, if the next meeting of the Council is within 7 working days of the resolution of the Committee, then the report may be submitted to the meeting after that.

#### **34. REPORTS TO COUNCIL ON USE OF SPECIAL URGENCY**

The Leader shall submit to Council, at least one annual report, containing details of each executive decision taken during the period since the last report was submitted to Council where the making of the decision was agreed as urgent in accordance with Rule 32 (Special Urgency)

The report submitted shall include—

- (a) particulars of each decision made; and
- (b) a summary of the matters in respect of which each decision was made.

#### **35. ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF THE COUNCIL**

35.1 Subject to Rules 35.4 and 35.5. , any document which—

- (a) is in the possession or under the control of the Executive of the Council; and
- (b) contains material relating to any business to be transacted at a public executive meeting,

shall be available for inspection by any Member of the Council.

35.2 Any document which is required by Rule 35.1 to be available for inspection by any Member of the Council shall be available for such inspection for at least five clear working days before the executive meeting except that—

- (a) where the executive meeting is convened at shorter notice, such a document must be available for inspection when the executive meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available in relation to that item, shall be available for inspection when the item is added to the agenda.

35.3 Subject to Rules 35.4 and 35.5 any document which—

- (a) is in the possession or under the control of the Executive of the Council; and
- (b) contains material relating to—
  - (i) any business transacted at a private executive meeting;
  - (ii) any decision made by an individual Member in accordance with executive arrangements; or
  - (iii) any decision made by an officer in accordance with executive arrangements,

shall be available for inspection by any Member of Council within 24 hours of the conclusion of the meeting or where an executive decision is made by an individual member or an officer, within 24 hours after the decision has been made.

35.4 If it appears to the Council Solicitor that any of the information or documentation referred to in Rules 35.1 or 35.3 discloses confidential information, exempt information of a description falling within Part 1 of Schedule 12A of the Local Government Act 1972 or that compliance with Rules 35.1 or 35.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant, the document or part thereof is not required to be available to Members.

35.5 Notwithstanding Rule 35.4 the document/s shall be available for inspection by Members if the information is information of a description for the time being falling within—

- (a) paragraph 3 of Schedule 12A to the 1972 Act (*except* to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract); or
- (b) paragraph 6 of Schedule 12A to the 1972 Act.

## **36. ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF SCRUTINY AND OVERVIEW COMMITTEES**

36.1 Subject to Rule 36.2 a Member of Scrutiny and Overview Committee is entitled to a copy, no later than 10 clear working days after the Executive receives the request, of any document which—

- (a) is in the possession or under the control of the Executive of the Council; and
- (b) contains material relating to—
  - (i) any business transacted at an executive meeting;
  - (ii) any decision made by an individual Member in accordance with executive arrangements; or
  - (iii) any decision made by an officer in accordance with executive arrangements,

36.2 No member of Scrutiny and Overview is entitled to a copy—

- (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to—
  - (i) an action or decision that that member is reviewing or scrutinising; or
  - (ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (b) of a document or part of a document containing advice provided by a political adviser or assistant.

36.3 Where the Executive determines that a Member of Scrutiny and Overview Committee is not entitled to a copy of a document or part of any such document for a reason set out Rules 36.1 or 36.2 it must provide Scrutiny and Overview Committee with a written statement setting out its reasons for that decision.

**LOCAL GOVERNMENT ACT 1972 (as amended)**

**SCHEDULE 12A**

**ACCESS TO INFORMATION: EXEMPT INFORMATION**

**PART 1**

**DESCRIPTIONS OF EXEMPT INFORMATION: ENGLAND**

*This appendix to Part 4B of the Constitution is referred to at Rules 10 and 27*

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes—
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

**PART 2**

**QUALIFICATIONS: ENGLAND**

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—

- (a) the Companies Act 1985;
- (b) the Friendly Societies Act 1974;
- (c) the Friendly Societies Act 1992;
- (d) the Industrial and Provident Societies Acts 1965 to 1978;
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 1993.

**9.** Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

**10.** Information which—

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### PART 3

#### INTERPRETATION: ENGLAND

**11.** —(1) In Parts 1 and 2 and this Part of this Schedule—

"employee" means a person employed under a contract of service;

"financial or business affairs" includes contemplated, as well as past or current, activities;

"labour relations matter" means—

- (a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or
- (b) any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

"office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or

by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

"registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

(2) Any reference in Parts 1 and 2 and this Part of this Schedule to "the authority" is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference—

(a) in the case of a principal council, to any committee or sub-committee of the council; and

(b) in the case of a committee, to—

(i) any constituent principal council;

(ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and

(iii) any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and

(c) in the case of a sub-committee, to—

(i) the committee, or any of the committees, of which it is a sub-committee; and

(ii) any principal council which falls within paragraph (b) above in relation to that committee.

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 4.C- Budget and Policy Framework Procedure Rules

### 1 The framework for executive decisions

The Full Council shall be responsible for the adoption of the Budget and Policy Framework as set out in Article 4. Once a Budget or a Policy Framework is in place, it shall be the responsibility of the Leader to implement it.

### 2 Process for developing the Policy Framework

- (a) The Leader and Cabinet shall publicise the intention to recommend adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework, and determine arrangements for consultation, where appropriate, after publication of the proposals. The Chair of the Scrutiny and Overview Committee shall also be notified.
- (b) It is open to the Scrutiny and Overview Committee to comment on the policy proposals and the Leader and Cabinet may take any response from the Scrutiny and Overview Committee into account in drawing up proposals for submission to the Council.
- (c) In reaching a decision, the Council may adopt the Leader and Cabinet's proposals, amend them, refer them back to the Leader and Cabinet for further consideration, or, substitute its own proposals in their place, subject to the following procedure:
- (d) Where the Leader and Cabinet has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph (e) below.
- (e) Before the Council -
  - (i) amends the draft plan or strategy;
  - (ii) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or

(iii) adopts (with or without modification) the plan or strategy,

it must inform the Leader and Cabinet of any objections which it has to the draft plan or strategy and must give to them instructions to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

- (f) Therefore if it accepts the recommendation of the Leader and Cabinet without amendment, the Council may make a decision, which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision shall be made on the basis of a simple majority of votes cast at the meeting of the Council.
- (g) The decision shall be publicised and a copy shall be given to the Leader and Cabinet.
- (h) Where the Council gives instructions in accordance with paragraph (e) above, it must specify a period of at least five working days beginning on the day after the date on which the Leader and Cabinet receives the instructions which they may -
- (i) submit a revision of the draft plan or strategy (the "revised draft plan or strategy"), with the Leader and Cabinet's reasons for any amendments made to the draft plan or strategy, to the Council for the Council's consideration; or
- (ii) inform the Council of any disagreement that the Leader and Cabinet has with any of the Council's objections and the reasons for any such disagreement.
- (i) An in-principle decision shall automatically become effective 5 clear working days from the date of the Council's decision, or such longer period which the Council may specify, unless (1) the Leader informs the Council Solicitor that no objection is to be made, in which case the decision will be implemented immediately after that notification is received; or (2) the Leader informs the Council Solicitor in writing within 5 clear working days that the Leader and Cabinet object to the decision becoming effective with reasons.
- (j) In the case of paragraph (i)(2) above, the Council Solicitor shall call a Council meeting within a further 5 clear working days. The Council shall be required to re-consider its decision and the Leader's written submission.
- (k) When the period specified by the Council, referred to in paragraph (i), has expired, the Council must, when –

- (i) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
- (ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
- (iii) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Leader's reasons for those amendments, any disagreement that the Leader has with any of the Council's objections and the Leader's reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.

- (l) At the meeting called in accordance with (j) above, the Council may:
  - i) approve the Leader's recommendation; or
  - ii) approve a different decision which does not accord with the recommendation of the Executive.

In either case the decision shall be made on the basis of a simple majority of votes cast at the meeting of the Council.

- (m) The decision shall then be made public and may be implemented immediately;
- (n) In approving the Budget and Policy Framework, the Council shall also specify the extent of virement within the Budget and degree of in-year changes to the Policy Framework which may be undertaken by the Leader or Executive Director, in accordance with paragraphs 6 and 7 of these Rules (virement and in-year changes). Any other changes to the Policy and Budgetary Framework are reserved to the Council or delegated to the General Purposes and Audit Committee on grounds of urgency.

### **3 Provisions relating to the Budget for the Authority**

- (a) Where, the Leader submits to the Council for its consideration in relation to the following financial year in accordance with the relevant legal timeframes:-
  - (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in

accordance with any of sections 31A, 31B and 34 to 36A or 42A, 42 B and 45 to 49 , of the Local Government Finance Act 1992;

- (ii) estimates of other amounts to be used for the purposes of such a calculation;
- (iii) estimates of such a calculation; or
- (iv) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,
- (v) Confirm that a calculation has been made in accordance with Section 52ZB of the Local Government Finance Act 1992 and that the appropriate action as is required as a result of that calculation is pursued.

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in paragraph (b) below.

- (b) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (a)(i) above, or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the estimates or amounts and must give to him/her instructions requiring them to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- (c) Where the Council gives instructions in accordance with paragraph (b), it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on which he/she may –
  - (i) submit a revision of the estimates or amounts as amended ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Leader's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
  - (ii) inform the Council of any disagreement that the Leader has with any of the Council's objections and the reasons for any such disagreement.
- (d) When the period specified by the Council, referred to in paragraph 3(c), has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 6(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account -

- (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (ii) the Leader's reasons for those amendments;
- (iii) any disagreement that the Leader has with any of the Council's objections; and
- (iv) the Leader's reasons for that disagreement,

which the Leader submitted to the Council, or informed the Council of, within the period specified.

#### **4 Decisions outside the Budget or Policy Framework**

- (a) Subject to the provisions of paragraph 6 (viement) below, the Leader, the Cabinet, a Cabinet Committee or Executive Director may only take decisions, which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget approved by Full Council, then that decision may only be taken by the Council, subject to 5 below.
- (b) If the Leader, the Cabinet or a Cabinet Committee or Executive Director want to make such a decision, they shall take advice from the Monitoring Officer as to whether the decision they want to make would be contrary to the Policy Framework, or the Chief Finance Officer if it would be contrary to or not wholly in accordance with the Budget. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 5 (urgent decisions outside the Budget and Policy Framework) shall apply.

#### **5 Urgent Decision outside the Budget or Policy Framework**

- (a) The Leader or a Cabinet Committee or the Chief Executive may take a decision, which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - i) If it is not practical to convene a quorate meeting of the Full Council or of the General Purposes and Audit Committee which has power to determine any matter reserved to the Council in cases of urgency; and

- ii) If the Chair of the Scrutiny and Overview Committee agrees that the decision is a matter of urgency.
- (b) The reasons why it is not practical to convene a quorate meeting of the Council and the Chair of the Scrutiny and Overview Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the Scrutiny and Overview Committee, the consent of the Mayor as Chair of the Council will be sufficient. In the absence of both the Chair of the Scrutiny and Overview Committee and the Mayor, the consent of the Deputy Mayor as Vice-Chair of the Council will be sufficient.
- (c) Following the decision, the decision taker shall provide a full report to the next available Council Meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **6 In-year changes to Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Leader and Cabinet, a Cabinet Committee or Chief Executive, must be in line with the Budget and Policy Framework. No changes to any policy and strategy, which make up the Policy Framework, may be made by those bodies or individuals except those changes:

- (a) Which shall result in the closure or discontinuance of a service or part of service to meet a budgetary constraint; or
- (b) Which are necessary to ensure compliance with the law, Ministerial Direction or Government guidance; or
- (c) In relation to the Policy Framework, in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration; or
- (d) Which relate to policy in relation to schools, where the majority of schools governing bodies agree with the proposed change.

## **7 Review of decisions outside the Budget or Policy Framework**

- (a) Where the Scrutiny and Overview Committee is of the opinion that an Executive decision is, or if made would be, contrary to the Policy Framework, then it shall seek advice from the Monitoring Officer or where it is of the opinion that an Executive decision is contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Chief Finance Officer.

- (b) In respect of functions which are the responsibility of the Leader, the Cabinet, the Monitoring Officer's report in respect of the Policy Framework or the Chief Finance Officer's report in respect of the Budget shall be to the Leader and the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Leader must decide what action to take in respect of the Monitoring Officer's or Chief Finance Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Scrutiny and Overview Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer is that the decision is or would be contrary to the Policy Framework or the Chief Finance Officer is that the decision is or would be contrary to or not wholly in accordance with the Budget, the Scrutiny and Overview Committee may refer the matter to Council. In such cases, no further actions shall be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet as soon as practicable. At the meeting it shall receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
- (i) Endorse a decision or proposal of the Executive decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - (ii) Amend the Council's Financial Regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - (iii) Where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing framework to accommodate it, require the Leader to reconsider the matter in accordance with the advice of the Monitoring Officer in respect of the Policy Framework or Chief Finance Officer in respect of the Budget.

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 4.D - Executive Procedure Rules

### 1 THE EXECUTIVE

#### 1.1 Who may make Executive Decisions

The arrangements for the discharge of executive functions are as set out in Executive Arrangements adopted by the Council. These arrangements provide for executive functions to be discharged by:

The Leader – who may delegate to:

- i. the Cabinet as a whole;
- ii. a Cabinet Committee;
- iii. the appropriate Cabinet Member who, within delegated powers granted by the Leader, shall have authority to award contracts, and approve other relevant contractual and property transaction matters, including waiving of the Tenders and Contracts Regulations and appointment to approved list of contractors, only when acting in accordance with the procedures contained in the protocols (see Appendix 1);
- iv. the Chief Executive;
- v. an Executive Director;
- vi. joint arrangements;
- vii.. another local authority; or
- viii. a Cabinet Member.

Key Decisions may only be taken by the Leader, the Cabinet, a Cabinet Committee, the Chief Executive in case of urgency, or by a Cabinet Member or officer using powers as specifically delegated by the Leader.

#### 1.2 Sub-delegation of Executive Functions

- (a) Where the Leader, the Cabinet, a Cabinet Committee or a Cabinet Member is responsible for an executive function, they may delegate further to a joint Committee or an Officer.

- (b) Where a Joint Committee is responsible for an executive function it may further delegate its functions to a sub-committee (or an officer) according to the terms of its constitution.
- (c) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the body who delegated.

### **1.3 The Council's Scheme of Delegation and Executive Functions**

The Council's Scheme of Delegation as set out in Part 3 of this Constitution (Responsibility for Functions), shall be subject to adoption by the Council and may only be amended by the Council. Within the powers allocated to the Cabinet, amendments to the Constitution with regard to the creation or dissolution of a Cabinet Committee and the delegation of Executive Functions to a Cabinet Committee or an Officer may be made by the Leader.

Portfolio descriptions of Cabinet Members are set out on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)) and may be amended on decision of the Leader.

Appendix 1 sets out the protocol to be followed by the appropriate Cabinet Member in regard to approval of contractual and property transaction matters. This Protocol and any others adopted by the Leader from time to time for whatever purpose may be amended on decision of the Leader and shall be set out in Appendix 1 to these Rules.

### **1.4 Disclosable Pecuniary Interests and Conflicts of Interest**

Cabinet Members shall act in accordance with the Members' Code of Conduct set out in Part 5I of this Constitution. Executive Members shall also have regard to the need, if they are consulted by a decision maker in relation to an executive decision, to declare any conflict of interest to that decision maker and seek a dispensation from the Chief Executive as provided for in Part 2 and Part 4B of this Constitution.

### **1.5 Meetings of the Cabinet**

- (a) The Cabinet shall meet on the dates as determined annually by the Leader. As Chair of the Cabinet, the Leader may convene such additional meetings of the Cabinet as are necessary to enable the efficient conduct of business, and may cancel or re-schedule meetings as necessary.
- (b) Meetings of the Cabinet shall be held in the Town Hall, Katharine Street and shall commence at 6.30 p.m., unless determined otherwise and stated on the Notice and Summons for the meeting and shall last

no longer than three hours, at the expiry of which period any recommendations remaining outstanding for consideration shall be put to the vote in turn without further debate and the Chair shall then close the meeting.

- (c) Meetings of the Cabinet shall be open to the media and public unless the business under consideration is exempt or confidential as determined under the Access to Information Rules set out in Part 4 of this Constitution. Participation at meetings by the Shadow Cabinet and Members of other Political Groups represented on the Council may be governed by a Leader's protocol.
- (d) Notice of each meeting shall be given and the agenda and papers for each meeting shall be available in compliance with the Access to Information Rules set out in Part 4 of this Constitution.

## 1.6 **Quorum**

The quorum for a meeting of the Cabinet shall be three, one of whom shall be the Leader or the Statutory Deputy Leader; and for a Cabinet Committee, three Members.

## 1.7 **Decisions taken by the Leader and Cabinet**

Save for those matters reserved by the Leader to the Leader, the Leader has chosen to reserve collective responsibility for taking executive decisions to the Cabinet with the proviso that the Leader has delegated responsibility for decisions relating to contractual and property transactions including the determination of surplus land and property matters to the relevant Cabinet Members on the basis that the responsibility will be exercised with due regard to the Scheme of Delegation approved by the Leader and set out at Part 6C of this Constitution and that from time to time the Leader may further delegate to any Cabinet Member or any Cabinet Committee the Leader has created or decides to create.

- (a) Executive decisions, which have been allocated to the Cabinet, or delegated to a Cabinet Committee, shall be taken at a meeting convened in accordance with the Access to Information Rules set out in Part 4B of this Constitution.
- (b) Subject to any protocol relating to the same where executive decisions are delegated to a Committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to the Cabinet as a whole.

- (c) Executive decisions taken by the appropriate Cabinet Member, with regard to contractual and property transaction matters shall be taken with regard to any Protocol governing the exercise of that delegated power.

## 1.8 Recommendation to Council

Any recommendation of the Leader, Cabinet or Cabinet Committee referred to the Full Council for approval may be made within the Business Report of the Leader and Cabinet and shall summarise the matter, setting out the recommendation for the Council to consider. The recommendation shall be submitted to the next convenient Ordinary Council Meeting following the meeting of the Cabinet or Cabinet Committee at which the recommendation was framed.

## 2 THE CONDUCT OF EXECUTIVE MEETINGS

### Appointment of Chair

- 2.1 The Cabinet meeting shall be chaired by the Leader. If the Leader is absent then the Statutory Deputy Leader shall chair the meeting.
- 2.2 The Chair of the meeting shall decide on all matters of order, competence, relevance and interpretation of these Rules. The Chair shall have the power to vary the order of business to give precedence to any item of business. Matters of urgent business shall be taken at the discretion of the Chair if satisfied that the item cannot reasonably be deferred until the next meeting of the Committee. The reports concerning such matters shall explain the reason for urgency.
- 2.3 The decision of the Chair as to the general conduct of the meeting shall be final. The Chair may direct a Member to discontinue speaking if they consider the Member is being repetitive, tedious or irrelevant, uses unbecoming language, or is in some other way breaching the order of the meeting. When necessary, the Chair, having warned the Member shall move that the Member called by name, leaves the meeting. The motion, if seconded, shall be put to the vote without further debate and if carried the Member shall leave immediately.
- 2.4 In the case of a member of the public disrupting the meeting or if there is a general disturbance, the Chair may order the removal of a person or that the public areas be cleared. Re-admission shall be at the discretion of the Chair

### Business

- 2.5 At each meeting of the Cabinet the following business shall be conducted although the Leader shall have the power to determine the content and order of business:

### **Attendance by Non-Executive Members**

- 2.6 The Chair of the Scrutiny and Overview Committee together with the relevant Deputy or the Vice Chair shall have automatic entitlement to attend any Cabinet or Cabinet Committee meeting at which a report from a Scrutiny and Overview Committee or a Sub-Committee is under consideration and participate in the consideration of that item of business but not vote.
- 2.7 A job-share Cabinet Member who is not the current acting Cabinet Member for the job-share portfolio shall have automatic entitlement to attend any Cabinet or Cabinet committee meeting and participate in the consideration of any item of business but not vote.
- 2.8 The Leader or Chair of a Cabinet Committee may agree that a non-executive Member may attend to participate in the debate of an item of business on the grounds that the presence of the Member concerned can be justified. Such a Member shall not have any right to vote in deciding the outcome of the matter under consideration. In the absence of a Cabinet Member, the relevant Deputy shall be invited to attend and participate in the meeting in accordance with these arrangements. A Deputy shall not have a right to vote and shall not be included for the purposes of determining whether the meeting is quorate.
- 2.9 The Committees established by the Leader and their delegations as approved by the Leader are set out in Section 3 of these Rules.

### **3 COMMITTEES OF THE CABINET**

- 3.1 The Leader may establish one or more Cabinet Committees to exercise specified delegated executive functions. Standing Committees established by the Leader are listed below. In addition the Leader may from time to time establish ad hoc committees on a time-limited basis.

#### **General Purposes Committee**

- 3.2 To deal with any matters of business allocated to the Cabinet.

The membership of the Committee shall comprise all 10 Cabinet Members, and be quorate if not less than 3 Members are present.

### **4. ADVISORY COMMITTEES**

- 4.1 The Council has established the following Advisory Committees to advise the relevant Cabinet Member:

#### **Traffic Management Advisory Committee (Membership 6)**

- 4.2 The Traffic Management Advisory Committee shall meet as frequently as business requires for the purpose of advising the Cabinet Member for

Environment, Transport & Regeneration in respect of:

- (a) the exercise of all functions, powers and duties of the Council as Traffic and Highway Authority in relation to Traffic Management issues,
- (b) the making of comments on minor applications which fall to be determined by other authorities, and
- (c) commenting on any matters which stand to be determined by the Cabinet Member following referral by the Executive Director for Place, in respect of highways and traffic management.
- (d) Commenting on any proposal to make a Gating Order under section 129A of the Highways Act 1980 which has been referred to the Cabinet Member for determination by the Executive Director for Place.

4.3 Participation in the proceedings of the meetings of the Committee shall be in accord with the Protocol set out in Part 5H of the Constitution governing such arrangements as approved by the Committee from time to time in consultation with the Cabinet Member for Environment, Transport & Regeneration.

## **PROTOCOLS OF THE EXECUTIVE**

Each Protocol shall indicate whether it applies to the Leader, Cabinet, or, when exercising delegated powers in taking an executive decision, a Cabinet Committee or the appropriate Cabinet Member with regard to contractual and property transaction matters or the Chief Executive.

### **1. PROTOCOL ON APPOINTMENTS OF SCHOOL GOVERNORS AND THE APPROVAL OR AMENDMENT OF INSTRUMENTS OF GOVERNMENT**

This Protocol applies to the Executive Director/ DCS Children, Families & Education who shall exercise delegated powers to appoint School Governors and in approving or amending Instruments of Government relating to the size and composition of individual governing bodies.

#### **Appointment of School Governors**

Before approving, or otherwise, any appointment of a person as a School Governor, the Executive Director/DCS Children, Families & Education shall:

- 1 Be satisfied that the applicant or any organisation representing the applicant has granted their full consent to be considered for the appointment concerned; and
- 2 Consult the Cabinet Member for Children, Young People and Learning, and Deputy, together with the Shadow Cabinet Member for Children, Families and Learning on the intention to appoint or not appoint the person and take account of the views expressed by Members on the suitability of that person for appointment.

#### **Instruments of Government**

Before approving, or otherwise, any Instrument or amendment to an Instrument of Government, the Executive Director/DCS Children, Families & Education shall:

Consult the Cabinet Member for Children, Young People and Learning and Deputy, together with the Shadow Cabinet Member for Children, Families and Learning on the draft Instrument, amended or otherwise and take account of the views expressed by Members on the draft.

## **2. PROTOCOL GOVERNING THE EXERCISE OF DELEGATED AUTHORITY TO APPROVE CONTRACTUAL AND PROPERTY TRANSACTION MATTERS RELATED TO EXECUTIVE FUNCTIONS**

This Protocol applies to executive decisions on contractual and property transaction matters including the declaration of land and property as surplus to the Council's requirements taken under delegated authority from the Leader by the relevant Cabinet Member:

- a) The Cabinet Member shall not consider any contractual or property transaction relating to an executive function that has not been the subject of a report to the Cabinet or Cabinet Member.
- b) The Cabinet Member, if in agreement with the recommendations of the report shall sign a decision notice, in the form set out in Appendix A to this Protocol, in respect of the contractual and property transaction matter concerned indicating that the contract shall be awarded or action taken as per the recommendation. All matters dealt with shall be included in a schedule as part of the next Leader's and Cabinet Business Report to the Council. Members may ask questions at the Council Meeting on the contents of the schedule.
- c) If the Cabinet Member is not minded to agree with a recommendation set out in the report, the contractual and property transaction matter to which it refers shall stand immediately referred, without further discussion, to the Leader, if necessary to be dealt with as urgent business.
- d) If the Cabinet Member has a disclosable pecuniary interest or conflict of interest in or in relation to any contract or property transaction matter referred for consideration, the declaration will be recorded and the relevant matters will immediately stand referred to the Leader for decision.
- e) Any contractual and property transaction matters referred to the Leader for decision shall be the subject of a full report.



**CROYDON COUNCIL  
RECORD OF EXECUTIVE DECISION**

TITLE:-	
REFERENCE NO:-	
RECOMMENDATIONS:-	
BACKGROUND PAPERS/ CABINET OR COMMITTEE REPORT:-	

I agree/do not agree\* to the recommendation [as amended\*]  
(\*delete as appropriate)

Signature:

Title:

Date:

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 4.E - Scrutiny and Overview Procedure Rules

### 1. THE SCRUTINY AND OVERVIEW COMMITTEE AND ITS SUB-COMMITTEES

- 1.1 The Council shall have one Scrutiny and Overview Committee which shall perform all overview and scrutiny functions on behalf of the Council. The Committee may delegate those functions to one or more Scrutiny Sub-Committees.
- 1.2 In accordance with Article 6 of this Constitution, the terms of reference of the Scrutiny and Overview Committee shall be as follows:
- (i) to oversee the performance of all overview and scrutiny functions, including development of and procedures governing the operation of the Committee and its Sub-Committees;
  - (ii) to carry out reviews related to the Council's wider power to promote the economic, environmental and social well-being of the Borough;
  - (iii) to carry out the scrutiny of partner bodies and crime and disorder matters in line with the Council's statutory duties and powers, subject to any delegation referred to in Rule 1.01 above;
  - (iv) to appoint such Sub-Committees as it considers appropriate, by resolution determining terms of reference and membership including the appointment of a Chair and Vice-Chair and any co-opted members to the Sub-Committee/s in line with (x) below. This will normally be done at the meeting of the Scrutiny and Overview Committee commencing at the rise of Annual Council and the Sub-Committees shall not be permitted to further co-opt members. This role shall be reserved to the Scrutiny and Overview Committee;
  - (v) to recommend the establishment of any Joint Scrutiny and Overview Committees to the Council in accordance with Article 11 of this Constitution;
  - (vi) to agree an initial annual scrutiny work programme at its first full meeting after the Annual Meeting in accordance with section 6 of these rules;
  - (vii) to delegate elements of its annual work programme to its Sub-Committees to ensure effective use of the Committee's and Sub-Committees' time;
  - (viii) to submit an Annual Report on the work undertaken during the year and on the work programme agreed at its first meeting of the year to

Annual Council;

(ix) to recommend the training and development needs of the Committee to the Learning and Development Panel;

(x) to appoint non-voting co-opted Members.

1.3 Any Sub Committees of the Scrutiny and Overview Committee shall comprise of a minimum of 7 Members, appointed in accordance with the overall political balance of the Council.

1.4 The Scrutiny and Overview Committee, or any Sub-Committee appointed to undertake scrutiny of Education functions under Rule 1.01 above, shall include:

i) 2 statutory voting Church of England and Roman Catholic diocese members nominated by the Bishop and Archbishop of Southwark respectively;

ii) 2 voting parent-governor representative members for LEA matters nominated by parent governors of Croydon;

iii) 1 non-voting Teacher representative member nominated by the Croydon Teaching Unions' Joint Liaison Committee;

iv) Such representatives of Faiths other than those of the Church of England and Roman Catholic dioceses membership as the Scrutiny and Overview Committee considers appropriate. These representatives shall be non-voting members.; and

v) any number of non-voting co-optees as the full Scrutiny and Overview Committee considers necessary for the proper discharge of functions.

The above referenced voting representatives shall only have voting powers in connection with matters concerning the Education functions of the Executive..

1.5 Any Sub-Committee established by the Scrutiny and Overview Committee is only permitted to undertake the specific functions delegated to it either by this Constitution or following a formal decision of the Scrutiny and Overview Committee. Any Sub-Committee shall:

(i) undertake its functions in accordance with terms of reference as determined by resolution of the Scrutiny and Overview Committee;

(ii) operate within the framework of an initial work programme determined by the Scrutiny and Overview Committee;

(iii) if the scrutiny of Health Services, Crime and Disorder matters or the duties and functions of the Council as an Education Authority are delegated to a Sub-Committee, that Sub-Committee shall have sole power to scrutinise that matter included within its terms of reference and may report direct to the Cabinet, Full Council, non-executive Committee, partner agency or partnership board on such matters. Should such functions be delegated to Sub-Committees, the Scrutiny and Overview Committee shall be informed of

any recommendations made by those Sub-Committees under this provision;

(iv) Save in relation to the exception set out in (iii) above, report its proposed recommendations, reasons and outcomes to the Scrutiny and Overview Committee for comment and consideration where after the Scrutiny and Overview Committee may thereafter report the findings to Cabinet, Full Council, non- executive Committee, partner agency or partnership board as appropriate..

1.6 In accordance with this Constitution, the Cabinet shall consult the Scrutiny and Overview Committee, via the Statutory Notices, on Key Decisions it is proposing to take and on budget and policy recommendations before they are submitted to the Council.

1.7 Members of the Scrutiny and Overview Committee and its Sub-Committees may go on site visits, conduct public surveys, meet stakeholders and service providers, commission research and do all other things that they reasonably consider necessary to inform their work as a Scrutiny Member.

## **2 APPOINTMENTS TO THE SCRUTINY AND OVERVIEW COMMITTEE AND SUB-COMMITTEES**

2.1 All Members, except members of the Cabinet, are eligible for appointment to the Scrutiny and Overview Committee, and any Scrutiny Sub-Committees. However, no Member may be involved in scrutinising a decision in which they have been directly involved.

2.2 Appointments to the Scrutiny and Overview Committee shall be made at the Annual Meeting of the Council. Appointments to the Sub-Committees shall normally be made at the annual meeting of the Council but the Scrutiny and Overview Committee may, in accordance with (and subject to the restrictions within) the provisions of Article 6(k) appoint further Sub-Committees and shall determine the membership (including co-optees) functions and terms of reference of the Sub-Committee so established.

2.3 Vacancies on the Scrutiny and Overview Committee shall be filled by nomination to the next meeting of the Scrutiny and Overview Committee following receipt of a notice of resignation to the Council Solicitor.

2.4 Further to Rule 1.2 (iv) of these procedure rules, appointments to Sub-Committees may be varied by resolution of the Scrutiny and Overview Committee at any point during the Municipal Year.

2.5 All voting co-opted members must sign and adhere to the Croydon Members' Code of Conduct. Any non-voting co-opted member must sign and adhere to the Code of Conduct for non-voting co-optees. Any person appointed to become a voting co-opted Member who does not agree to abide by the Croydon Members' Code of Conduct or any non-voting co-opted members who does not agree to abide by the Code of Conduct for Non-Voting Co-Optees shall not serve on the Committee or Sub-Committee. Provided that they have agreed to abide by the Croydon Members' Code of Conduct, voting co-opted members shall be entitled to any confidential or exempt documents relevant to the function for which they are permitted to vote subject always to the duty to keep such confidential and exempt information confidential and not to use or otherwise disclose said information save in relation to the fulfilment of

their duties as a coo-opted member.

### **3 MEETINGS OF THE SCRUTINY AND OVERVIEW COMMITTEE AND ITS SUB- COMMITTEES**

- 3.1 Ordinary meetings of the Scrutiny and Overview Committee shall be programmed in each Council Year, though the Scrutiny and Overview Committee may vary this number during the course of the year to reflect its work programme. The frequency of meetings of any appointed Sub-Committees shall be determined by the Scrutiny and Overview Committee.
- 3.2 Meetings of the Scrutiny and Overview Committee shall commence at 6.30 p.m. unless otherwise determined by the Chair of the Committee.
- 3.3 Ordinary meetings of the Scrutiny and Overview Committee shall include the following agenda items in addition to any business otherwise set out on the agenda for consideration at the meeting:
- i) Apologies for absence;
  - ii) Confirmation of the Minutes of the last meeting;
  - iii) Disclosures of Interest; and
  - iv) Urgent business (if any).

For avoidance of doubt there shall be no discussion of matters arising.

- 3.4 The Chair of the meeting shall decide on all matters of order, competence, relevance and interpretation of these procedures. The Chair shall have the power to vary the order of business to give precedence to any item of business. Matters of urgent business shall be taken at the discretion of the Chair if they are satisfied that the item cannot reasonably be deferred until the next meeting of the Committee. The reports concerning such matters shall explain the reason for urgency.
- 3.5 The Chair shall ensure that the split of business between Parts A and B (i.e. Part B shall constitute that part which is exempt or confidential business) is agreed. The Chair shall ensure that Members who wish to speak on any item of business have the opportunity to do so, within the scope of the meeting and within reasonable limits of time. The decision of the Chair as to the general conduct of the meeting shall be final.
- 3.6 The Chair may direct a Member or Co-opted member to discontinue speaking if they consider the Member is being repetitive, tedious or irrelevant, uses unbecoming language, or is in some other way breaching the order of the meeting. When necessary, the Chair, having warned the Member shall move that the Member called by name, leaves the meeting. The motion, if seconded, shall be put to the vote without further debate and if carried the Member shall leave immediately.
- 3.7 Rules 3.2 to 3.7 shall also apply to Scrutiny Sub-Committee meetings.

## **4 QUORUM**

- 4.1 The quorum for the Scrutiny and Overview Committee shall be one-third of the voting membership of the Committee. If the meeting is inquorate, it shall stand deferred for 15 minutes. If after 15 minutes there is still no quorum, the consideration of any business not transacted shall be held over until the next scheduled meeting or another date fixed by the Chair. This rule shall also apply to meetings of Sub-Committees.

## **5 APPOINTMENT OF CHAIR DEPUTY AND VICE-CHAIRS OF THE SCRUTINY AND OVERVIEW COMMITTEE**

- 5.1 The Chair of the Scrutiny and Overview Committee shall be appointed for the Council Year at the first meeting of the Committee, immediately following the Annual Council Meeting. In the event of a vacancy during the year, the Committee shall appoint a Chair at the first meeting following the vacancy occurring. The Chair shall be a majority group member.
- 5.2 The Scrutiny and Overview Committee shall appoint Members as Deputy Chair (Majority Group) and Vice-Chair (Minority Group) . In the absence of the Chair, the Deputy Chair will chair the meeting of the Committee.
- 5.3 The Chair Deputy Chair and Vice-Chair may meet together informally as a Chairs' Group.

## **6 WORK PROGRAMME**

- 6.1 In accordance with Rule 1.2(vii) & (viii), the Scrutiny and Overview Committee shall be responsible for setting its own work programme and the work programme of its Sub-Committees.
- 6.2 A balanced work programme should be developed including pre- and post-decision scrutiny, monitoring and external scrutiny. As far as reasonably practicable, there should be wide consultation on the work programme with Members, Chief Officers, external agencies and the wider community prior to its consideration by the Scrutiny and Overview Committee.
- 6.3 The Scrutiny and Overview Committee will oversee Sub-Committee workloads, having regard to the available officer and other resources.

## **7 AGENDA ITEMS**

- 7.1 The Agenda for each Committee or Sub-Committee meeting should be based on the agreed Work Programme. Timings and the order of business should be decided by the Chair, Deputy Chair or Vice Chair, as appropriate, in sufficient time to allow invitations and requests for reports to be made with adequate notice.
- 7.2 Any Member of the Scrutiny and Overview Committee or a Sub-Committee shall be entitled to give notice to the Chair of their wish to add an item, which is not already on the agreed Work Programme, to the agenda for the Committee or Sub-Committee of which they are a member, subject to such item being relevant to the functions of the Committee or Sub-Committee in question. In addition, any Member of the Council shall be entitled to give notice to the Chair of their wish to add an item, not already on the agreed

Work Programme, to the agenda for the Committee or Sub-Committee with responsibility for the function to which the matter relates, provided that the item is both relevant to the functions of the Committee or Sub-Committee and it is not an “excluded matter” as defined in regulations pursuant to the Local Government Act 2000, as amended. The Committee or Sub-Committee may agree to include this item at the next or a subsequent meeting.

7.3 Any changes to the work programme agreed by Sub-Committees will be reported to the Chair of the Scrutiny and Overview Committee for information. The Scrutiny and Overview Committee will monitor these arrangements and keep them under review.

7.4 It is recognised that Cabinet Members or officers may not be available at short notice. Members and officers invited to scrutiny meetings should always, unless there are exceptional circumstances, receive adequate notice and where appropriate reminders of meeting dates.

## **8 RECOMMENDATIONS TO THE EXECUTIVE, THE COUNCIL, NON-EXECUTIVE COMMITTEE, PARTNER AGENCY OR PARTNERSHIP BOARD**

8.1 The provisions of Rule 7 of the Budget & Policy Framework Procedure Rules (Part 4C) apply to the Scrutiny and Overview Committee and its Sub-Committees and are hereby incorporated into these Rules. Subject to the aforesaid, where If the Scrutiny and Overview Committee, or a Sub-Committee with delegated powers under Rule 1.01 above is required to make a recommendation regarding matters outside the budget and policy framework approved by the Council, it may make that recommendation to the Council for consideration. The referral will be made by way of a report summarising the matter and setting out the recommendation to be considered.

8.2 Any recommendation of a Scrutiny and Overview Committee, or a Sub-Committee with delegated powers in accordance with Rule 1.5(iii) above, directed to the Leader or Executive for response shall be made by way of a report summarising the matter and setting out the recommendation to be considered.

8.3 If the report is to be submitted to the Cabinet or a Council meeting, it shall be presented to the next convenient Ordinary Cabinet or Council Meeting following the meeting of the Scrutiny and Overview Committee at which it resolved to make the recommendation. The recommendation shall be listed as an agenda item in its own right. At that meeting the Cabinet or Council will resolve that the report be received.

8.4 In considering any report from a Scrutiny and Overview Committee or Sub-Committee, where necessary the Cabinet shall receive at the same meeting a further report from the relevant officer(s) on the issues arising from the Scrutiny and Overview Committee’s recommendations.

8.5 The Cabinet shall make a response or an interim response to a Scrutiny and Overview report within 2 months of receiving the report or any other limit imposed by law if shorter.



- 8.6 In the event that the Cabinet accepts a recommendation, with or without amendment, from a Scrutiny and Overview Committee or Sub-Committee, the Cabinet shall agree an action plan for the implementation of the agreed recommendations and shall delegate responsibility to an identified officer to report back to the Scrutiny and Overview Committee or Sub-Committee, within a specified period, on progress in implementing the action plan.
- 8.7 Subject to Rule 1.5(iv) and 8.9 the Scrutiny and Overview Committee, or any Sub-Committee with relevant delegated powers, can make reports and recommendations to any NHS body in the Borough, the Safer Croydon Partnership, the Council's Local Strategic Partnership (LSP) or any of the LSP's thematic partnerships. When doing so, the report or recommendations must be copied to all responsible authorities or co-operating bodies of the Partnership that are affected.
- 8.8 Subject to Rule 1.5(iv) and 8.9 the Scrutiny and Overview Committee, or any Sub-Committee with relevant delegated powers, can make reports and recommendations in relation to Local Improvement Targets and Local Area Agreements. When doing so, the Committee must give notice in writing to the relevant partner authorities that are affected.
- 8.9 In publishing any report, recommendation or response under this Rule Scrutiny and Overview Committee and the Council shall exclude from such report, recommendation or response any confidential information and may exclude an exempt information as defined in the Councils Access to Information Rules at Part 4B to this Constitution. In doing so, Scrutiny and Overview Committee and the Council shall replace the information excluded with a summary of the information if in consequence of excluding the confidential/exempt information the report, recommendation or response would be misleading or incomprehensible.
- 8.10 In providing a copy of any report, recommendation or response under this Rule to any partner authority, Scrutiny and Overview Committee and the Council shall exclude from such report, recommendation or response any confidential information and may exclude an exempt information as defined in the Councils Access to Information Rules at Part 4B to this Constitution
- 8.11 In providing a copy of any report, recommendation or response under this Rule to any Member of the Council, Scrutiny and Overview Committee and the Council may exclude from such report, recommendation or response any confidential information or exempt information as defined in the Councils Access to Information Rules at Part 4B to this Constitution.

## **9 RIGHTS OF SCRUTINY AND OVERVIEW COMMITTEE MEMBERS TO DOCUMENTS**

- 9.1 In addition to their rights as Members, members of the Scrutiny and Overview Committee and Sub-Committees have additional rights to documents as set out in the Access to Information Procedure Rules in Part 4B of this Constitution.

## **10 PARTICIPATION BY MEMBERS OF THE PUBLIC**

- 10.1 The Scrutiny and Overview Committee or a Sub-Committee may invite people

to address it, or discuss issues or answer questions on matters related to their work. Members of the public may speak at meetings of the Scrutiny and Overview Committee and its Sub-Committees at the discretion of the Chair.

10.2 The Scrutiny and Overview Committee or a Sub-Committee will consider any suggested scrutiny topics submitted by members of the public for inclusion in the Scrutiny work programme.

## **11 CALL-IN - EXERCISE OF THE POWER TO REVIEW A DECISION TAKEN BUT NOT YET IMPLEMENTED**

11.1 This procedure may only be used for executive Key Decisions after they are taken but before they are implemented.

11.2 When a Key Decision is made the decision shall be published in accordance with the Council's Access to Information Procedure Rules at Part 4B of the Constitution.

11.3 The notice of the decision will specify that the decision may not be implemented until after 13.00 hours on the 6<sup>th</sup> working day following the day on which the decision was taken unless referred to the Scrutiny and Overview Committee.

11.4 Any request shall be made on a pro-forma, available from democratic services, which should be submitted to the Council Solicitor or their representative electronically or on paper before 13.00 hours on the 6<sup>th</sup> working day following the day on which the decision was taken. A decision may only be subject to the referral process once.

11.5 The referral request shall be signed by:

- i) The Chair and Vice Chair of the Scrutiny and Overview Committee and 1 member of that Committee; or for education matters the Chair, Vice Chair and 1 member of that Committee or any Sub-Committee formed under Rule 1.1 above; or
- ii) 20% of Council Members (14)

Verification of signatures may be by individual e-mail, fax or by post.

11.6 The Call-In referral shall be completed giving:

- i) The grounds for the referral
- ii) The outcome desired
- iii) The date and the signatures of the Members requesting the Call-In

11.7 The decision-taker and the relevant Chief Officer(s) shall be notified of the referral and shall suspend implementation of the decision. The Chair of the Scrutiny and Overview Committee shall also be notified.

11.8 The referral shall be considered at the next scheduled meeting of the Scrutiny and Overview Committee unless, in the view of the Council Solicitor, this would cause undue delay. In such cases the Council Solicitor will consult with the decision-taker and the Chair of Scrutiny and Overview to agree a date for an additional meeting. The Scrutiny and Overview Committee may only consider a maximum of three referrals at any one meeting.

11.9 At the meeting, the referral shall be considered by the Committee which shall

determine how much time it will give to the call-in and how the item will be dealt with including whether or not it wishes to review the decision. If having considered the decision there are still concerns about the decision then the Committee may refer it back to the Cabinet for reconsideration, setting out in writing the nature of the concerns. The Cabinet shall then reconsider the decision, amending the decision or not, before making a final decision.

- 11.10 The Scrutiny and Overview Committee may refer the decision to the Council if it considers that the decision taken by the Leader or Cabinet is outside the Budget and Policy Framework of the Council. In such circumstances, the provisions of Rule 7 of the Budget & Policy Framework Procedure Rules (Part 4C) apply. The Council may decide to take no further action in which case the decision may be implemented. If the Council objects to Cabinet's decision it can nullify the decision if it is outside the Policy Framework and/or inconsistent with the Budget.
- 11.11 If the Scrutiny and Overview Committee decides that no further action is necessary then the decision may be implemented.
- 11.12 If the Council determines that the decision was within the Policy Framework and consistent with the Budget, it will refer any decision to which it objects, together with its views on the decision, to the Cabinet. The Cabinet shall choose whether to either amend, withdraw or implement the original decision within 10 working days, or at the next meeting of the Cabinet after the referral from the Council.
- 11.13 The responses of the decision-taker and the Council shall be notified to all Members of the Scrutiny and Overview Committee once the Cabinet or Council has considered the matter and made a determination.
- 11.14 If either the Council or the Scrutiny and Overview Committee fails to meet in accordance with the Council calendar or in accordance with Rule 11.8 above, then the decision may be implemented on the next working day after the meeting was scheduled or arranged to take place.
- 11.15 The referral procedure shall not apply in respect of urgent decisions. A decision will be urgent if any delay likely to be caused by the referral process would seriously prejudice the Council's or the public interests. The record of the decision and the notice by which it is made public shall state if the decision is urgent and therefore not subject to the referral process. The Chair of the Scrutiny and Overview Committee must agree that the decision proposed cannot be reasonably deferred and that it is urgent. In the absence of the Chair, the Deputy Chair's consent shall be required. In the absence of both the Chair and Deputy Chair, the Mayor's consent shall be required. Any such urgent decisions must be reported in the Cabinet Business Report to the next available meeting of the Council including the reasons for urgency.

## **SCRUTINY SUB-COMMITTEE TERMS OF REFERENCE**

- 12.1 The following Sub-Committees have been established with the terms of Reference as set out below.
- 12.2 **Streets, Environment and Homes scrutiny Sub-Committee**

- a. The built environment
  - b. Planning policies
  - c. Public realm
  - d. Transport
  - e. Highways and streets
  - f. Green and clean
  - g. The environment, conservation, climate change and sustainability
  - h. Housing policies including homelessness
2. To scrutinise Flood Risk Management and report findings direct to the Cabinet and/ or other partners ;

### 12.3 **Children and Young People Scrutiny Sub-Committee**

1. To undertake scrutiny of duties and functions of the Council as a local social services authority relating to children.
2. To scrutinise all services pertaining to the education and well-being of children and young people including youth services.
3. To scrutinise life-long learning.

### 12.3 **Health and Social Care Scrutiny Sub-Committee**

1. To nominate two substantive committee Members to the Standing South West London Joint Health and Overview Scrutiny Committee (JHOSC) and
2. If necessary, to appoint one of the Health and Social Care Scrutiny Sub-Committee Members in the role of observer on the Standing South West London JHOSC.
3. To nominate up to two substantive Committee Members for any JHOSC that maybe established during the municipal year 2016/17
4. To undertake all powers of Health Scrutiny as defined in the Health and Social Care Act 2001 and National Health Service Act 2006
5. To scrutinise Health and Social Care

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 4.F - Non-Executive Committee Procedure Rules

### 1 Application

- 1.1 Without prejudice to the Licensing, Licensing Sub-Committee, Planning Committee and Planning Sub-Committee Procedure Rules, these Rules shall apply to meetings of all Non-Executive Committees and Sub-Committees established by the Council.

### 2 Appointments

- 2.1 Appointment as a member of a Committee or Sub-Committee shall be limited to the duration of the Council Year or the remainder of it. Vacancies on Sub-Committees arising during the Council year shall be filled by decision of the parent Committee.
- 2.2 Membership of a Statutory Review Board shall be drawn from a Panel of Members appointed for that purpose by the Council. The Council Solicitor shall have delegated power to constitute a Review Board. The Appointments Committee shall be constituted as and when a Committee is required to make an appointment. Membership of the Licensing Sub-Committee shall be drawn from the membership of the Licensing Committee. The Council Solicitor shall have delegated power to constitute a Licensing Sub-Committee as and when a hearing under the Licensing Act 2003 or Gambling Act 2005 is required.
- 2.3 With the exception of the Licensing Sub-Committee, every Committee and Sub-Committee and Panel, at their first meeting shall appoint a Chair and Vice-Chair for the duration of the Council Year. The Licensing Committee shall appoint a Chair and two Vice-Chairs. The Licensing Sub-Committee shall appoint a Chair for the duration of business for which that Sub-Committee is convened.
- 2.4 In the event of a vacancy to either the Chair or Vice-Chair arising during the Council Year, this shall be filled by election at the first meeting of the relevant Committee or Sub-Committee following notification of the vacancy to the Council Solicitor. In the event of the absence of a Chair and Vice-Chair from a Committee or Sub-Committee, the representative of the Council Solicitor shall arrange for the election of a Chair for the purposes of the meeting.

- 2.5 Seats shall be allocated in accordance with the rules governing proportionality, by the Council at its Annual Meeting or at any Ordinary or Extraordinary Meeting as appropriate should a vacancy arise during the Council Year. Except in the case of the Licensing Sub-Committee it shall be in order for a Member to be appointed to a Sub-Committee although they are not a member of the parent Committee. The Council Solicitor is empowered to make in year appointment to committees after consultation with party whips.
- 2.6 During the Council Year, changes in membership shall be notified either by way of a resignation from the Member concerned or notification from the relevant Group Secretary. The relevant Group Secretary shall also submit a notification of the Member nominated to fill a vacancy arising for a seat allocated to that particular Group. In all cases the notification shall be submitted to the Council Solicitor.
- 2.7 The Council Solicitor shall cause an item to be placed on the agenda of the next meeting of the relevant Committee, or in case of urgency the General Purposes and Audit Committee, and the Committee shall resolve that a named Member be appointed to the vacancy.
- 2.8 The Council Solicitor shall arrange for any Member appointed to the Licensing Committee or its Sub-Committee to receive appropriate training before that Member shall serve as a Member of the Committee or Sub-Committee.

### **3 Powers of the Chair**

- 3.1 The Chair of the meeting shall decide on all matters of order, competence, relevance and interpretation of these Rules. The Chair shall have the power to vary the order of business to give precedence to any item of business. Matters of urgent business shall be taken at the discretion of the Chair if satisfied that the item cannot reasonably be deferred until the next meeting of the Committee. The reports concerning such matters shall explain the reason for urgency.
- 3.2 The Chair shall ensure that the split of business between Parts A and B (i.e. Part B shall constitute that part which is exempt or confidential business) is agreed, if necessary by a majority of the Members present. The Chair shall ensure that Members that wish to speak on any item of business have the opportunity to do so, within the scope of the meeting and within reasonable limits of time. The decision of the Chair as to the general conduct of the meeting shall be final.
- 3.3 The Chair may direct a Member to discontinue speaking if they consider the Member is being repetitive, tedious or irrelevant, uses unbecoming language, or is in some other way breaching the order of the meeting. When necessary, the Chair, having warned the Member shall move that the Member called by

name, leaves the meeting. The motion, if seconded, shall be put to the vote without further debate and if carried the Member shall leave immediately.

- 3.4 In the case of a member of the public disrupting the meeting or if there is a general disturbance, the Chair may order the removal of a person or that the public areas be cleared. Re-admission shall be at the discretion of the Chair.
- 3.5 The recording/reporting of meetings using any type of audio or visual equipment is permitted subject to the proviso that any such reporting/filming/photography does not become distracting, disruptive or contrary to the good order or conduct of the meeting. Should any such reporting/filming/photography become distracting, disruptive or contrary to the good order or conduct of a meeting, the person/s responsible may be asked by the Chair to terminate this, regardless of the format in which the reporting/filming/photography is taking place.

#### **4 Recommendation to Council**

- 4.1 Any recommendation referred to the Council for approval shall be made by way of a report summarising the matter and setting out the recommendation for the Council to consider. The Report shall be presented to the next convenient Ordinary Council Meeting following the meeting or meetings of the relevant Committee at which the recommendations are made.

#### **5 Agendas and Minutes**

- 5.1 The Council Solicitor shall ensure that an Agenda and Summons for each meeting are dispatched to Members and available to the public in advance of the meeting.
- 5.2 The Council Solicitor shall ensure that a record is made of the decisions taken at every meeting of a Committee or Sub-Committee. The minutes shall also include a record of the Members in attendance, those absent and any apologies received.
- 5.3 The disclosure of any disclosable pecuniary interests not already on a Members' Register of Interest or subject to a pending notification to the Monitoring Officer shall be recorded in the minutes of the meeting and notified by the Member to the Monitoring Officer in accordance with the Members' Code of Conduct.
- 5.4 All minutes, except those prepared following a meeting of an Appointments Committee or Licensing Sub-Committee shall be considered for approval at the next meeting of the Committee or Sub-Committee to which they relate and shall be open to question as to their accuracy before being signed. The accuracy of the minutes of a meeting shall not be open to question or

amendment other than at a meeting of the Committee or Sub-Committee concerned.

- 5.5 Minutes shall be made available to Members, the public and press in accordance with the Access to Information Procedure Rules at Part 4B of this Constitution.

## **6 Dates and Frequency of Meetings**

- 6.1 The dates of scheduled meetings with the exception of those for the Appointments Committee and Licensing Sub-Committees shall be as printed in the Council diary. Each Committee or Sub-Committee or the Council Solicitor in consultation with the relevant Chair may convene meetings on such other dates as they may agree in the light of business to be transacted.
- 6.2 The Planning Committee shall generally meet at three-weekly intervals and the Planning Sub-Committee at six-weekly intervals. The Licensing Committee and its Sub-Committee shall meet as frequently as business requires.
- 6.3 The Chair shall have power to cancel a meeting for lack of business or reschedule a meeting, having observed the courtesy of consulting any member of the Committee or Sub-Committee designated as the Opposition Spokesperson for the Committee or Sub-Committee in question.

## **7 Attendance by Members not appointed to a Committee or Sub-Committee**

- 7.1 The Chair of a Committee or Sub-Committee may agree that a Member not appointed to the Committee or Sub-Committee may attend and participate in the debate of an item of business on the grounds that the presence of the Member concerned can be justified. Such a Member shall not have any right to vote in deciding the outcome of the matter under consideration. This provision shall not apply in respect of the Licensing Sub-Committee.

## **8 Quorum**

- 8.1 No business shall be considered at a meeting of a Committee or Sub-Committee unless there are present either one third of the membership of the Committee or Sub-Committee or 3 members, whichever figure is the greater. If the meeting is inquorate, it shall be deferred for 15 minutes. If after 15 minutes there is still no quorum, the consideration of any business not transacted shall be held over until the next scheduled meeting or another date fixed by the Chair.



8.2 Where the Licensing Sub-Committee is inquorate and it is not possible to appoint a Chair for the duration of the business as provided for in Rule 2.03 above, the Chair of the Licensing Committee or in the absence of the Chair, one of the Vice Chairs, shall be deemed to be appointed as Chair for the purpose of deferring the business to the next scheduled meeting if appropriate, to another date fixed for hearing of the business or to a later time on the date of the scheduled meeting for hearing of the business.

## **9 Rules of Debate**

9.1 A Member may indicate their desire to speak by raising their hand, but shall only speak when called by name by the Chair.

9.2 Members shall, when speaking, address the Chair and:

- 1 refer to each other as Chair or Member, as the case may be;
- 2 refrain from using unbecoming language;
- 3 refrain from comments of a personal nature about another Member;
- 4 not attribute improper motives to another Member.

9.3 Only one motion or amendment may be considered at a time. A motion or amendment once moved and seconded may be withdrawn, only by the mover. No further debate shall take place on a motion or amendment once it has been withdrawn.

9.4 Every motion or amendment must be moved and seconded.

9.5 An amendment to a motion may be proposed, provided it is seconded and:

- 1 is not moved whilst another amendment is under discussion;
- 2 does not have the same meaning as one already defeated at the meeting;
- 3 refers to the subject matter under discussion and does not introduce a new subject.

9.6 A Member may raise a point of order by declaring "point of order" identifying the appropriate Procedure Rule number, in which case the Chair shall ask the Member speaking to give way. The Chair shall invite the point of order to be explained by the Member concerned.

9.7 A Member may assert a right to be heard immediately on a point of personal explanation by declaring "point of personal explanation", in which case the

Chair shall ask the Member speaking to give way. The Chair shall invite the point of personal explanation to be made by the Member concerned.

## **10 Voting**

- 10.1 Unless required otherwise by law, all matters shall be decided by a simple majority.
- 10.2 Where immediately after a vote is taken at a meeting of a Committee or Sub-Committee, if any Member so requires there shall be recorded in the minutes of that meeting whether the person cast their vote for or against the question or whether they abstained from voting.
- 10.3 In the event of an equality of votes on either side, the Chair shall have a second or casting vote.

## **11 Disclosure of Interests**

- 11.1 Every agenda shall include as an item of business "Disclosures of Interest". Members shall abide by the Members Code of Conduct set out at Part 5I of this Constitution. It is the responsibility of every Member to declare any disclosable pecuniary interest during the course of a meeting that is not already on their register of interests or subject to a pending notification to the Monitoring Officer. Each disclosure shall be minuted but Members are required to notify the Monitoring Officer of any disclosure so minuted in accordance with the Members' Code of Conduct.

# **CONSTITUTION OF THE LONDON BOROUGH OF CROYDON**

## **Part 4.G – Delegations to Executive Directors Decision Making Procedure Rules**

### **1 Departmental Schemes**

- 1.1 This Constitution includes a range of delegations. Executive Directors should identify who amongst their senior staff shall exercise these, both on a day to day basis and in the event of their absence. These arrangements shall be written up by each Executive Director as their departmental scheme, which shall be deposited with the Council Solicitor.
- 1.2 A departmental scheme might involve specific delegations to individual senior officers or generic delegations to a group of officers. It is for each Executive Director to decide what is reasonable in the context of their Department's needs and staffing structure. It would not be unreasonable for an Executive Director to delegate the entirety of his delegated powers to the Department's second tier staff but not appropriate to re-delegate on a general basis more widely. Further advice is available from the Monitoring Officer on the style and content of the scheme of delegations appropriate for a particular Department. The Council's Financial Regulations at Part 4 of this Constitution provide that the Chief Finance Officer must approve all financial schemes of delegation.

### **2 Decisions which should be formally recorded**

- 2.1 Most of the Council's most senior managers are taking decisions on a regular basis and the general nature of the delegations included in the Constitution provides authority for this. However, certain classes of decisions and the reasons for them should be recorded in writing in order that they can be defended if challenged (either informally or through the Courts) and to protect managers from any suggestion that they are abusing their authority. Furthermore, certain types of decisions are required by statute to be recorded and made available to the public. Finally, where executive decisions are being taken by officers, regard must be had to the provisions of Part 4B Access to Information Procedure Rules in this Constitution.
- 2.2 Given that Officers shall be taking a wide range of managerial, service and statutory decisions it is not easy to identify with complete certainty those where a formal record should be retained. However the following classes of decision, which are not mutually exclusive, are required by statute to be formally recorded:

- i. Any decision taken by an officer which would otherwise have been taken by the relevant Council decision making body, or a committee or sub-committee of that body or a joint committee in which that body participates, but it has been delegated to an officer of that body either-
  - Under a specific express authorisation; or
  - Under a general authorisation to officers to take such decisions and, the effect of the decision is to:
    - a) Grant a permission or licence;
    - b) Affect the rights of an individual; or
    - c) Award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position.
  
- ii. A written record must be produced as soon as reasonably practicable after the decision making officer has made the decision and must contain the following information –
  - The date the decision was taken;
  - A record of the decision taken along with the reasons for the decision;
  - Details of alternative options, if any, considered and rejected, and
  - Where the decision is taken pursuant to an express authorisation from a the relevant Council decision making body, the names of any Members of the Council decision making body who has declared a conflict of interest in relation to the decision.

2.3 In addition to the above, the following classes of decision, which are not mutually exclusive, provide a guide as to those where a specific record including reasons should be retained:

- i. Statutory Determinations
- ii. Any decision which is prejudicial to the rights or interests of an individual or a third party
- iii. Any decision which is likely to be challenged
- iv. Any decision to issue a formal Notice or instigate a formal procedure
- v. The dismissal of a member of staff or any decision which is prejudicial to the interests of an individual or a group of staff
- vi. The approval of expenditure over £10,000
- vii. Any decision, which may be or is at variance with Government guidance

- viii Any decision requiring the execution of formal documentation by the Council Solicitor.
  - ix Any other executive decision, as defined in Part 4B Access to Information Procedure Rules in this Constitution, such record to include the decision and date it was made; the reasons for the decision; details of any alternative options considered and rejected by the officer when making the decision ; any conflict of interest declared by any Executive Member who is consulted by the officer which relates to the decision; and in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service
- 2.3 Decisions relating to the appointment of staff are already well documented if carried out in accordance with the Council's recruitment policies and the Guide to Successful Staff Selection.
- 3 Decision documentation**
- 3.1 The need to document decisions and their reasons can be met in a number of ways. It is suggested that the most appropriate is either:
- (a) A decision letter setting out reasons and signed by a manager with delegated authority;
  - (b) An internal memorandum setting out reasons and a recommendation to a manager with delegated authority and then endorsed as "approved" and signed and dated by that manager; or
  - (c) A decision record form for non-executive decisions designed for the purpose – an example of such a form is attached at appendix 1 to these rules.
  - (d) In relation to an executive decision as defined in Part 4B Access to Information Procedure Rules in this Constitution, an executive decision record form is required, as attached at appendix 2 to these rules.
- 3.2 The decision documentation should then be retained (in hard or electronic form) on a central departmental file in addition to any subject file. The Council Solicitor shall require a copy of the documentation when executing formal documentation on such matters.
- 3.3 The manager with delegated authority must be either the Executive Director or a senior manager given delegated authority under the departmental scheme referred to in paragraph 1 above.
- 3.4 As with a report to the Leader, the Cabinet or a Committee for decision the reasons given should show that the Authority (acting through the delegated manager) has had regard to all appropriate considerations in reaching a

decision. This must include all those that the Authority is required to have regard to by statute (such as human rights or crime and disorder) as well as those that are required by good practice. The general approach adopted in Committee or Leader/Cabinet reports may be a helpful guide although the documentation for delegated decisions may be more concise.

**Appendix 1**

**CROYDON COUNCIL**

.....DEPARTMENT

**RECORD OF NON-EXECUTIVE DELEGATED DECISION**

TITLE:-	
REFERENCE NO:-	
OPTIONS CONSIDERED:- [Including any rejected]	
ANY CONFLICT OF INTEREST DECLARED BY A MEMBER of the Decision Making Body which expressly delegated authority to the officer taking the decision.	
RECOMMENDATIONS:-	
BACKGROUND PAPERS/ CABINET OR COMMITTEE REPORT:-	

I agree/do not agree\* to the recommendation [as amended\*]  
(\*delete as appropriate)

Signature:

Title:

Date:

**Appendix 2**

**CROYDON COUNCIL**

..... **DEPARTMENT**

**RECORD OF EXECUTIVE DECISION**

TITLE:-	
REFERENCE NO:-	
SUMMARY:- [Include all appropriate considerations to the decision]	
OPTIONS CONSIDERED:- [Including any rejected]	
ANY CONFLICT OF INTEREST DECLARED BY AN EXECUTIVE MEMBER CONSULTED by the officer in making the decision.	
ANY DISPENSATION GRANTED TO THE EXECUTIVE MEMBER CONSULTED BY THE CHIEF EXECUTIVE.	
RECOMMENDATIONS:-	
BACKGROUND PAPERS/ CABINET OR COMMITTEE REPORT:-	

I agree/do not agree\* to the recommendation [as amended\*]  
(\*delete as appropriate)

Signature:

Title:

Date:



# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 4.H – Financial Regulations

1. **Status of Financial Regulations**
  - Status
  - Financial Control Framework
  - Scheme of Financial Delegation
2. **Other Financial Accountabilities**
  - Virements
  - Treatment of Year-End Balances
  - Accounting Policies
  - Annual Statement of Accounts
  - Trading Accounts
3. **Financial Planning and Budgeting**
  - Policy Framework
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  - Financial Management Process
  - Maintenance of Balances & Reserves
  - Capital Programme
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5. **Procurement Cards**
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7. **Risk Management and Insurance**
8. **Internal Control**
  - Audit Requirement
  - Preventing Fraud & Corruption
9. **Assets**
10. **Management of Contracts**
11. **Treasury Management**
12. **Systems and Procedures**

**13. Income and Expenditure**

- Leasing Arrangements & PFI / PPP Funding Arrangements
- Payments to Employees & Members

**14. Taxation**

**15. External Collaboration**

- Partnerships
- External Funding
- Work for Third Parties

**16. Retention of Records**

**17. Devolution of Financial Management**

- Full Council, Cabinet and Committees
- Statutory Officers
- Executive Directors
- Budget Holder

## 1. Status of Financial Regulations

- 1.1 The Financial Regulations (the Regulations) provide the governance framework for managing the Council's financial affairs. They apply to all Members, officers of the Council and anyone acting on its behalf. It is likely to be considered a disciplinary offence to breach these Financial Regulations and procedures.
- 1.2 They seek to ensure that the Council conducts its affairs in a way that complies with specific statutory provisions, generally accepted accounting practices and professional good practice.
- 1.3 The Local Government Act 1972 (Section 151) makes the Chief Financial Officer responsible for the proper administration of the Council's financial affairs. These Regulations are issued pursuant to these responsibilities.
- 1.4 All Members and Officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control and for ensuring that the use of these resources is legal, is properly authorised and achieves value for money. In doing so proper consideration must be given at all times to matters of probity and propriety in managing the assets, income and expenditure of the Council.
- 1.5 The Regulations apply to the control of both the General Fund finances (except maintained schools), Capital and the Housing Revenue Account, as well as other grants received. Schools must adopt their own financial policy and procedures based on the principles within the Regulations but also taking account of more specific guidance issued, including the Croydon Scheme for Financing Schools.
- 1.6 The Regulations identify the financial responsibilities of:
  - The **full Council**;
  - The **Cabinet**;
  - The **Head of Paid Service** (Chief Executive);
  - The **Chief Financial Officer** (Director of Finance, Investment & Risk - who is also the Council's Interim Section 151 Officer);
  - The **Monitoring Officer** (Interim Executive Director of Resources – who is also the Council Solicitor);
  - **Executive Directors**
  - **All officers and Members of the Council**
- 1.7 The **Chief Financial Officer** is responsible for maintaining and regularly reviewing these Regulations and has delegated authority for any additions or changes.
- 1.8 The **Chief Financial Officer** is responsible for issuing advice and guidance to underpin the Regulations to which Members, Officers and others acting on behalf of the Council are required to have regard.

- 1.9 The **Chief Financial Officer** is also responsible for reporting, where appropriate, breaches of the Regulations to the **Council** and/or to **Cabinet**.
- 1.10 The Regulations are supported by a set of mandatory Financial Policies and Procedures which provide more detailed direction on the arrangements to be complied with. All Officers and Members must ensure that they read and follow these procedures. Failure to comply may constitute misconduct and lead to formal disciplinary action.

## Financial Control Framework

- 1.11 The financial administration framework of the Council is organised in accordance with Section 151 of the Local Government Act 1972, requiring that every local Authority in England and Wales should “make arrangements for the proper administration of their financial affairs and shall secure that one of their Officers has responsibility for the administration of those affairs.” The framework comprises:
- **Constitution:** The principal rules governing the Council’s affairs, including financial, and the delegation of authority to Members and Officers.
  - **Financial Regulations:** this document is part of the Constitution, created by the Council, with amendments delegated to the **Chief Financial Officer**, to provide a framework for its financial procedures.
  - **Financial Policies and Procedures:** set out controls and responsibilities of all staff and Members
  - **Schemes of Delegation**
  - **Scheme of Financial Delegation**
  - **Procurement Governance Handbook**
  - **Tenders & Contracts Regulations**
  - **Project and Project Management Framework**

## Scheme of Financial Delegation

- 1.12 The **Chief Financial Officer** must approve the Council’s Scheme of Financial Delegation which sets out the financial authorisation limits for Officers.
- 1.13 The Scheme of Financial Delegation is administered by the **Head of Internal Audit**. Amendments to the scheme will be approved by the **Chief Financial Officer** on the recommendation of the **Head of Internal Audit**.

## 2. Other Financial Accountabilities

### Virements

- 2.1 Virement is the term used to transfer (or vire) budgetary provision from one budget heading to another. Transfer of budgetary provision within the same budget heading is not considered a virement however appropriate evidence for this transfer must be maintained and completed in accordance with the Scheme of Financial Delegation.
- 2.2 An inter-departmental virement is a transfer between budgets within different departments. An intra-departmental virement is a transfer between two budgets within the same department.
- 2.3 Virements must not be fragmented to circumvent the limits set out below. Any transfers intended to have a permanent effect must form part of the budget setting process and will be set out within the annual “Council Tax and Budget Setting report”.

Approval	Limit
<b>Heads of Service</b>	Up to £100k for virements within their budgets
<b>Directors</b>	Up to £500k for virements within their division.
<b>Executive Directors</b>	Unlimited for virements within their department. Up to £500k between departments. (Both Executive Directors to agree).
<b>Cabinet</b> with full support of <b>Chief Financial Officer</b> . The <b>Chief Financial Officer</b> must have formal agreement from both <b>Executive Directors</b> .	Above £500k for inter-departmental virements.
<b>Director of Finance, Investment &amp; Risk</b>	Unlimited non-controllable virements*.

\*Non-controllable virements are those which need to be undertaken for accounting purposes (such as depreciation and recharges).

### Treatment of year-end balances

- 2.4 Requests to carry forward revenue budgets at the end of the financial year must be made by the budget holder as part of the closing of accounts process. Requests are to be made via an official form and will be approved by the Chief Financial Officer. Once approved the budget will be included in the annual statement of accounts as an earmarked reserve. Requests need to be made annually and any balances at the end of a financial year will **not** automatically be carried forward.

- 2.5 Slippage of Capital schemes should be identified as soon as possible during the financial year and reported to Cabinet as part of the financial monitoring cabinet report. At the end of each financial year slippage will be approved by the Chief Financial Officer and reported to Cabinet for approval as part of the July financial review report.

## Accounting policies

- 2.5 The **Chief Financial Officer** is responsible for selecting the Council's accounting procedures, records and policies, including any changes to those policies, and ensuring that they are applied accurately and consistently.

## The Annual Statement of Accounts

- 2.6 The **Chief Financial Officer** is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom. The **General Purposes & Audit Committee** is responsible for approving the annual statement of accounts on behalf of **full Council**.
- 2.7 The **Chief Financial Officer** is responsible for the preparation and publication of an Annual Governance Statement (AGS). This is the outcome from an annual review of the Council's risk management, internal control and governance arrangements and is published with the Statement of Accounts. The AGS is signed by the **Chief Executive** and the **Leader** and is approved by the **General Purposes & Audit Committee** on behalf of **full Council**.

## Trading Accounts

- 2.8 The **Chief Financial Officer** must advise on the establishment and operation of trading accounts to ensure the accounting and control processes comply with the Council's, accounting requirements and that the results of any trading operations are properly recorded and reported.

### 3. Financial Planning and Budgeting

This section deals with the frameworks and processes by which the financial situation of the Council is planned, controlled and reported. The Strategic Budget process can be summarised as below:

- 3.1 The **full Council** is responsible for agreeing the Council's policy framework and budget, which will be proposed by the Cabinet at the annual council tax and budget setting meeting, usually at the end of February.

In terms of financial planning, the key elements are:

- the medium term financial strategy;
- the budget;
- the capital strategy;
- the capital programme.

#### Policy Framework

- 3.2 The **Head of Paid Service** is responsible for proposing the Corporate Plan to the **Leader** and **Cabinet** for consideration before its submission to the **full Council** for approval. The Corporate Plan sets out how the Council will achieve its organisational objectives and can be multi-year.

#### Budget format

- 3.3 The general format of the budget will be proposed by the **Leader** or **Cabinet** on the advice of the **Chief Financial Officer** and approved by the **full Council**. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

#### Budget preparation

- 3.4 The **Chief Financial Officer** is responsible for ensuring that a revenue budget and capital programme and budget, are prepared on an annual basis. The **full Council** may amend the budget or ask the **Leader** and **Cabinet** to reconsider it before approving it.
- 3.5 The **Chief Financial Officer** will issue details of the Council budget to **Executive Directors** as soon as possible following approval by the **full Council**. Each of the **Executive Directors** will be expected formally to sign off their budget with the **Chief Financial Officer** before submission to the Cabinet.
- 3.6 It is the responsibility of **Executive Directors** to ensure that budget estimates reflect agreed service plans and are submitted to the **Chief Financial Officer**. The **Chief Financial Officer** will provide a detailed Directorate budget book before 1<sup>st</sup> March relating to the next budget year.

The total for the Directorate budget book must equal the budget agreed by the **Executive Directors**.

## Financial Management Process

3.7 The **Chief Financial Officer** is responsible for the financial management process enabling capital and revenue budgets to be monitored effectively.

3.8 The **Chief Financial Officer** is responsible for monitoring and controlling expenditure against budget allocations and reports the actual position in comparison to the budget, projected out-turn position and any proposed action to be taken by departments to deal with any variances to:

- the **Leader** and **Cabinet** at least quarterly; and
- the **Executive Leadership Team**.

3.9 **Executive Directors** are responsible for:

- controlling income and expenditure within their area and monitoring performance, taking account of financial information provided by the **Chief Financial Officer** and / or their own systems;
- quarterly and monthly reporting for areas of high financial risk, in accordance with the agreed corporate format and timetable, on variances within their own areas;
- taking any action necessary to avoid exceeding their budget allocation and alerting the **Chief Financial Officer** as soon as possible if this cannot be achieved;
- Ensuring that fees and charges are reviewed annually as a minimum and changes reflected through the budget planning process

## Maintenance of Balances and Reserves

3.10 It is the responsibility of the **Chief Financial Officer** to advise the **Leader** and **Cabinet** and / or the **full Council** on prudent levels of balances and reserves to be maintained for the Council. Use of the contingency fund has to be agreed by the **Chief Financial Officer**.

## Capital Programme

3.11 Capital expenditure is expenditure which is used to purchase fixed assets or to add value to existing fixed assets where those assets have a useful life extending beyond a year (for example, expenditure used to purchase land and buildings).

3.12 **Full Council** must agree the overall capital programme as part of the Council Tax and budget setting report each year. Quarterly financial monitoring of the capital programme, including spend to date, projected spend for the financial year and slippage will be presented to Cabinet as part of the financial monitoring report. Programme and Project managers



along with the relevant **Executive Director** must ensure that any variances to budget are reported as soon as they are aware of them.

- 3.13 The Growth Board is the Officer control mechanism by which all non IT and FM capital expenditure is managed and assured. Details on its role are contained in the Growth Board terms of reference.
- 3.14 ICT and FM capital expenditure is approved through their own Officer boards. All of these boards must be presented with a business case that details the expenditure to be incurred and the timing of that expenditure to ensure accurate financial management and monitoring.

## 4. Petty Cash

- 4.1 Petty cash accounts may consist of either a cash float, or bank imprest account used to reimburse expenditure.
- 4.2 The **Chief Financial Officer** will provide petty cash accounts as appropriate to such services that need them. Such accounts will be maintained in the manner and delegation prescribed by the **Chief Financial Officer**.
- 4.3 The responsible budget holder and account holder will:
- Make adequate arrangements for the safe custody of the account;
  - Limit payments from the account to minor items of expenditure (i.e. abnormal purchases with a value of less than £25) and to other such items as the **Chief Financial Officer** may approve;
  - Obtain a receipted voucher in relation to each purchase. Where appropriate (and in the case of all purchases over £5 attracting VAT) a proper VAT receipt must be obtained;
  - Record transactions promptly;
  - Reconcile and balance the account at least monthly; reconciliation sheets to be signed by the responsible officer and the budget holder and retained; and
  - Provide an annual return in timely manner.
- 4.4 No income received on behalf of the Council may be paid into the petty cash account but must be banked or paid to the Council.
- 4.5 Petty cash accounts must not be used for cashing personal cheques or making personal loans. They must not be used for travel and subsistence claims because of tax implications.
- 4.6 The **Chief Financial Officer** will, on the recommendation of the **Head of Internal Audit**, consider, and approve where appropriate, requests for variations from the standard rules governing the operation of petty cash accounts, based on specific needs and individual circumstances.
- 4.7 All officers administering petty cash accounts must ensure that they comply with the petty cash procedures.

## 5. Procurement Cards

- 5.1 Procurement cards (Pcards) are used to pay for small value transactions which cannot be paid through the P2P system. The Procurement Card Procedures govern the use and includes credit limits, card holders responsibilities and monitoring.
- 5.2 Any exemptions to transactions and credit limits will require a delegated decision under the Council's Scheme of Financial Delegation to be agreed by the **Chief Financial Officer** upon the recommendation of the **Head of Internal Audit**.

## 6. Banking Arrangements and Cheques

- 6.1 All arrangements with the Council's bankers concerning the Council's bank accounts will be made through the **Chief Financial Officer**. The opening of new bank accounts must be made by at least two authorised signatories approved by the **Chief Financial Officer**.
- 6.2 Additions to or removals from the list of authorised signatories for ALL Council bank accounts will be approved by the **Chief Financial Officer**
- 6.3 All bank accounts should be reconciled with the Council's cashbooks at least once in each quarter (more frequently in specified cases).
- 6.4 Cheques and books will be ordered via the bank only on authority from the **Chief Financial Officer**, who will make adequate arrangements for their safe custody and use.
- 6.5 Cheques on the Council's accounts will bear the facsimile signature of or be signed by the **Chief Financial Officer** or as delegated by the **Chief Financial Officer**. Under no circumstances should an account be opened in the name of an individual officer.
- 6.6 Where funds are held on behalf of third parties, **Executive Directors** will arrange for their secure administration, approved by the **Chief Financial Officer** and shall ensure that written records of all transactions are maintained.

## 7. Risk Management and Insurance

- 7.1 The Council is committed to establishing an effective risk management framework and culture to enable management at all levels to deliver their objectives in the light of those risks. The **Chief Financial Officer** has responsibility for establishing and delivering corporate risk management arrangements across the Council.
- 7.2 The **Chief Financial Officer** is responsible for preparing the Council's Risk Management Policy Statement and for promoting it throughout the Council, including the Executive Leadership Team.
- 7.3 The **General Purposes & Audit Committee** is responsible for reviewing the Council's Risk Management Policy statement and strategy and is responsible for reviewing the effectiveness of risk management via a quarterly review of the high level risks on the Council's risk register.
- 7.4 At a departmental level **Executive Directors, Directors and Heads of Service** should ensure that risk assessments are conducted, followed by appropriate work to manage the risks identified and to monitor current and emerging risks.
- 7.5 The **Chief Financial Officer** shall effect and periodically review all insurance cover in consultation with other Executive Directors and Directors who shall provide such information as may be required.
- 7.6 **Directors** shall promptly notify the **Chief Financial Officer** of all new risks and any alterations, terminations, loss or liabilities that affect existing insurances. Where appropriate, **Directors** should also inform the Police as soon as possible of any losses and inform the **Head of Internal Audit** and the **Head of Insurance & Risk**
- 7.7 Directors shall consult the **Chief Financial Officer** or **Head of Insurance & Risk** in respect of the terms of any indemnity which the Council is required to obtain or provide.

## 8. Internal Control

- 8.1 Internal control refers to the systems of controls devised by management to help ensure the:
- Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources; and
  - Council's assets and interests are safeguarded.
- 8.2 The **Chief Financial Officer** is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 8.3 **Executive Directors** are responsible for establishing sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.
- 8.4 **Executive Directors** are required to complete an annual assurance statement for their departments.

### Audit Requirements

- 8.5 The basic duties of the external auditor are governed by National Audit Office in its Code of Practice.
- 8.6 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue & Customs, who have statutory rights of access.
- 8.7 The **Chief Financial Officer** is responsible for arranging an adequate and effective internal audit to examine the accounting records and systems of internal control of the Council in accordance with proper practices.
- 8.8 **Internal Audit** has unrestricted access to all Council records and information (both hard copy and digital), activities, property, other assets, Officers, Members and contractors it considers necessary to fulfil its responsibilities. This may be, where necessary, on demand and without any prior notice. Rights of access to other bodies funded by the Council should be set out in the conditions of funding. The rights and responsibilities are set out more fully in the Internal Audit Charter which is approved annually by the **General Purposes & Audit Committee**

8.9 Contracts let for the provision of services and works on behalf of the Council will ensure that the Council's internal and external auditors have right of access to any of the contractor's records associated with their contract with the Council.

## Preventing Fraud and Corruption

8.10 The Council is committed to:

- taking fraud and other avoidable losses (arising from error or mismanagement) seriously and tackle it on all fronts;
- ensuring that all its funds are legitimately used and only those entitled to services and benefits receive them, and
- fighting against fraud and avoidable loss as this is an important aspect of its public accountability. The Council's approach to tackling fraud is set out in its Anti-Fraud & Corruption Policy.

8.11 All Officers and Members must ensure they comply with the Council's Anti-Fraud & Corruption Policy, the Anti-money Laundering Policy and the Anti-Bribery Policy.

8.12 All officers have a duty to inform the **Head of Anti-Fraud** or the **Chief Financial Officer** of any incident or circumstance which gives rise to the suspicion that fraud, misappropriation or financial irregularity may be or may have taken place, in connection with the activities of the Council. This may be made directly or via the Council's whistleblowing arrangements.

8.13 All Officers and Members are responsible for referring as soon as possible any suspicions of money laundering to the **Head of Anti-Fraud who is the Council's designated Money Laundering Reporting Officer** or one of the deputies under the policy.

## 9. Assets

- 9.1 The Growth Board will make recommendations to the **Chief Financial Officer** regarding the acquisition or disposal of any land or property up to £500k in value.
- 9.2 Recommendations on acquisitions or disposals valued between £500k and up to £5m may be approved by the **Cabinet Member for Finance and Resources** in consultation with the **Leader** of the Council, subject to the intention to do so having been reported to a previous meeting of **Cabinet** and in accordance with the **Leader's** Scheme of Delegation. Recommendations on acquisitions or disposals valued over £5m will be reported for approval to **Cabinet**.
- 9.3 All proposals for the acquisition of investment properties will be channeled through the **Head of Asset Management & Estates** and will be progressed in line with the Asset Investment Strategy relating to the Asset Acquisition Fund established as part of the Medium Term Financial Strategy 2018/22
- 9.4 Asset disposals, between £5k and £500k and mainly non land and buildings, must be authorised in accordance with the Council's Scheme of Financial Delegation and the Assets Procedure. The **Head of Commissioning & Procurement Corporate** must be consulted prior to any non-property assets being disposed of to ensure that the best possible price is obtained and that the method of disposal is appropriate. For items over £100k disposal should be by competitive tender or public auction
- 9.5 Asset disposals up to £5k must be authorised in accordance with the Council's Scheme of Financial Delegation and be reasonable as regards methodology, value obtained and recorded.
- 9.6 The total value of leasehold acquisitions or disposals includes the value of all rental payments and service charges over the life of the lease. The total value of lettings includes the value of all rental payments and service charges over the life of the lease.
- 9.7 Officers must notify the relevant **Head of Finance** before entering into any lease, to ensure that the correct accounting treatment can be applied.
- 9.8 The **Head of Asset Management and Estates** may authorise and approve legal documents (to include disposal of assets, licences & leases) on behalf of the Council in respect of property transactions up to a total value of £25,000. Any transaction above this figure must be approved by the Chief Financial Officer.
- 9.9 For further guidance on assets please consult the Council's Assets Procedure.



## 10. Management of Contracts

- 10.1 The **Commissioning & Procurement Division** will maintain a contracts register in the form of electronic copies of all contracts issued and entered into by the Council. Details will be published in accordance with the Council's transparency agenda.
- 10.2 Officers entering into contracts must ensure that upon completion of any contract document, contract information is entered onto the Deeds and Documents Register and the Council's copy of the original contract is sent to the **Business Support Team** for safe storage.
- 10.3 Variations to contracts to be written in an approved form. The relevant **Executive Director** or a senior officer nominated by them or the contract administrator appointed by the Council shall authorise variations and a copy of the variation order be retained as a document appertaining to the contract.
- 10.4 In accordance with the Council's Tenders and Contract Regulations, contracts between £100k and £500k in value will require appropriate sign off of the procurement strategy and award of contract by the **Director of Commissioning & Procurement** on the recommendation of the **Contracts and Commissioning Board (CCB)**. Contracts in value above this and up to £5m will require appropriate sign off of the procurement strategy and award of contract by the nominated Cabinet Member on recommendation of **CCB** and above £5m by Cabinet. Contracts over £100k in value must also be completed on behalf of the Council by an authorised signatory in the Council's **Law Division**.
- 10.5 Where contracts are administered on behalf of the Council by persons other than the Council's own officers, the **Executive Director** concerned should ensure that those persons comply with the Council's Constitution, Financial Regulations and Tenders and Contracts Regulations as if they were Officers of the Council. The relevant **Executive Director** and the **Chief Financial Officer** should be entitled to inspect all records and documents relating to such contracts.
- 10.6 When entering into contracts, staff must not deviate from the Council's standard purchasing terms unless this is formally agreed by the **Chief Financial Officer**.

## 11. Treasury Management

- 11.1 The Council has adopted the Chartered Institute of Public Finance and Accountancy (CIPFA), Treasury Management in the Public Services: Code of Practice (2017).
- 11.2 The **full Council** is responsible for approving the Treasury Management Policy Statement setting out the matters detailed in CIPFA's Code of Practice for Treasury Management in the Public Services. The policy statement is proposed to the **full Council** by the Cabinet. The **Chief Financial Officer** has delegated responsibility for implementing and monitoring the Statement.
- 11.3 All money which the Council physically holds is controlled by the Officer designated for the purposes of Section 151 of the Local Government Act 1972, for the Council's purposes this is the **Chief Financial Officer**.
- 11.4 The **Chief Financial Officer** is responsible for reporting to the **Leader** and Cabinet a proposed treasury management strategy for the coming financial year at or before the start of each financial year. Adoption of the strategy is by **full Council**.
- 11.5 All **Leader** and Cabinet decisions on borrowing, investment or financing are delegated to the **Chief Financial Officer** who is required to act in accordance with the CIPFA Code of Practice for Treasury Management in the Public Sector 2017 Edition.
- 11.6 The **Chief Financial Officer** will review mid financial year the activities of the treasury management operation.
- 11.7 The **Chief Financial Officer** is responsible for reporting to the **General Purposes and Audit Committee** on the activities of the treasury management operation and on the exercise of the delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30<sup>th</sup> September of the succeeding financial year.

## 12. Systems and Procedures

- 12.1 Sound systems and procedures are essential to an effective framework of accountability and control.
- 12.2 The **Chief Financial Officer** is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by **Executive Directors** to the existing financial systems or the establishment of new systems must be approved by the **Chief Financial Officer**.

However, **Executive Directors** are responsible for the proper operation of financial processes in their own departments.

- 12.3 Any changes to agreed procedures by **Executive Directors** to meet their own specific service needs should be agreed with the **Head of Finance** for that department.
- 12.4 **Executive Directors** must ensure that, where appropriate, computer and other systems are registered in accordance with GDPR as set out in the Data Protection Act 2018. **Executive Directors** must ensure that members of staff are aware of their responsibilities under Data Protection and Freedom of Information legislation and the Computer Misuse Act.
- 12.5 The Council publishes data each month on all payments over £500 as part of its Transparency Policy. For reasons of privacy, personal details are omitted; these include payments to individuals including foster carers, children and adult carers, staff salaries and pensions.

## 13. Income and Expenditure

- 13.1 The Scheme of Financial Delegation identifies staff authorised to act in respect of payments, income collection and placing orders, together with the limits of their authority.
- 13.2 It is the responsibility of **Executive Directors** to ensure that the scheme of financial delegation is operating effectively within their area and the responsibility of all staff on the Scheme to ensure that they operate within the limits defined by the Scheme.
- 13.3 **Executive Directors** are responsible for complying with the Procurement Strategy, Tender and Contract Regulations and the Council's Project and Programme Management Framework, and should make use of common supplies and services provided by other Departments of the Council. All staff with payment responsibilities should ensure that they read and abide by the Council's Payment Procedures.

### Leasing Arrangements & PFI/PPP Funding Arrangements

- 13.4 Before entering into any finance or operating lease, or lease rental agreement, or PFI/PPP arrangements, **Executive Directors** must seek agreement from the **Chief Financial Officer** to ensure that the arrangement is financially advantageous to the Council. **Executive Directors** should take appropriate legal advice from the **Council's Solicitor** and their **Head of Finance** to ensure that they meet the revised guidance for finance and operating leases under the International Financial Reporting Standards Interpretations, IFRIC4 as this may alter the treatment of the income.

### Payments to Employees and Members

- 13.5 The **Chief Financial Officer** is responsible for all payments of salaries and wages to all employees, including allowances, expenses and overtime, and for payment of allowances to Members.

### Debt Write-Offs

- 13.6 The **Chief Financial Officer** can authorise debt write-offs up to **£500k**. Above that limit authorisation must be obtained from Cabinet. Limited further delegations for the writing off of debt will be approved by the **Chief Financial Officer** upon the recommendation of the **Head of Internal Audit** and recorded within the Scheme of Financial Delegation.

## 14. Taxation

- 14.1 The **Chief Financial Officer** is responsible for advising **Executive Directors**, the **Leader** and **Cabinet** and **full Council** in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.
- 14.2 **Directors, Heads of Finance and Budget Holders** are responsible for ensuring that the appropriate controls and procedures are operated within the department or relevant services area, in relation to taxation issues, including, but not limited to PAYE, VAT and IR35. **Budget Holders** must ensure that they retain the necessary documentation to allow the Council to reclaim VAT where applicable.
- 14.3 The **Chief Financial Officer** is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

## 15. External Collaboration

- 15.1 The Council provides a distinctive Leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

### Partnerships

- 15.2 The **Leader** is responsible for approving delegations for executive functions, including frameworks for partnerships. The **Leader** and Cabinet are the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 15.3 The **Leader** may delegate executive functions, including those relating to partnerships, to Officers. These are set out in the scheme of delegation that forms part of the Council's constitution. Where functions are delegated, the **Leader** remains accountable for them to the **full Council**.
- 15.4 The **Chief Financial Officer** is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.
- 15.5 The **Chief Financial Officer** must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are proper. In consultation with the **Monitoring Officer**, they must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies.
- 15.6 They must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 15.7 **Executive Directors** are responsible for ensuring that appropriate approvals are obtained before any negotiations are commenced in relation to work with external bodies.

### External Funding

- 15.8 The **Chief Financial Officer** is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

## Work for Third Parties

- 15.9 The Cabinet Member for the service holding the relevant budget, in consultation with the **Cabinet Member for Finance and Resources**, (or the **Leader** where it is the **Cabinet Member for Finance and Resources**) is responsible for approving the contractual arrangements for any work for third parties or external bodies in relation to contracts funded from capital or revenue budgets.

## 16. Retention of Records

- 16.1 Records held locally in establishments shall be retained in accordance with approved local information management schemes, which in turn must meet the Council's standards and conform to the Data Protection Act 2018.
- 16.2 **Executive Directors** and **Budget holders** are responsible for ensuring that financial records are carefully and systematically filed and retained for inspection by the **Chief Financial Officer** or agencies (e.g. HM Revenue & Customs) in line with the approved local management information schemes that meets relevant statutory requirements.
- 16.3 The advised minimum period for the retention of the majority of financial records is six years plus the current financial year. Where there is uncertainty, advice from the **Information Management Manager** and the **relevant Head of Finance** must be sought.
- 16.4 The **Chief Financial Officer** and the **Monitoring Officer** shall have access to documents as deemed necessary.
- 16.5 Further guidance on information management is available on the Council's Intranet to assist departments meet the requirements of the Data Protection Act, the Freedom of Information Act and other statutory requirements.



## 17. Devolution of Financial Management

- 17.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget.

### The Full Council, Cabinet and Committees

- 17.2 The roles and responsibilities of these bodies are set out in the Articles Part 3 of the Constitution.

### The Statutory Officers

- 17.3 **The Head of Paid Service** is responsible for the corporate and overall strategic management of the authority as a whole. They must report to and provide information for the **Cabinet**, the **full Council**, and other committees. The **Head of the Paid Service** is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. **The Head of Paid Service** is also responsible, together with the **Monitoring Officer**, for the system of record keeping in relation to all the **full Council**'s decisions.
- 17.4 The **Monitoring Officer** is responsible for promoting and maintaining high standards of financial conduct and for reporting any actual or potential breaches of the law or maladministration to the **full Council**. The **Monitoring Officer** is also responsible for maintaining an up to date constitution.
- 17.5 The **Monitoring Officer** together with the **Chief Financial Officer** is responsible for advising **full Council** about whether a decision is likely to be considered contrary or not wholly in accordance with the budget or the policy framework.
- 17.6 The **Chief Financial Officer** is the Council's **Section 151 Officer** under the Local Government Act 1972 and has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden.
- 17.7 The **Chief Financial Officer** will nominate a properly qualified officer to act as the Council's **Deputy Section 151 Officer** in their absence.
- 17.8 The **Chief Financial Officer** will ensure that all appropriate financial controls and systems are in place where not specified above.
- 17.9 The **Chief Financial Officer** is responsible, in relation to these regulations for:
- 17.9.1 the proper administration of the Council's financial affairs;
  - 17.9.2 setting and monitoring compliance with financial management standards;

- 17.9.3 amendments to the Financial Regulations;
  - 17.9.4 advising on the corporate financial position and on the key financial control necessary to secure sound financial management;
  - 17.9.5 providing financial information;
  - 17.9.6 approval of financial schemes of delegation;
  - 17.9.7 preparing the revenue budget and capital programme;
  - 17.9.8 Treasury management;
  - 17.9.9 Internal Audit;
  - 17.9.10 Anti-Fraud;
  - 17.9.11 Risk Management; and
  - 17.9.12 Insurance.
- 17.10 Section 114 of the Local Government Finance Act 1988 requires the **Chief Financial Officer** to report to the **full Council**, the Cabinet and the External Auditor of the Council if one of its Officers:
- 17.10.1 has made, or is about to make, a decision which involves incurring unlawful expenditure;
  - 17.10.2 has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficit to the Council;
  - 17.10.3 is about to make an unlawful entry in the Council's accounts.
- 17.11 Section 114 of the 1988 Act also requires:
- 17.11.1 the **Chief Financial Officer** to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under Section 114 personally;
  - 17.11.2 the Council to provide the **Chief Financial Officer** with sufficient staff, accommodation and other resources, including legal advice where this is necessary, to carry out the duties under Section 114.

## Executive Directors

- 17.12 **Executive Directors** are responsible for ensuring that **Cabinet** and **Committee Members** are advised of the financial implications of all proposals and that the financial implications have been agreed by the **Chief Financial Officer**.
- 17.13 It is the responsibility of **Executive Directors** to consult with the **Chief Financial Officer** and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

## Heads of Finance

- 17.14 **Heads of Finance** have responsibility for the financial affairs of the departments including the departmental financial management staff, processes and systems. They must equally report financial issues to the

appropriate **Executive Director** and the **Chief Financial Officer**.

17.15 The **Heads of Finance** should report to the **Chief Financial Officer** and where appropriate to the **Executive Director**:

- 17.15.1 any unlawful expenditure immediately it is realised that it is about to take place or has taken place;
- 17.15.2 any area where a loss or deficiency is about to occur;
- 17.15.3 any occasions where the overall departmental budget is projected to be overspent or where any individual budget is projected to be overspent by more than £5,000.
- 17.15.4 any concerns as regards the slow or non-banking of cash immediately;
- 17.15.5 any significant loss of stock or concerns immediately, and
- 17.15.6 any other matter of financial significance.

## Budget Holder

17.16 The Budget Holder is responsible for the financial affairs of the service area. The responsibilities of the role include:

- 17.16.1 leading the production of revenue and capital programme budgets for the service area ensuring all plans have appropriate and necessary budget provision;
- 17.16.2 ensuring plans and realistic prudent profiled budgets exist for the delivery of the medium term financial strategy and to report year to date variances and forecast outturn adverse or favourable variances immediately they exist;
- 17.16.3 ensuring that appropriate financial controls exist and are maintained properly within the service area and report on any deficiencies to the **Head of Finance**;
- 17.16.4 providing appropriate financial information to the **Head of Finance** and their respective teams in a timely, accurate and appropriate form and level of detail;
- 17.16.5 actively seeking additional income or savings opportunities, including grant and new financing opportunities, and reporting to the **Head of Finance** ;
- 17.16.6 ensuring that appropriate financial controls exist and are applied within the service area and report on any deficiencies to the Head of Finance;
- 17.16.7 ensuring that the appropriate financial controls are in place to ensure that all the Council's cash is paid into its bank accounts quickly and efficiently;
- 17.16.8 ensuring value for money is obtained for the whole Council when undertaking any procurement activity
- 17.16.9 reconciling all cash received by the service area on a regular basis (at least monthly);
- 17.16.10 ensuring all monies due to the council are recorded accurately and recovered promptly;
- 17.16.11 ensuring that all accounts payable invoices are settled

- within 30 days unless special terms have been agreed by **Chief Financial Officer**; and
- 17.16.12 Budget monitoring via Hyperian or MyResources in a timely manner (as per the timetable issued by the **Chief Financial Officer**).
- 17.17 The **Budget Holder** should report to their **Head of Finance**:
- 17.17.1 any unlawful or inappropriate expenditure immediately it is realised that is about to take place or has taken place;
  - 17.17.2 any area where a loss or deficiency is about to occur;
  - 17.17.3 any occasions where the overall service budget is projected to be overspent or where any individual budget is projected to be overspent by more than £5,000;
  - 17.17.4 any concerns as regards the slow or non-banking of cash immediately;
  - 17.17.5 any significant loss of stock or concerns immediately.
- 17.18 To confidentially inform the **Chief Financial Officer, Head of Internal Audit, Head of Anti-Fraud** or the **Monitoring Officer** of any fraudulent activity and other losses through error and mismanagement by any party connected with or employed by the Council.
- 17.19 To ensure that all financial implications of all reports are agreed and approved with the relevant **Head of Finance** prior to their submission to the **Cabinet, a Committee, Executive Leadership Team** or other bodies within and external to the Council.
- 17.20 To ensure that all appropriate financial controls and systems are in place where not specified above.

# **CONSTITUTION OF THE LONDON BOROUGH OF CROYDON**

## **Part 4.I - Tenders and Contracts Regulations**

These Regulations form part of the Constitution of the London Borough of Croydon and were adopted by Full Council on 15 July 2019

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# Background

These Tenders and Contracts Regulations are designed to ensure that all Contracts covered by these Regulations will be cost effective and meet the priorities of our Corporate Plan, link below:

[https://www.croydon.gov.uk/sites/default/files/articles/downloads/Corporate%20 Plan%202018-22.pdf](https://www.croydon.gov.uk/sites/default/files/articles/downloads/Corporate%20Plan%202018-22.pdf)

The Council's Commissioning Framework principles which these regulations support are outlined below:

Ethical And Sustainable Commissioning					
We will embed ethical and sustainable procurement considerations in all aspects of commissioning practice. We will use the Council's purchasing power to maximise social value, fostering local employment, promoting fair pay, encouraging local business growth and supporting community priorities.					
Principles					
Evidence based	Preventative	Locality based	Collaborations and Partnerships	Resident Focused	Delivering Outcomes
We will use data and insights at the locality level together with service user input to inform robust decisions that aid our commissioning and procurement practices.	We will focus on a preventative approach, in partnership with our communities, businesses and residents, enabling empowerment and self-resilience.	We will take a locality based commissioning approach, which takes account of the existing strengths, skills and resources to ensure that investment decisions support community empowerment.	We will collaborate or work jointly with other organisations to ensure improved outcomes and value for money for our residents.	We will put our residents at the center of our commissioning approach. We will involve customers and service users in the co-production of services.	We will commission for sustainable and effective outcomes that deliver beyond service and organisational structures.

The principles of these regulations are:

- to achieve good value for money and deliver social value wherever possible;
- to deliver a competitive process; ensuring there is no discrimination, with fair and transparent procedures, and equal treatment of all potential suppliers;
- to encourage and ensure continuous improvement in the delivery of Council services through the application of value for money principles;
- to incorporate effective and best practice procedures;
- to publish clear and understandable rules;



- to minimise risks and to protect the Council's interests and reputation;
- to ensure controls and accountability, and always to act within the law;
- to maintain an auditable trail of all tender activity;
- to be responsive to any weaknesses identified by internal/external audit;
- to ensure that regulations reflect the current procurement environment;
- to effectively support the delivery of direct services;
- to have regulations with which everyone complies.

These Tenders and Contracts Regulations are designed to achieve these key commissioning and procurement principles.

These Regulations are also the best defence against allegations that a purchase has been made unfairly, incorrectly or fraudulently. All those involved in the commissioning and procurement process must comply with these Regulations. Failure to do so may lead to disciplinary action being taken.

# Section 1 – General

## 1. The Legislation Governing these Rules

- 1.1 These Regulations are made under Section 135 of the Local Government Act 1972 and any subsequent qualifying or amending legislation. Under the Local Government Act 2000 the making and amending of these Regulations and the approval of any exceptions to them are part of the Council's non-executive functions.
- 1.2 These Regulations are part of the Council's Constitution and govern all relevant Contracts including those funded by way of grant.
- 1.3 The EU Rules and national legislation and related Public Contracts Regulations (PCR) 2015 & Concessions Contracts Regulations (CCR) 2016, which affects contracts under these Regulations, takes precedence.
- 1.4 These Regulations are subject to any general waivers agreed or provided for by these Regulations e.g. Regulation 19.
- 1.5 Anyone operating these Regulations must also follow the Council's Financial Regulations.
- 1.6 These Regulations support the Public Services (Social Value) Act 2012 and as amended, which allow for specific non-commercial considerations to be taken into account in contracting decisions.

## 2. Glossary of Terms is provided at Appendix A

## 3. Application of the Regulations

- 3.1 These Regulations apply if the Council intends to enter into a contract either as a purchaser or as a provider with another entity.
- 3.2 If a Contract involves generating income for either the Council or a provider, the Officer responsible must make an estimate of the notional value of the contract and use these Regulations if the value is estimated to be £100,000 or more.
- 3.3 These regulations apply to all Contracts except for the following types of Contracts:
  - a) Contracts of employment which make an individual a direct employee of the Authority;
  - b) Fines;
  - c) Payment of taxes;
  - d) Situations where the Council carries out work by arrangement with the owner of any property but in exercise of the Council's statutory default powers;
  - e) Agreements directly associated with the acquisition, disposal, or transfer of assets or land (to which the Financial Regulations shall apply).

f) Grants that the Council is applying for or issuing.

#### **4. Officer Responsibilities**

**4.1** Officers involved in the commissioning and procurement process must comply with:

- These Regulations;
- All UK and European Union binding legal requirements;
- The Council's Financial Regulations;
- The Council's Staff Code of Conduct;
- The Council's Gifts & Hospitality Procedures;
- The Anti-Bribery policy;
- Declare any conflicts of interest;
- The Council's Scheme of Delegation;

Officers must ensure that any agents, consultants and contractual partners acting on their behalf also comply through relevant provision in the contract of engagement or other suitable means. Any arrangements, which might, in the long term, prevent the effective operation of fair competition, must be avoided.

**4.2** Officers must:

- a. Have proper regard for all necessary legal, financial and professional advice;
- b. Ensure compliance with the Council's policy and procedures for example Equalities and Diversity, Safeguarding, ICT, Council's IT Security, Data Protection and Social Value;
- c. Declare any personal financial interest in a contract. Corruption is a criminal offence;
- d. Report any offers of bribes, inducements or gifts & hospitality;
- e. Conduct a relevant value for money review;
- f. Ensure that there is adequate budget provision for the procurement being undertaken;
- g. Check whether there is an existing contract that can be used before undergoing a competitive process;
- h. Not divide up any contract in order to avoid any rules set out in these Regulations;
- i. Receive approval for the RP2 How we Buy report (procurement/ commissioning strategy) before advertising the contracting opportunity or inviting any tenders for a relevant Contract;
- j. Allow sufficient time for the submission of bids;
- k. Keep all supplier bids confidential;
- l. Keep records of all dealings with suppliers;
- m. Obtain all required approvals at the correct point in the procurement process as advised by these Regulations and complete a written contract (signed and/or sealed, as required) before placing an order or raising a purchase order for any supplies, services or works;
- n. Where appropriate don't award a contract until the Standstill period is over;

- o. Enter all purchase order information onto the Council's financial system prior to any goods or services being provided. Raising purchase orders, and any permitted exceptions, must be conducted in accordance with the Council's P2P Guidance documentation;
- p. Identify an appropriate senior manager with the relevant delegation, who is the designated contract owner responsible for the relationship with the supplier. In addition, a contract manager with responsibility for day to day issues and ensuring the contract delivers as intended must also be appointed;
- q. The contract manager should ensure the safe keeping of contract documentation in line with Croydon's document retention policy and uploaded onto the Council's contract management system;
- r. Throughout, ensure that the procurement exercise delivers against the Council's Commissioning Framework and supports the delivery of the Corporate Plan Priorities.

**4.3** When any employee either of the Council or of a service provider may be affected by any transfer arrangement, Officers must ensure that the Transfer of Undertaking (Protection of Employment 2006 Regulations (amended 2014)) TUPE is considered along with any issues related to employee's membership of the LGPS, and Teachers Pension Scheme. Advice and guidance on TUPE must be sought at an early stage from the relevant departmental HR Lead. The Pensions team must also be notified as early as possible so that the implications relating to pensions may be considered.

## **5. Director Responsibilities**

**5.1** Directors must:

- a. Ensure that these Regulations are followed and enforced within their areas of responsibility;
- b. Make the staff aware of the requirements of these regulations;
- c. Declare any personal financial interest in a contract. Corruption is a criminal offence;
- d. Report any offers of bribes, inducements or gifts & hospitality;
- e. For Contracts over £100,000 ensure the relevant Cabinet Member(s) and the CCB are aware of commissioning intentions and are advised in advance of the purpose of any Contract that falls within these Regulations, including the commissioning and/or tendering process to be followed to secure the Contract and of any anticipated issues for the process, with particular regard to any service implications arising;
- f. Consider any advice given by CCB;
- g. Monitor compliance and investigate any non-compliance with the regulations and report any findings to the Director of commissioning and Procurement as Chair of the contracts and Commissioning Board;



report to CCB for agreement to the proposed outcome for values over £100,000.

- 7.2** Consideration must be given to what procurement method is most likely to achieve the commissioning and procurement objectives, including packaging (Lots) strategies, internal or external sourcing, shared services, partnering arrangements and collaborative procurement arrangements with other local authorities and government departments. Officers will also consider working with CCGs, statutory undertakers and Central Purchasing Bodies. They may also consider the establishment of separate trading entities.
- 7.3** The relevant Officer must refer to the Procurement & Contract Management Handbook for further details on process and requirements before instigating any procurement exercise.

## **Section 3 – How we Buy - Approach and Principles**

### **8. How we Buy**

- 8.1** The Director responsible must submit a How we Buy (procurement strategy) Report to the CCB, setting out commissioning intentions and sourcing strategy, (in the format required), for all proposed Contract awards for goods and services with an estimated total Contract value of £100,000 and above. Where it is intended to complete a mini competition or call off for works from an existing Council contract or an OJEU procured framework as advertised for works, then a report is not required up to an estimated total contract value of £500,000.
- 8.2** A Report must be presented to Cabinet (in the required format) for approval that has been recommended by CCB, where the eventual Contract value is estimated at £5m or above unless the underlying procurement strategy to which it relates has already been reported and agreed by Cabinet. In these cases, the Leader has delegated the authority to agree the procurement strategy to the relevant Cabinet Member.
- 8.3** The How we Buy report or Cabinet report should, as a minimum, set out the project plan, the proposed procurement route, compliance with the Council's policies on LLW, Social Value, data protection and equality analysis recommendations, any proposed departures from standard procurement practice or these regulations, the evaluation approach, risks, timetable, project structure and details of the Contract, e.g. term, value and any other relevant information.
- 8.4** No advertisement should be placed or invitation to tender made prior to approval of the How we Buy report in accordance with Regulation 11.

## **9. E-Procurement and the Use of E-Sourcing (Tendering)**

- 9.1** E-Procurement is a critical method of ensuring transparency, fairness and accountability in procurement processes. As such, all quotation and tendering processes for Contracts run by the Council or on behalf of the Council must use an e-tendering portal under the supervision of the relevant C&P Head of Service. When the Council is running a quotation or tendering process it will use its own e-tendering portal. Any other tendering method or use of other e-tendering portals may be used only with prior authorisation via a Waiver request.
- 9.2** All electronic documentation will be securely accessed and retained on the Council's e-sourcing website. The Council will not accept hard copies of suppliers tender submissions.
- 9.3** The relevant Director must ensure that all information required to commence an e-procurement process effectively, and to provide a full audit trail for the process, is provided, including details of evaluation criteria, their weightings and the way in which evaluation scores will be calculated.

## **10. Contract Value, Aggregation and Existing Council Contracts**

- 10.1** The Officer responsible must not divide any Contract ordinarily treated as a single Contract into two or more Contracts or in phased or staged delivery in such way as to avoid the application of any of these Regulations, the UK Regulations or the EU Rules.
- 10.2** The value of Contracts which are subject to the UK Regulations shall be calculated as provided for in those regulations. The value of any Contract is calculated net of VAT and over the total duration of the Contract, including any pilot, phases or stages of delivery.
- 10.3** The Officer responsible may not arrange to purchase separately any supplies, services or works that are available to be purchased through an existing contractual arrangement with the Council, where the items sought are either the same or sufficiently similar to those that are the subject of the existing contract to fulfil the Council's needs. Unless it can be clearly demonstrated to the satisfaction of the Chair of CCB for spend above £100,000 and to the satisfaction of the Strategic Procurement Manager for spend below £100,000, that using the existing Contract would not fulfil the Council's statutory duty to provide Best Value under Section 3 of the Local Government Act 1999.

## **11. Procedures and Approval Process for the Council's Tendering and Request for Quotation Activities**

- 11.1** These regulations apply to all purchases except for those where Regulation 19.3 applies.
- 11.2 Low Value Procurement (below £100,000)**

**11.2.1** For all contracts with an estimated value of below £100,000 the following thresholds apply:

Contract Value	Procedure	Approval
Up to £10,000	Preferably two written quotations both to be from local supplier using the Council's Business Directory (if possible).	In accordance with the Council's Scheme of Financial Delegation and Departmental Scheme of Delegation.
Over £10,000 up to £100,000	Min. three written quotations with two from local suppliers using the Council's Business Directory (if possible) and processed by the Council's Buying Team via the Council's e-tendering portal.	

**11.2.2** For values over £10,000 written quotations should be processed through the Central Buying Team using the Council's e-tendering system. Quotations must be processed in accordance with the information on low value procurement provided in the Commissioning & Procurement Handbook.

**11.2.3** Where the procurement route will not follow Regulation 11.2.1, a waiver is required as set out in Regulation 19. The Director of C&P may approve a list of general exemptions for circumstances where it is not feasible or advantageous to seek written quotations or Waivers.

### **11.3 Formal Tendering (£100,000 and above)**

**11.3.1** For all contracts with an estimated value of £100,000 and above, formal tendering procedures should be followed using the Council's e-tendering portal in accordance with the requirements of Regulations 8 & 26 and the UK Regulations. No procurement can commence without prior approval of the RP2 How we Buy - procurement strategy and no contracts can commence without prior approval of the award of contracts. Approvals are in accordance with the table below and where approval is sought from a Cabinet Member then it is in consultation with the Cabinet Member for Finance & Resources or where the Cabinet Member is the Cabinet Member for Finance & Resources then it is in consultation with the Leader of the Council.

Approval Required	Chair of CCB Approval	Cabinet Member Approval	Cabinet Approval
RP2 How we Buy - Procurement Strategy	Up to £5,000,000	Cabinet Member(s) to be sighted on all reports	Over £5,000,000
RP3 Contract Award	£100,000 up to £500,000	Over £500,000 up to £5,000,000	Over £5,000,000

**11.3.2** Unless as otherwise specified in these Regulations, the approval of strategies and awards relating to Framework Agreements and the establishment/initial appointment of providers to a DPS shall be subject to the requirements and



procedures applicable to Contracts, by reference to the estimated value of contracts to be called off over the life of the Framework or DPS.

**11.3.3** The periodic appointment of new providers to an approved DPS or (where relevant) Framework shall be reported to CCB with such frequency as shall be specified in the report seeking approval for the award of a Framework Agreement or establishment/initial appointment of providers to a DPS ('Framework/DPS Award report').

**11.3.4** Unless as otherwise stated in these Regulations, the approval of strategies and awards in relation to Call-off Contracts under a Framework or DPS approved via a Framework/DPS Award Report shall be subject to the requirements and procedures applicable to Contracts, except as may be otherwise specified and approved in the relevant Framework/DPS Award Report.

## **12. Pre Tender Market Consultation**

**12.1** Before submitting a procurement strategy to CCB, the officer responsible for the procurement and in consultation with the relevant Category Manager, may issue a Prior Indicative Notice (PIN) or conduct market consultations with a view to informing the eventual procurement approach, scope of contract, specification etc. and/or to communicate to prospective applicants and tenderers the Council's procurement plans and requirements such as the nature, level and standard of the provision, contract packaging, timescales and other relevant matters.

**12.2** For this purpose, the officer responsible may, for example, seek or accept advice from independent experts, other authorities or from market participants.

**12.3** Such advice may be used in the planning and the proposed procurement procedure, provided that it does not have the effect of distorting competition (by giving those who participate in the pre-tender market consultation an unfair advantage over others in relation to future procurement opportunities) and does not result in a violation of the EU Rules and transparency and furthermore, is conducted in line with the UK Regulations.

## **13. London Living Wage (LLW)**

**13.1** The Council will include a requirement for all staff to be paid no less than the LLW, as defined by the Living Wage Foundation. For these purposes the scope will be defined as by the Living Wage Foundation. For 'staff' means all persons employed by the contractor to perform its obligations under the relevant Council contract together with the Provider's servants, agents, suppliers and sub-contractors used in the performance of its obligations under that Contract.

## **14. The Public Services (Social Value) Act 2012**

**14.1** This Act places a requirement on commissioners to consider the economic, environmental and social benefits of their approaches to commissioning and

procurement before the process starts. The Act requires authorities to make the following considerations at the pre-procurement (commissioning) stage:

- a) How, what is proposed to be procured, might improve the economic, social and environmental well-being of the 'relevant area';
- b) How in conducting a procurement process, the Authority might act with a view to securing that improvement and whether to undertake a consultation on these matters.

**14.2** Commissioners should use this Act, including any updates to it and the Council's Social Value Policy to consider outcomes and the types of services to commission before starting the procurement process. When considering how a procurement process may improve the social, economic or environmental well-being of a relevant area, the Council must only consider matters that are relevant to what is proposed to be procured. The Council must only consider those matters to the extent to which it is proportionate, in all the circumstances, to take those matters into account. See: <http://www.legislation.gov.uk/ukpga/2012/3/enacted>

## **15. Nominated or Named Sub-contractors and Suppliers**

- 15.1** In accordance with Croydon's commitment to developing the local supply base and proactively implementing the Social Value Act, sub-contracting can provide a useful tool for engaging small businesses, voluntary organisations and the community sector in the supply of goods, supplies and services.
- 15.2** Officers should consider whether the inclusion of sub-contracting clauses is appropriate for their commissioning activity.
- 15.3** Where a Director nominates or names a sub-contractor or supplier to a main contractor, they must ensure the compliance with LLW, Modern Day Slavery, Council's Equality and Diversity policy, data protection legislation and any other such policy or legislation relevant to the goods, services or works being contracted for is included in that suppliers agreement. They must seek approval from the Chair of CCB prior to engagement with the sub-contractor or supplier.

## **16. Collaboration**

- 16.1** In order to secure value for money, the Council may enter into a procurement arrangement with a Central Purchasing Body (CPB) such as Crown Commercial Services (CCS) or another such body. These agreements should include (where possible) compliance with the Council's policy and procedures, and must be approved in accordance with Regulation 11. The terms and conditions of the CPB must be fully complied with, including any requirement to undertake competition between providers, roles and responsibilities and liabilities must be clearly set out in all Call-off and contract documentation when using these agreements.
- 16.2** In order to secure value for money, the Council may enter into collaborative procurement arrangements with another local authority, government department, Clinical Commissioning Groups (CCG) and health providers,

statutory undertaker or other contracting authority. These arrangements must be approved in accordance with Regulation 11 and must ensure that roles and responsibility and liability has been clearly set out within the documentation.

## **17. Provision of Services and Works for Other Organisations**

**17.1** This Regulation applies whenever the Council carries out or provides any services or work or other action on behalf of another Local Authority/ consortium of Local Authorities, Government Department, Statutory Body or third sector organisation (third parties). The following conditions apply:

- a. the Officer responsible must be satisfied that the Council's interests will not be prejudiced by any such action; and
- b. there must be sufficient budget for the work in the Council's own estimates; and
- c. the third party must sign an agreement with the Council that clearly states liabilities, roles and responsibilities, and include contingency arrangements should the third party no longer exist during the term of the provision; and
- d. the third party must authorise any additional requirements, variations or departures and any additional funding required by the Council must be authorised in accordance with the Financial Regulations; and
- e. the third party must first confirm that it accepts financial responsibility for the provision of services or work.

**17.2** Approval must be sought from the CCB via a RP2 How we Buy report prior to any notable commitment of Council resources or budget

## **18. Tendering with or through other Public Bodies**

**18.1** Subject to the requirements of EU Rules, UK Regulations and any other applicable legislation, regulation, policy and/or guidance document, the Officer responsible can call off tenders with or through the following organisations, provided that they can obtain equivalent or more advantageous terms than by inviting competitive tenders:

- a. Another Local Authority, consortium of local authorities, Commissioning Partnerships, a Mutual;
- b. Government Department, Purchasing Organisation which has been approved by the Director responsible for procurement;
- c. Statutory Body;
- d. Utility Undertaking (public or previously public).

**18.2** However, the Officer responsible must obtain the most favourable terms possible for the Council and must be able to demonstrate Best Value for Money under Section 3 of the Local Government Act 1999. An award report recommending any award must be submitted in accordance with Regulation 11.

## **19. Waivers and Emergencies**

- 19.1** Where the value is under £100,000 any waivers must be signed by the relevant Director of the service area in consultation with either the Strategic Procurement or Sourcing Managers of the Central Buying Team.
- 19.2** Over and above this, the Director of Commissioning & Procurement (exercising delegated non-executive powers) can waive any requirements contained within these Tenders and Contracts Regulations for specific projects, following a recommendation from the CCB. Any such waivers granted with a value over £100,000 must be reported to Cabinet at its next meeting.
- 19.3** For Disasters and Emergencies where there is a clear need to provide a service or product immediately in the instance of a sudden unforeseen crisis or the immediate risk is to health, life, property or environment, compliance when these regulations may not be feasible. Any Director may place an order for supplies, services or works as the circumstances require after seeking approval from the chair of CCB, clearly stating the immediate procurements required. If that is not feasible for example due to outside of normal working hours then immediately after when reasonably feasible. A report of contracts awarded and any future procurements required will require approval by the Chair of CCB and if applicable Cabinet at the next available meeting after the event.
- 19.4** For emergency placements (Placement) relating to children or vulnerable adults, where it is not possible to arrange the Placement through an existing Council Contract, the relevant Director may authorise an order for the Placement. As soon as practical the Director shall review the Placement to satisfy themselves that it is and continues to be appropriate to the circumstances and provides value for money.
- 19.5** A monthly report of all Placements and other emergency orders made under this Regulation 19 in the relevant month shall be presented to CCB, Cabinet Member or Cabinet as appropriate (by reference to regulation 28 in accordance with the value of award and reporting protocols). Where the Director making the Placement or emergency order is not an Executive Director such report shall also be provided to the relevant Executive Director.
- 19.6** All waivers against any of these regulations, including the reasons for them and the period for which the waiver is valid must be recorded and approved. Where a waiver is to be sought, the procurement process may not begin before approval has been granted. This restriction cannot be avoided by seeking approval of a waiver with retrospective effect, unless it is confirmed that it was not reasonably practicable to obtain it prior to approval. All requirements of these Regulations relating to the approval to award still remain.

## **20. Preparation of a Specification**

- 20.1** The Officer responsible must prepare a clear and unambiguous specification. It must be in keeping with the Council's commissioning principles (including Social Value outcomes), they must be outcome-based and must include any necessary outputs, plans, sections, drawings and bills of quantities. This specification must be agreed by the relevant Category Manager or the Central Buying Team for values below £100,000.

- 20.2** Sometimes, because of the type of work, the Officer responsible may not consider it practical or possible to prepare a detailed specification of every item of work necessary for the contract to be carried out. Here, the Officer responsible may include, in general words, provision for such works in the specification. This is subject to the requirement that any such work is carried out under the direct supervision of and on the written authority of the Officer responsible.
- 20.3** If the specification is for a contract for works, the Officer responsible must include provision within the budget for contingencies.

## **21. Advertising and the Number of Tenders**

- 21.1** One of the principles of Croydon's commissioning framework is to let contracts via an open and transparent competitive process.
- 21.2** Officers shall ensure that all tender processes that are to be advertised are done so in a sufficiently accessible manner and where proposed Contracts, irrespective of their total Contract value, might be of interest to potential suppliers located in other member states of the EU, a sufficiently accessible advertisement is published. Generally, the greater the interest of the Contract to potential suppliers the wider the coverage of the advertisement should be. Advertisements for tenders must as a minimum be placed as follows:
- a.** Where the value exceeds the current EU thresholds for goods, service and works Contracts, tender advertisement rules must be followed in accordance with the current EU Rules and UK Regulations;
  - b.** For procurement activity of any value, Officers must use the Council's own e-tendering portal and website(s). They may use additional advertisements in national official journals, specialist trade papers or websites, if relevant and if affordable.
- 21.3** As a minimum, any advertisement must state the place where interested providers may obtain the procurement documents and the deadline for receipt of submissions. As appropriate and as an alternative to advertising; tenderers may be selected either via an accepted framework (Croydon's own, via an established CPO or authorised 3rd party) or via an approved list such as 'Constructionline'. Details should be provided in the RP2 How we Buy report.

## **22. Standards and Evaluation Criteria**

- 22.1** Where the value is £100,000 and above the Director for whom the procurement is being undertaken must ascertain the relevant EU, UK, European or international standards which apply to the subject matter of the contract. The Officer must include those standards which are necessary to properly describe the required quality and obligations under the contract. Advice from the relevant C&P Head of Service or Category Manager must be sought, as necessary.
- 22.2** The composition of and assessment of the SQ and ITT must be carried out in line with the EU Rules and UK Regulations which provides for transparency,

non-discrimination, equal treatment, mutual recognition and proportionality amongst the freedom of movement of goods, freedom of establishment and freedom to provide services.

- 22.3** The Officer responsible for the procurement must define evaluation criteria that are appropriate to the purchase and designed to secure an outcome that meets the objectives of the Council. This must be included in the approved RP2 How we Buy Report. The evaluation criteria chosen must, where relevant, be compliant and in accordance with the UK Regulations. This must be either MEAT for goods, services and works, or Highest Price if payment is to be received for sale or disposal.
- 22.4** When awarding on the basis of MEAT, the split between cost and quality is to be 40% cost and 60% quality. Where the Officer responsible does not consider this split appropriate, the reasons for the use of an alternative percentage split must be substantiated and a Waiver sought to this regulation. This must be included in the RP2 How we Buy Report, which is in accordance with Regulation 8, for approval by the CCB. Where, under the MEAT approach, quality is adopted as a criterion, it must be further defined by reference to sub-criteria. There is no definitive list of quality criteria that should be applied to all procurements, but they must be linked to the subject matter of the contract and proportionate. Please reference the Procurement & Contract Management Handbook for further advice.
- 22.5** The 60% quality evaluation assessment must include an allocation for a minimum of 10% for the Social Value criteria, any deviation from this must be in accordance with Regulation 19.
- 22.6** The Director must ensure that, whatever method of tendering is chosen, financial appraisals of contractors are part of the selection/award process. Directors must also ensure abnormally low tender submissions have been fully evaluated to ensure it does provide value for money. Any concerns regarding the evaluation especially with consideration of the Modern Day Slavery Act, should be reported to the Chair of CCB.
- 22.7** Officers must indicate in the contract notice whether or not they authorise variants. Variants shall not be authorised without this indication.
- 22.8** Officer must state in the tender documents the minimum requirements to be met by the variants and any specific requirements that need to be met. Only variants meeting those minimum requirements shall be taken into consideration

## **23. Standard Contract Clauses**

- 23.1** All Contracts valued in excess of £100,000 must be in writing and signed by an Authorised Signatory on behalf the Council, or sealed with the Council's Seal in the presence of an Authorised Signatory.
- 23.2** The Officer responsible must include the following standard clauses in every written Contract. Any proposed changes to the standard clauses are subject to

legal advice and approval by the Director of Commissioning & Procurement, if not included in a RP2 How we Buy Report.

**23.3** All Contracts must include:

- a. Default procedures. These may include charges for defaults.
- b. A clause enabling the Council to claim actual or liquidated damages or an appropriate combination, depending upon the nature of the contract. Where a liquidated damages clause is used, there must also be included a clause for an extension of the time for completion. Appropriate advice must be sought on the type of damages clause suitable for each proposed contract.
- c. A genuine pre-estimate of liquidated damages must be quoted in the contract to be valid. Liquidated damages clauses generally yield limited sums in damages and, therefore, the risks of adopting a liquidated damages clause should be assessed in each case.
- d. A clause requiring the Contractor to maintain and test a business continuity plan at least annually and to keep the Council informed of how that plan would be deployed to protect the Council's interests, in the event of any interruption in the delivery of goods, services or works.
- e. A clause setting out the arrangements by which the contract will be managed and monitored by the Council, including arrangements for regular liaison between the parties, in compliance with the Council's standard requirements for contract management and monitoring.
- f. An extension of the 'time for completion' clause to protect the Council and allow for liquidated damages to be claimed in the event that the Council is responsible to any extent for a delay.
- g. A clause permitting the termination of the Contract in whole or in part, and without penalty, where the Council elects to do so.
- h. A clause that entitles the Council to terminate a Contract without penalty where it has been subject to a substantial modification by the provider without prior consultation and agreement.
- i. A provision requiring the Council to pay undisputed invoices, within 30 days of receipt of a valid invoice (subject to any contractual or statutory obligation to pay earlier).
- j. Provision that any significant deviation from the tender proposal shall constitute a default in the same manner as a deviation from the Specification and may constitute grounds upon which to terminate the contract.
- k. Suitable clauses to enable the Council to cancel the contract and recover any loss due to the cancellation of the contract if the Contractor or any person employed by the Contractor or acting on the Contractor's behalf shall have committed any offence under the Bribery Act 2010 or shall have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972 or shall have given any fee or reward to any member or officer of the Council which shall have been exacted or accepted by such officer by virtue of office or employment and is otherwise than such officer's proper remuneration.

- l. A clause that states the Council will require all staff engaged by the Contractor in the delivery of services or works under the Contract be paid the LLW.
  - m. Where appropriate a clause that states the Contractor must comply with the Modern Day Slavery policy.
  - n. Where appropriate a clause that states the Contractor will ensure they maintain their compliance with Council policies that are relevant to the services that the Council are procuring.
  - o. Where personal data is being used within the delivery of the services, the appropriate data protection provision is made including that the Contractor must indemnify the Council against any relevant liabilities applicable to the Contractors responsibilities.
  - p. Where appropriate, relevant safeguarding provisions must be included.
- 23.4** Standard contract clauses for securing social value are set out in the Social Value Framework. The Officer responsible should refer to this framework to ensure the appropriate clauses are used. Every Contract awarded by the Council must have a commitment on social value.
- 23.5** The Officer responsible must consider the obligation to require tenderers to provide a Performance Bond and/or Parent Company Guarantee where a contractor is a subsidiary of a parent company, as a Contract requirement in the following circumstances:
- (i) the award is based on evaluation of the parent company;
  - (ii) the financial status of the contractor (having regard, inter alia, to the proposed contract) warrants the same; and or
  - (iii) the S151 Officer recommends;
  - (iv) where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the Contract.
- 23.6** The decision to require a Performance Bond and/or Parent Company Guarantee as a Contract requirement should be detailed in the RP2 How we Buy report.
- 23.7** If during the tendering exercise it becomes a requirement for a tenderer to provide a Performance Bond and/or Parent Company Guarantee as a Contract requirement - perhaps to support a financial standing issue, then this requirement, if different from that stated in the procurement should be reported in the eventual award report.
- 23.8** If required, advice should be sought from the relevant Finance Head of Service and included as part of the RP2 How we Buy report or Contract Award report for approval by the Chair of CCB.
- 23.9** In all cases where relevant, the Officer responsible, must discuss the need for the provision of a Pension Bond with the Head of Service responsible for Pensions and Treasury.
- 23.10** Every Contract must have a clause requiring the contractor to obtain adequate public liability and employer's liability insurance and any other insurance as may be required by the contract. The contractor must provide reasonable proof of



this before work is commenced and throughout the life of the contract upon renewal of insurance.

**23.11** The levels of cover are to be as stated in the Council's insurance guidance document. Any proposed reduction in required cover must be in consultation with the Council's Insurance, Risk and Corporate Programme Office.

**23.12** All Contracts must include the following:

a. wording in which the contractor agrees to indemnify the Council for all claims proceedings, actions and other matters relating to the contract, except where the Council is found to be legally liable;

**and**

b. a clause in which the contractor agrees to certain service levels while dealing with claims, etc;

**and**

c. a clause requiring the full range of relevant insurances to be provided by the contractor, advice on this must be taken from the Risk and Insurance Officer;

**and**

d. the need for any self-employed person or consultant to have their own insurance, particularly where services are provided by employment agencies.

**23.13** Every Contract must have a clause requiring all parties to comply with the provisions of the Data Protection Act 2018 ('DPA').

**23.14** Every contract must ensure that the contractor acknowledges that the Contract and the information associated with it is subject to the Freedom of Information Act 2000 ('FoIA').

**23.15** Every Contract must name the supervising person/s.

**23.16** Every Contract must have a clause requiring the contractor to observe statutory requirements as to the manner in which work is to be carried out.

**23.17** Every Contract must incorporate the specification and any drawings and bills of quantities as required/relevant.

**23.18** Every Contract must contain a provision enabling the Council to deal with cases where the contractor, without good reason, either wholly or partly fails to complete delivery of the supplies, services or works, the subject of the Contract, to the contract standard or at all. The provision must enable the Council, if so desired, to:

a. engage an alternative provider, and in situations of urgency, without notice to the original contractor;

b. arrange for the delivery of necessary supplies or materials from an alternative source;

c. change quality or quantity of supplies, services or works required;

d. recharge to the original contractor the costs of re-procurement and/or associated administrative and legal costs, and any costs incurred in excess of the original tendered price of the contractor to complete the delivery of the supply the subject of the contract, including the costs of

any changes required to that supply, resulting from the contractor's default.

- 23.19** Where appropriate, a standard form of contract issued by the regulatory body, trade industry or profession may be used in conjunction with these Regulations.

## **24. Form of Contract for all Awards**

- 24.1** Every Contract must be in writing and in a form approved by the Council Solicitor and Monitoring Officer.

- 24.2** The Council Solicitor and Monitoring Officer, the Heads of Legal Services or other person authorised by the Council Solicitor and Monitoring Officer ('Authorised Signatory') must sign every written contract valued at £100,000 and above in accordance with the Council's Constitution and is responsible for settling the detailed terms thereof. However, the relevant Director may sign and settle the terms of Contracts valued at £100,000 and above if specifically authorised in writing to do so by the Council Solicitor and Monitoring Officer.

- 24.3** Where a standard form of contract is issued by the regulatory body, trade industry or profession, the Officer responsible may use this in conjunction with these Regulations. The Officer responsible must ensure that the Contract is approved and executed by the Director responsible for Legal Services.

## **25. Invitations to Tender and Quotations/Tendering Instructions**

- 25.1** The Officer responsible must issue Invitations to Tender and tendering instructions to every supplier:

a. invited to tender following a short-listing process;

or

b. who is listed on the relevant Framework, Framework lot or DPS and who is capable and willing to tender;

or

c. who requests the supply of tender documents under open tendering.

- 25.2** All Invitations to tender must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply.

- 25.3** All suppliers invited to tender must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

- 25.4** All Invitations to tender shall include the following:

a. A specification that fully describes the Council's requirements;

b. A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose);

- c. A requirement for tenderers to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion;
  - d. Notification that tenders are submitted to the Council on the basis that they are prepared at the tenderer's expense;
  - e. A description (detailed as appropriate) of the award procedure and evaluation methodology.
- 25.5** The Officer responsible must advise every supplier submitting a tender that:
- a. no extension of time will be allowed for the receipt of any tender, unless at the discretion of the Council;
  - b. tenders received after the date and time specified for receipt may be rejected;
  - c. any departure from the Tendering Instructions may lead to the tender being rejected;
  - d. the Council does not bind themselves to accept the lowest or any tender or to accept any tender in full;
  - e. as soon as the Council has advised that (subject to contract) the tender has been accepted, then the agreement becomes legally binding;
  - f. the tender documents to be in electronic format;
  - g. the tenderers signed form of tender cannot be different in detail to that provided as part of the e-sourcing process.
- 25.6** Standard contract clauses must be stated (Regulation 22). Every supplier who submits a tender must be willing to enter into a contract containing these clauses.
- 25.7** The Officer responsible must also specify the period for which the tender will be kept open for acceptance. The normal minimum provision will be 90 days.
- 25.8** Tenders must be submitted electronically via the Council's e-tendering portal or by such other form of submission provided it was approved and a waiver to this regulation sought in the relevant RP2 How we Buy report.
- 25.9** Every tender must specify:
- i. the amount of the tender and any discounts or deductions allowable and the terms for any such allowance; and
  - ii. the time or times within which the contract is to be performed or completed.
- 25.10** The Officer responsible must check that every tender sum has been calculated by reference to the minimum specification required and stipulated in the tender. If they discover any departure from the specification, they can treat it as grounds for disregarding the tender.
- 25.11** When a tenderer proposes a variant bid, they must have demonstrated, by way of a compliant bid, that the Council's minimum standard has been met before a variant bid can be considered.
- 25.12** The Officer responsible must check that every tender sum is stated net of Value Added Tax or any other Tax or Duty.

## **26. Submission, Receipt and Opening of Tenders/Quotations**

- 26.1** Every tender must be received by a secure method using the Council's e-tendering portal or an approved e-sourcing system.
- 26.2** Suppliers or providers who have expressed interest in a tender must be given an adequate period in which to prepare and submit a proper tender, consistent with the complexity of the contract requirement. PCR 2015 or CCR 2016 includes specific tendering time periods.
- 26.3** Officers must notify all suppliers of the correct tender return instructions, including the date, time and place (details of the e-sourcing system).
- 26.4** In exceptional circumstances, the deadline for receipt of tenders may be extended, but only with the agreement of the relevant C&P Head of Service and the C&P Head of Service Corporate and only if such extension of time will not disadvantage a tenderer. No extension to the deadline can be given once the original deadline has passed and the seal has been broken on the e-tendering portal.
- 26.5** The relevant C&P Head of Service must arrange for all tenders for any one Contract to be opened at the same time. All tenders received via the Council's e-tendering portal should be opened by those listed below providing they are not involved in the tender exercise:
- Category Manager from outside of the service area leading the tender exercise;
  - the Strategic Procurement Manager of the Central Buying Team;
  - the Procurement Governance Manager.
- 26.6** In exceptional circumstances, the Director of C&P following advice from the C&P Head of Service Corporate and the C&P Head of Service for the service area may approve the delegation of the opening of tenders received via the Council's e-tendering portal to the Sourcing Manager of the Central Buying Team or a Senior Category Officer from outside the service area leading the tender exercise.
- 26.7** Any tender that does not comply with the Council's requirement as set out in the tender invitation e.g. arrives late, should normally be excluded from consideration, with the circumstances recorded on the Council e-tendering portal. Officers may, however, seek the agreement of the Chair of CCB to amend these requirements in appropriate circumstances. Any such relaxation shall be identified when seeking any necessary authorities required before the acceptance of a tender.
- 26.8** The C&P Head of Service Corporate must ensure, for audit and information purposes that for all tenders received via the Council's e-tendering portal:
- a) An electronic record is retained of the date and time of opening and the name of the Officer involved.; and
  - b) An electronic record of all tenders received is retained

## **27. Post SQ and Tender Clarifications**

- 27.1** The Director must maintain a detailed written record and clear audit trail of all post SQ and tender clarifications detailing all contact with the tenderer. All such communications must be recorded via the Council's e-tendering portal.
- 27.2** The Director must report to the CCB or the nominated Cabinet Member or Cabinet as appropriate (based on Contract value) any amendments to tender prices arising from post tender clarification and the reasons for them.
- 27.3** Directors may amend tender prices under post tender clarification, providing it does not disadvantage any other tenderer and in accordance with PCR 2015 and CCR 2016, in the following circumstances only:
- a.** if, between the submission of tenders and the Contract being awarded, a tenderer seeks to reduce the price without changing the original specification, then the Director must consult with the Chair for CCB to determine if there are reasons for accepting the new price and, if appropriate, offer the same opportunity to all the other tenderers. Opportunities to other tenderers to revise their bid prices would not normally be given to those previously eliminated for reasons other than cost or where a tenderer rectifies a mathematical error;
  - or**
  - b.** if there are errors in totals;
  - or**
  - c.** if the tender price is so low, the Director believes that the tenderer may have made an error and that acceptance might lead to difficulties of performance;
  - or**
  - d.** where the lowest tenderer agrees to reduce their price (without varying the specification) after negotiation because:
    - i)** the original tender was unacceptably high;
    - or**
    - ii)** the schedule covers a range of requirements and, although lowest overall, negotiations might allow further savings to the Council.
  - e.** where, for a particular requirement:
    - i)** the lowest tender exceeds the Department's allocation;
    - or**
    - ii)** where it offers an alternative specification and negotiation would permit an assessment of the scope for savings.
  - f.** If there is a Professional or local Code of Practice, that may restrict price negotiation and must be taken into consideration.
- 27.4** If the Director amends the original specification or the acceptable alternative differs from the original specification, then they must give similar opportunities to all other tenderers that submitted a tender.
- 27.5** The tenderer must subsequently confirm, in writing, any alterations to a tender before the Director may consider all the tenders received.

- 27.6** All post tender negotiation must be available for audit and recorded via the Council's e-tendering portal.

## **Section 4 – Contract Award**

### **28. Contract Award**

- 28.1** A Contract with a value of £100,000 and above, may not be awarded before the relevant Director has submitted a RP3 Contract Award report on the tenders received for the relevant contract and the appropriate acceptance in accordance with Regulation 28.4a-d.
- 28.2** The Officer responsible must provide a report on financial references in the report seeking acceptance of a tender.
- 28.3** Where the financial appraisal of a contractor gives an 'extreme caution' rating, the contractor must not be used unless the Director or Officer reports on and seeks approval from the Council's Section 151 Officer:
- a.** any mitigating circumstances;
  - and/or**
  - b.** why they wish to appoint that contractor.
- 28.4** Prior to the submission to CCB or to the Chair of CCB, every report seeking acceptance of a tender for a Contract must be reviewed first by the Lead Category Manager prior to departmental review by; the lead Director, the Head of Corporate Law, the Head of Finance, Human Resources and the C&P Head of Service relevant to the report. The report must be prepared in accordance with the relevant Protocols (as set out in Part 5 of the Council's Constitution) and specify information regarding the tendering circumstances and the terms of a Contract award sufficient to enable an informed decision to be made. It must also contain any appropriate comments and/or recommendations relating to budgetary provision, the competitive process undertaken, these Regulations, the Financial Regulations, EU Rules, relevant legislation and the Council's policies.
- a.** for Contracts valued between £100,000 and £500,000, if there have been no departures from the approved procurement strategy and there is available budget then a report, that has been signed-off in accordance with the standard award report template seeking Contract award can be made directly to the Chair of CCB, under delegated powers, without first seeking recommendation from the CCB;
  - b.** for Contracts valued between £100,000 and £500,000 where there have been departures from the approved procurement route (with the exception of timetable), evaluation approach or additional risks were identified, then a report is required seeking recommendation from the CCB for Contract award by the Chair of CCB, under delegated powers;
  - c.** or Contracts valued over £500,000 a report is required to the CCB seeking recommendation for Contract award by the Cabinet Member for values up to £5,000,000 and Cabinet for values over £5,000,000.

- d. for proposed Contract extension periods included as part of the original Contract award, a report to the CCB seeking recommendation for Contract extension by the Chair of CCB, under delegated powers.

**28.5** The Cabinet, nominated Cabinet Member, and the CCB are the bodies responsible for reviewing Contract matters for the Council.

**28.6** Subject to the Contract values, recommendations on executive matters will be considered by the nominated Cabinet Member in consultation with the Cabinet Member for Finance and Resources, or where the nominated Cabinet Member is the Cabinet Member for Finance and Resources, in consultation with the Leader.

**28.7** A list of Contracts to be recommended under Regulation 28.4c will be reported to the Cabinet meeting immediately preceding the anticipated date for consideration and decision to award.

**28.8** In all instances in these Regulations where a nominated Cabinet Member or Cabinet is charged with making an executive decision, Part 5.A of the Council's Constitution – Protocol for Decision Making must be observed.

**28.9** In the absence of the named officers, deputies may act on their behalf in accordance with the departmental scheme of delegations.

## **29. Contract Pre-conditions and Preliminaries**

**29.1** A Director must not authorise or permit a contractor to enter on any land or buildings belonging to the Council or to proceed with the Contract or start work on site until a written order to proceed with the Contract has been issued and the following actions are completed:

- a. the contractor has provided proof of insurance;
- b. the contractor has completed and returned to the Council the contract documents unless the Director can satisfy the Council Solicitor and Council Monitoring Officer and the Chair of CCB that the Council's position is otherwise adequately secured;
- c. where appropriate the performance bond is duly completed;
- d. all procedures have been completed to the satisfaction of the Council Solicitor and Monitoring Officer.

**29.2** Once the actions in Regulation 29.1 are completed then a purchase order must be raised on the Council's financial system, prior to any goods or services being provided. Raising purchase orders, and any permitted exceptions, must be conducted in accordance with the Council's P2P Guidance documentation.

## **30. Extras and Variations**

**30.1** Any extra, variation (including extension of time) or a contract change control notice to a Contract must be specifically authorised in writing by the Director or a designated Officer, who must retain a copy of this authorisation as a document relating to the Contract. If the extra, variation or change control notice is likely to result in an increase in the Contract sum, then the Officer must obtain

authority for the additional expenditure in accordance with the Financial Regulations. The overall costs must be contained within agreed budgets.

- 30.2** Where the contract supervisors are not Council Officers, the Contract with the supervisors must provide that no tangible change be made to the specification without the prior written consent of the Council.
- 30.3** A report seeking authority for the change to the Contract must be made to the CCB, nominated Cabinet Member or Cabinet as appropriate, where the extra terms or variation will result in the new total value of the contract:
- i. Exceeding £100,000 (CCB) or £500,000 (Nominated Cabinet Member) or £5,000,000 (Cabinet);
  - ii. Exceeding the relevant public procurement threshold (for goods, services or works), as published from time to time by the European Commission.
- or in any case, where the value of the extra/variation (aggregated with previous extras/variations if any) results in the original Contract award value being increased by more than 25% or £1,000,000 (whichever is the lower).
- 30.4** A Key Decision Notice is required and timescales adhered to when the value of the extra/variation either totals or increases the new contract value to £1,000,000 or more and was not subject to a previous Key Decision Notice.
- 30.5** Each Department must have control procedures and audit trails in place to deal with extras, variations and Change Control Notices.

## **Section 5 – Contract Mobilisation**

### **31. Tender Records**

- 31.1** The C&P Head of Service must ensure that the following information in relation to a Contract is kept:
- a. Pre-tender research, benchmarking and consultation information;
  - b. The approved RP2 How we Buy report including any waiver given;
  - c. The selection and award criteria (as appropriate);
  - d. Pre-qualification documents sent to and received from applicants (if applicable);
  - e. Tender and written quotation documents sent to and received from tenderers;
  - f. Communications with all applicants and tenderers throughout the procurement exercise;
  - g. Any post-tender clarification information, to include minutes of meetings;
  - h. The contract documents.
- 31.2** Where the Council has used its own e-sourcing system, all electronic records pertaining to the tender and the tendering process must be retained on the system, including an electronic copy of the signed contract.



## **32. Contract Register**

- 32.1** Category Managers must ensure that all contracts let are entered onto the Council's Contract Register in accordance with the Local Government Transparency Code. This action can be completed via the Council's e-tendering portal. Where another e-tendering portal has been used the details must be submitted to *www.gov.uk/contracts-finder*. Copies of all signed/sealed contracts must be uploaded into the Contract Management system on the Council's e-tendering portal.
- 32.2** When contracts have been varied, extended, novated, assigned, terminated, sub-contractors authorised or changed in any way, Category Managers and Contract Managers must update the Council's Contracts Register with the new details and if required *www.gov.uk/contracts-finder*, and copies of all signed/sealed documentations must be uploaded into the Councils Contract Management system on the Council's e-tendering portal to accompany the original electronic copy Contract.
- 32.3** Category Managers and Contract Managers must ensure the timely completion and submission of any Contractor compiled documentation into the Council's Contract Management system on the Council's e-tendering portal (e.g. annual Insurance Certificates) that are required by the Contract.

## **33. Contract Storage**

- 33.1** The Director responsible for the service area must ensure that all signed/ sealed Contracts established in accordance with these Regulations are scanned and the scanned copy or a true electronic copy (with signature/ sealed pages scanned accompanying it) is stored on the Council's Contract Management system and that the original copy of the contract has been received by the Deeds team in Croydon Legal Services.

# **Section 6 – Contract Management**

## **34. Managing Contracts**

- 34.1** All Directors are to name a Contracts Manager or a person responsible for the management of the contract for all new contracts which are covered by these Regulations. All contracts must have a named Council contract owner (normally the Director of the service area) and Contract Manager for the entirety of the contract term in accordance with the Council's agreed contract management model.
- 34.2** Contract managers must follow the procedures and reporting requirements set out in the Council's Procurement & Contract Management Handbook.
- 34.3** Contract Managers will be responsible for the day to day management and reporting of their contracts. This shall include monitoring and reporting using the Council's Contract Management Tool Kit. For contracts with a value of over £1,000,000 per annum, monitoring of performance will include the timely return

of the Balanced Scorecard to *www.Contracthub.com* and full completion of Scorecards and Action Plans.

- 34.4** Contract Performance will be measured against the following minimum criteria but may be subject to change:
- i) Performance;
  - ii) Compliance with specification and contract terms;
  - iii) Finance and costs;
  - iv) Risk management,
  - v) Social Value;
  - vi) Resident satisfaction;
  - vii) GDPR;
  - viii) Health and Safety;
  - ix) Modern Slavery Prevention; and
  - x) Equalities and Fairness.
- 34.5** For all contracts, it is the responsibility of the Contract Manager to raise any incidents of poor performance immediately with the Contractor and seek rectification through the development of an Action Plan. This Action Plan must be updated to record progress until performance improves to a satisfactory level. At which time the Action Plan may be closed. In instances of particularly poor performance, or persistent poor performance, the Contract Manager should consider the appropriate course of action to take under the contract, taking advice as appropriate.

## **35. Risk Assessment & Contingency Planning**

- 35.1** Provision for resources for the management of the contract, for its entirety, must be identified in the business case and RP2 How we Buy report. CCB should be kept up to date as required via the Council's CCB process.
- 35.2** For all contracts with a value of £100,000 and greater, the contract manager must:
- a. Maintain a risk register during the contract period
  - b. Undertake appropriate risk assessments and for identified risks
  - c. Ensure contingency measures and business continuity plans are in place and are regularly reviewed as part of contract management.

## **36. Contract Monitoring, Evaluation & Review**

- 36.1** All contracts valued at £100,000 and greater are to be subject to regular formal reviews with the contractor. An initial review must be done at the first 3 months of a contract start date and on-going reviews will then be conducted on a regular schedule. The initial review can be done sooner due to the length of contract and should be agreed with CCB.
- 36.2** A formal review process must be applied to all contracts deemed to be High Risk, High Value, or High Profile. This process must be applied at key stages

of major procurements and must comply with the Council's Procurement & Contract Management Handbook.

- 36.3** During the life of the contract, the Contract Manager must monitor a contract in accordance with the Council's Procurement & Contract Management Handbook.
- 36.4** During the life of Framework Agreements and DPS, the Contract Manager will update CCB on performance and awards of contracts as agreed by CCB in the report in accordance with Regulation 28.

## Glossary of Terms – Appendix A

Term	Description/Meaning
<b>Amount of an estimate</b>	The sum of money estimated, net of Value Added Tax but inclusive of any other tax or duty. However, the amount of any such tax or duty payable must be stated.
<b>Award Report</b>	A procurement award report in the relevant format (dependant on the Contract value) which is provided to the CCB prior to the award of any Contract, extension for the purposes of providing the necessary approval (subject to the Contract value).
<b>Category Manager</b>	The Council officer responsible for a particular category of spend and who leads on commissioning and procurement activity or DPS.
<b>Call-off Contracts</b>	Contracts selected and awarded from an existing Framework Agreement or DPS.
<b>Chair of CCB</b>	The Director of Commissioning & Procurement.
<b>CCB</b>	Contracts & Commissioning Board - the board of Council officers designated to manage and act as the decision maker or recommending body within the scope of these Regulations, for Council-wide commissioning and contracting activities (excluding land disposals and property transaction matters).
<b>CCS</b>	Crown Commercial Services
<b>CCR 2016</b>	The Concession Contracts Regulations 2016 and any supersede or replacement legislation
<b>'CDM'</b>	Construction (Design and Management) Regulations 2015.
<b>C&amp;P</b>	Commissioning & Procurement Division within Resources Department responsible for the Council's Tenders and Contracts Regulations
<b>Central Buying Team</b>	The Council's central Buying Team within Commissioning & Procurement Division responsible for all goods & services procurement below £100,000
<b>Central Purchasing Body</b>	A Contracting Authority which provides centralised purchasing activities and which may also provide ancillary purchasing activities — <b>(a)</b> acquires supplies or services intended for one or more contracting authorities; <b>(b)</b> awards public contracts intended for one or more contracting authorities; or <b>(c)</b> concludes framework agreements for work, supplies, or services intended for one or more contracting authorities; <i>(for the avoidance of doubt, this is the same definition as provided in the PCR 2015).</i>

<b>Concession Contract</b>	Concessions are defined in the public sector procurement Directive 2004/17/EC (“the Directive”) as contracts where the consideration for the supplies, works or services to be carried out consists either solely in the right to exploit the supply, work or service, or in this right to exploit together with payment.
<b>Constructionline</b>	Website that has pre-qualified suppliers who provide goods, services and works for Construction related projects
<b>Contract</b>	A contract for the provision (either to or by the Council) of goods, services or works however they may be funded, but excluding those types of contracts or matters referred to at Regulation 3.3.
<b>Contracting Authorities</b>	The State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, and includes central government authorities, but does not include Her Majesty in her private capacity.
<b>Contracts Finder</b>	A web-based portal provided for the purposes of PCR 2015 Part 4 by or on behalf of the Cabinet Office.
<b>Contract Management System</b>	The process of automating Contract Lifecycle Management (previously “Contract Management”), it incorporates the key elements of the buying process, such as commissioning knowledge, specification, requests for quotation/tenders/e-auctions, evaluation/negotiation, contract formulation and management and is contained on the Council’s Tender Portal, Contract Register and Contract Management system.
<b>Contract Manager</b>	The Council officer or external person appointed to manage and/or monitor the tender/contract process on behalf of the Council
<b>Contract Value or Value of a Contract</b>	<p>A value:</p> <p><b>(a)</b> calculated on the basis of the full term of the Contract. i.e. if it is a three year contract with a possibility of a two year extension then the calculation of the contract value must be based on a five year term; <b>and</b></p> <p><b>(b)</b> not value added tax but inclusive of any other tax or duty. Where a Contract is mixed, i.e. has elements of works, supplies and/or services, to establish the type of contract and relevant threshold for the purposes of the PCR 2015, the correct categorisation of the Contract is made by reference to the <b>main subject</b> (the part that has the greatest value) of the Contract.</p> <p>In relation to a Framework Agreement and a DPS, this would be the maximum estimated value, net of Value Added Tax, of all the contracts envisaged for the total term of the Framework Agreement or DPS.</p>

	<b>Note:</b> to set up and access a Framework this will need to be stipulated in the appropriate CCB report to prevent a further and separate report being required; one to set up the Framework and one to access it.
<b>Council's approved estimates</b>	The Council's budget approved annually by full Council and includes estimates of both capital and revenue expenditure
<b>Council's Declaration of Confidentiality and Interest Form</b>	This form is available on the Council's intranet: <i><a href="https://intranet.croydon.gov.uk/working-croydon/finance/commissioning-and-procurement/forms">https://intranet.croydon.gov.uk/working-croydon/finance/commissioning-and-procurement/forms</a></i>
<b>Council's Constitution</b>	The articles of the constitution for the London Borough of Croydon, which set out the rules and framework which govern the operation of the council; the responsibility for functions; procedure rules, codes and protocols for specific parts of decision-making processes.
<b>Council's Financial Regulations</b>	The financial regulations as contained in Part 4.H of the Council's Constitution.
<b>DPA</b>	Data Protection Act 2018
<b>Director</b>	<b>(a)</b> A Director, a Head of Service or any other Officer currently identified as being a Director, with relevant authority under a departments scheme of authorisations; <b>(b)</b> Executive Director; <b>(c)</b> A nominated Officer with delegated authority to incur expenditure.
<b>Dynamic Purchasing System ("DPS")</b>	A completely electronic purchasing system procedure available for contracts for works, services and goods commonly available on the market. <i>For the avoidance of doubt, please refer to Regulation 32 to the PCR 2015 for a more detailed definition</i>
<b>e-sourcing (tendering)</b>	An internet based process wherein the complete tendering process, from advertising to submitting and receiving tender-related information, is done online
<b>EU Rules</b>	Where the EU Rules are referenced, this means it is also to include EU Public Procurement Directives 2015 and EU 2014/24/EU (which and the principles of the Treaty on the Functioning of the European Union as apply to the Contracts as implemented into UK law by regulations
<b>Evaluation criteria</b>	Refers to the measures used in either the SQ or ITT to undertake an assessment of potential providers. <b>i.</b> Criteria used in the SQ are referred to as 'selection criteria'. <b>ii.</b> Criteria used in the ITT are referred to as 'award criteria'

<b>Expression of Interest (“Eoi”)</b>	A statement by a prospective provider of their intention to compete for a tendering opportunity for the provision of goods, services and/or works.
<b>Executive Director</b>	The Chief Executive; <b>or</b> A head of one of the following departments or any successor to them: Executive Director of Resources ; Executive Director of Place; Executive Director of Children, Families & Education; Executive Director of Health, Wellbeing & Adults; Executive Director of Gateway, Strategy & Engagement; who under their scheme of authorisations can exercise the powers referred to in these Regulations.
<b>Executive function</b>	Matters reserved to the Leader under the Council’s Strong Leader Model and as set out in the Leaders Scheme of Delegation.
<b>External Advisors &amp; Consultants</b>	Individuals who are contracted to fulfil a role, not already covered by the Council’s establishment, which may be of a specialist nature.
<b>Framework Agreement</b>	An agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. The phrase ‘Framework/s’ shall also be construed accordingly. <i>For the avoidance of doubt, this is the definition provided in Regulation 33(2) PCR 2015.</i>
<b>GPAC</b>	The General Purposes and Audit Committee constituted under the Council’s Constitution and includes any other Council decision making body or individual Member or officer who may from time to time have responsibility for consideration of these Regulations. <b>Note:</b> GPAC is a Non-Executive function
<b>Grant</b>	An arrangement where money is given for a stated purpose with or without conditions attached and which is for the benefit of all or a section of the community, but is not a procurement of services
<b>How we Buy Report (RP2)</b>	This the procurement strategy report often referred to as RP2. Template can be found on the Procurement Governance SharePoint page
<b>In Writing</b>	Refers to paper and electronic records
<b>IIOB</b>	The Investing in our Borough report, produced by Commissioning & Procurement for Cabinet listing all RP2 How we Buy and RP3 Contract Award reports that require approving by Cabinet Member or Cabinet etc
<b>ITT (Invitation to Tender)</b>	The step of a competitive tendering process in which suppliers or contractors are invited to submit sealed bids for the supply of specific and clearly defined

	supplies, services or works during a specified timeframe
<b>KPI</b>	Key Performance Indicator - a type of performance measurement used to evaluate the success of a particular activity carried out by a provider
<b>LGPS</b>	Local Government Pension Scheme
<b>The Leader or nominated Cabinet Member</b>	The Leader of Croydon Council or any nominated Cabinet Member to whom they have delegated authority to exercise their powers referred to in these Regulations.
<b>Light Touch Regime (“LTR”)</b>	The procedure that must be followed in relation to social and other specific services (including healthcare, cultural, educational and legal services) under Regs 74-76 PCR 2015
<b>London Living Wage (“LLW”)</b>	The basic hourly rate before tax and other deductions determined and published by the Greater London Authority from time to time.
<b>Low Value Expenditure</b>	Expenditure which is below £100,000 in value
<b>LTR Services</b>	Services subject to the Light-Touch Regime. There is an OJEU advertising requirement and other specific obligations, but a higher financial threshold has introduced for the Light Touch Regime to apply
<b>Make or Buy Report (RP1)</b>	The report is a strategic choice between in-housing the services required and/or buying it externally (outsourcing). It is a discussion document that has to be brought to CCB for agreement.
<b>Most Economically Advantageous Tender (“MEAT”)</b>	The tendering approach used to provide a balance between quality and cost Or 100% assessment of quality to a fixed budget or 100% price where a minimum quality threshold is met.
<b>Nominated Cabinet Member or Member</b>	Cabinet Member within whose portfolio, as identified by the Leaders Scheme of Delegations, the service which is the subject matter of the contract falls
<b>Non-Executive function</b>	Matters reserved to Full Council/Full Committee or matters that are delegated in accordance with the Scheme of Delegation
<b>Officer</b>	An Officer authorised by the appropriate Director or Executive Director to lead in the requirements for a procurement and comply with these regulations.
<b>OJEU</b>	The Official Journal of the European Union
<b>Output (or Outcome) Based Specification (“OBS”)</b>	A specification that focuses on the desired outputs of a service in business terms, rather than a detailed technical specification of how the service is to be provided.
<b>Parent Company Guarantee</b>	Parent Company Guarantees are provided by either the contractor’s immediate parent or other holding company and operate as a guarantee to ensure a Contract is properly performed and completed. In the

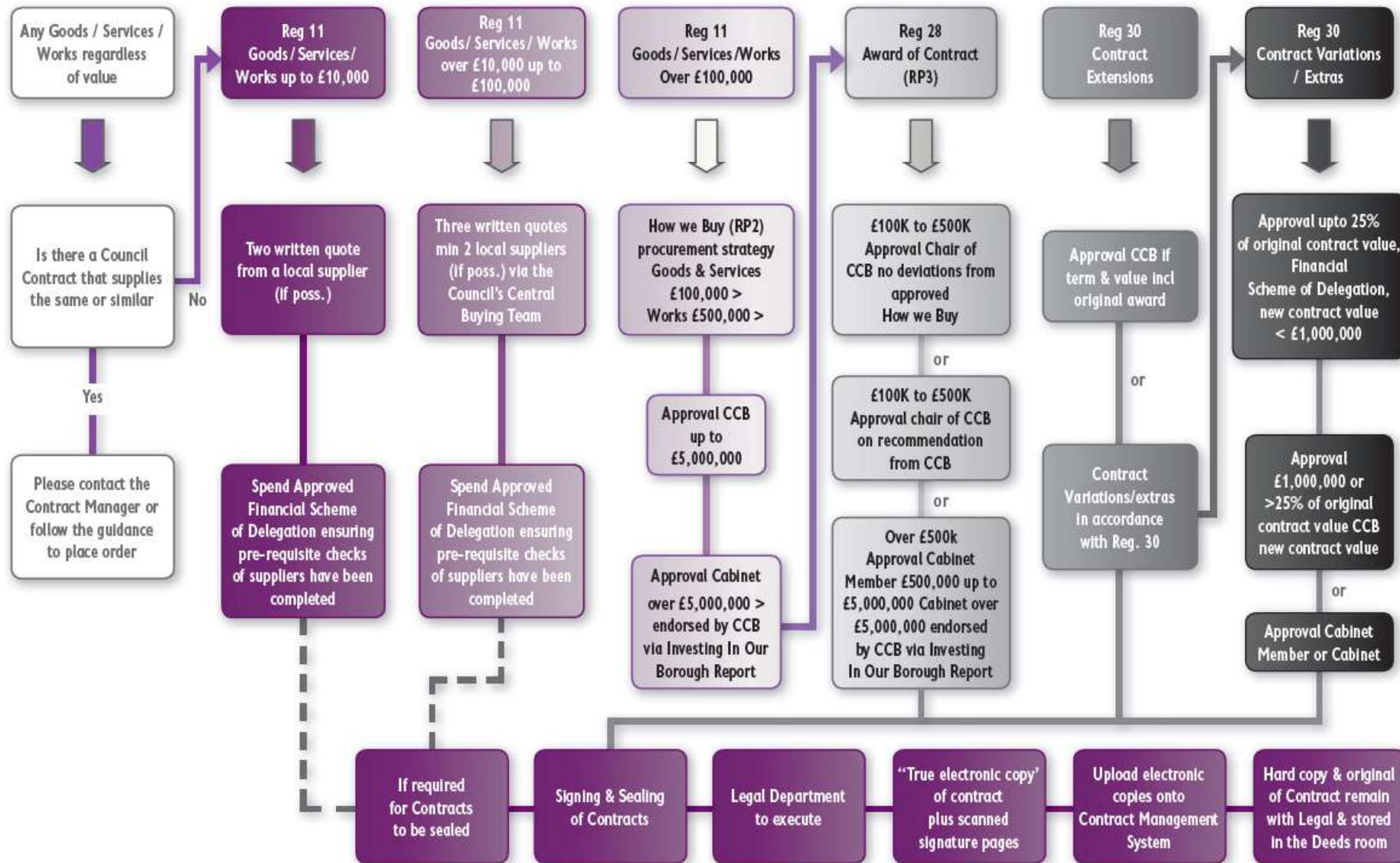


	event of a contractor default, the parent is obliged to remedy the breach.																
<b>PCR 2015</b>	The Public Contracts Regulations 2015 and any supersede or replacement legislation																
<b>Performance Bond</b>	Performance Bonds are typically provided by banks or insurance companies. They provide a guarantee of payment up to a stated amount of money should a loss be suffered as a result of the contractor's breach of a contractual obligation.																
<b>Person</b>	Includes the following: <b>(a)</b> A group of persons; <b>(b)</b> A firm; <b>(c)</b> A partnership <b>(d)</b> An unincorporated association; <b>(e)</b> A company; <b>(f)</b> Another local authority or a group of local authorities <b>(g)</b> A Government Department (as represented by the Secretary of State); <b>(h)</b> A statutory body; <b>(i)</b> A public utility that has been privatised																
<b>PIN</b>	Prior Indicative Notice for publishing in the OJEU, to notify the market of a possible opportunity. See PCR 2015 Reg. 48 for further information.																
<b>Post Tender Clarification</b>	Tender or bid clarifications that may become necessary during the evaluation of tenders																
<b>Post Tender Negotiation</b>	Contact between the buyer and tenderers, separate from Tender Clarification, to refine and improve the bid(s) in order to ensure that prices, delivery or associated terms of the contract are competitive. <b>Note:</b> this process is only available as indicated in these Regulations.																
<b>Another 'Public Body'</b>	Any contracting Authority within the meaning of the EU Public Procurement Directives and the Public Contracts Regulations 2015																
<b>Regulations</b>	All the Regulations as listed below.																
<b>S151 Officer</b>	The Director of Finance, Investment, Risk and S151 Officer																
<b>Scheme of Authorisations</b>	The departmental 'scheme of management' setting out who is authorised to make what decisions within that department																
<b>Small and Medium Enterprises SME</b>	The main factors determining whether a company is an SME are: <b>1.</b> number of employees; and <b>2.</b> either turnover <b>or</b> balance sheet total. <table border="1" data-bbox="619 1877 1295 2033"> <thead> <tr> <th>Company category</th> <th>Employees</th> <th>Turnover</th> <th>Balance sheet total</th> </tr> </thead> <tbody> <tr> <td>Medium-sized</td> <td>&lt; 250</td> <td>≤ € 50 m</td> <td>≤ € 43 m</td> </tr> <tr> <td>Small</td> <td>&lt; 50</td> <td>≤ € 10 m</td> <td>≤ € 10 m</td> </tr> <tr> <td>Micro</td> <td>&lt; 10</td> <td>≤ € 2 m</td> <td>≤ € 2 m</td> </tr> </tbody> </table>	Company category	Employees	Turnover	Balance sheet total	Medium-sized	< 250	≤ € 50 m	≤ € 43 m	Small	< 50	≤ € 10 m	≤ € 10 m	Micro	< 10	≤ € 2 m	≤ € 2 m
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Medium-sized	< 250	≤ € 50 m	≤ € 43 m														
Small	< 50	≤ € 10 m	≤ € 10 m														
Micro	< 10	≤ € 2 m	≤ € 2 m														

	These ceilings apply to the figures for individual firms only. A firm which is part of larger grouping may need to include employee / turnover / balance sheet data from that grouping too.
<b>Social Value</b>	The process whereby the Council meets its needs for supplies, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits to society and the economy, whilst minimising damage to the environment. See the Council's Social Value Policy
<b>Social Value Act</b>	The Public Services (Social Value) Act 2012
<b>Social Value Toolkit</b>	The document titled 'Inspiring and Creating Social Value in Croydon' which provides advice on the process and best practice principles when trying to lever in great social value in respect of commissioning
<b>Standstill Period</b>	A period of time when an authority cannot enter into a contract with a supplier until it has concluded, in accordance with Regulation 87 of PCR 2015.
<b>Strategy Report</b>	A procurement strategy report in the relevant format (dependant on the Contract value) which is then provided to the CCB at the beginning of each procurement exercise. As a minimum, this report should set out the project plan, proposed procurement route, any proposed departures from standard procurement practice, the evaluation approach, risks, timetable, project structure and details of the Contract
<b>SQ</b>	Supplier Selection Questionnaire a process used to identify potential suppliers that are most capable of performing a contract
<b>Tendering and submitting a tender</b>	Includes any quotation or action taken by any person seeking to enter into a contract with the Council, which is subject to these Regulations.
<b>Third Sector</b>	The range of non-statutory service providers set up as not for profit organisations. These encompass the traditional voluntary and community sector, co-operatives, social enterprises and registered social landlords. For the purposes of this document the term 'third sector' is used to denote this group of organisations.
<b>TUPE</b>	Transfer of Undertakings (Protection of Employment) Regulations 2006
<b>UK Regulations</b>	The PCR and/or CCR and any national legislation that affects Contracts under these Regulations.
<b>Value Added Tax ("VAT")</b>	Value added tax as chargeable under the Value Added Tax Act 1994
<b>("VfM")</b>	The term used to assess whether or not the Council has obtained the maximum benefit from the goods, supplies and services it acquires and/ or provides, within the resources available to it. It not only

	measures the cost of goods, supplies and services, but also takes account of the mix of quality, cost, use of resources, fitness for purpose, timeliness and convenience to judge whether or not, when taken together, they constitute good value. Achieving VfM may be described in terms of the 'three Es' - economy, efficiency and effectiveness.
<b>Variant bid</b>	A bid which is different from that specifically requested by the contracting authority in the tender documents. Examples of variant bids are those proposing different pricing structures, or new and innovative ways of delivering a service.
<b>Weightings</b>	The weightings allotted to the criteria chosen to evaluate the SQ / ITT to reflect what is most important in any particular procurement. Weightings may be exact percentages or a specified range, where this is appropriate in view of the subject matter.
<b>Working Day</b>	Any other day other than a Saturday, Sunday and any bank or UK public holidays.

# Procurement Process Flowchart – Appendix B



# 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" ("CFO") 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;

"Chief Officer" means:

- a) the Head of Paid Service;
- b) the Chief Finance Officer;
- c) the Monitoring Officer;
- d) a Statutory Chief Officer;
- e) a Non-Statutory Chief Officer

"Deputy Chief Officer" has the same meaning as in s.2(8) of the 1989 Act;

"Disciplinary Action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

"Head of Paid Service" ("HOPS") means the officer designated under Section 4 (1) of the 1989 Act (designation and reports of Head of Paid Service)

"Independent Persons" has the same meaning as in Section 28(8) of the Localism Act 2011

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

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

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

"Statutory Chief Officer" has the same meaning as in section 2(6) of the Local Government and Housing Act 1989

"Non-statutory Chief Officer" has the same meaning as in section 2(7) the Local Government and Housing Act 1989

- 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 Head of Paid Service or by an officer nominated by Head of Paid Service.
- 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.

## **2 Appointments**

- 2.1 Where the authority propose to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among their existing officers, they shall—
- (a) draw up a statement specifying—
    - (i) the duties of the officer concerned, and
    - (ii) any qualifications or qualities to be sought in the person to be appointed;
- and
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

## 2.2

(1) Where a post has been advertised as provided in Rule 2.1 (b) the authority shall—

(a) interview all qualified applicants for the post, or

(b) select a short list of such qualified applicants and interview those included on the short list.

(2) Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with Rule 2.1(b).

## 2.3 Declarations

a) The Authority will draw up a statement requiring any candidate for employment to state in writing whether they are the partner or a close family relative of a serving Member or employee of the Authority or the partner of such a person. This statement will be included in appropriate recruitment literature.

b) Where a candidate has declared such a relationship, any offer of employment shall be subject to approval by an Executive Director, except where an Executive Director is the officer to whom the candidate has declared a relationship, in which case any proposed offer of employment shall be subject to approval by the Head of Paid Service.

## 2.4 Seeking support for appointment

a) The Authority will disqualify from consideration any candidate who directly or indirectly seeks the support of any Member or officer for any appointment with the Authority. The content of this paragraph will be included in any recruitment information.

b) No Member will seek to support any candidate for appointment.

c) Members must not stand as referees for officers or candidates for appointment as officers of the Authority.

## 3 Appointment of Head of Paid Service

3.1 Paragraph 1.2 shall not apply to the appointment of – the Head of Paid Service

3.2 (1) Where a committee, sub-committee is discharging, on behalf of the Authority, the function of the appointment of the Head of Paid Service, the Council must approve that appointment before an offer of appointment is made 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 appointment of the Head of Paid Service at least one Member of the Cabinet must be a member of that committee or sub-committee.

### **3.3 Appointment of a Chief Officer**

- (1) Paragraph 1.2 shall not apply to the appointment of Chief Officers. For such appointments the function will usually be carried out by the Appointments Committee, unless delegated by that Committee to the Head of Paid Service.
- (2) The Head of Paid service may make temporary appointments of other Chief Officers for up to six months subject to the notification requirements in 3.3.3 below and notifying that temporary appointment to the next meeting of full Council.

### **3.4 Appointment Notification Requirements**

- (1) In this paragraph, "appointor" means, in relation to the appointment of a person as an officer of the Authority, the Authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Authority, that committee, sub-committee or an officer, as the case may be.
- (2) An offer of an appointment as the Head of Paid Service, a Statutory Chief Officer, a Non-Statutory Chief Officer, or a Deputy Chief Officer must not be made by the appointor until -
  - (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - (b) the proper officer has notified the Leader of -
    - (i) the name of the person to whom the appointor wishes to make the offer;
    - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
    - (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the proper officer; and
  - (c) either -



- (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he/she nor any other Member of the Cabinet has any objection to the making of the offer;
- (ii) the proper officer has notified the appointor that no objection was received by him within that period from the Leader; or
- (iii) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well founded.

#### **4 Disciplinary Action: Head of Paid Service, Chief Finance Officer and Monitoring Officer**

4.1 Paragraph 1.2 shall not apply to the dismissal of:

- (a) the Head of Paid Service;
- (b) the Chief Finance Officer;
- (c) the Monitoring Officer.

4.2 (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 Paid Service, the Chief Finance 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 Head of Paid Service, the Chief Finance Officer and the Monitoring Officer at least one Member of the Cabinet must be a member of that committee or sub-committee.

4.3 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 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 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 Independent Persons' views on the recommendations and appropriate action.

- 4.4 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.
- 4.5 Suspension: The Head of Paid Service may be suspended by resolution of the Appointments Committee on full pay for while a disciplinary investigation and disciplinary proceedings are conducted into alleged misconduct or gross incapability.
- 4.6 Provisional / Urgent Suspension: In exceptional circumstances, the Director of Human Resources (or officer in that role), having taken legal and HR advice may temporarily suspend the Head of Paid Service for up to ten days pending the Appointments Committee being convened to consider suspension under paragraph 4.5 above.
- 4.7 Suspension in accordance with paragraph 4.5 and 4.6 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 suspension does not itself constitute disciplinary action nor does it imply guilt;
  - d) that the officer is suspended on full pay; and
  - e) in the case of paragraph 7.6 - that an Appointments Committee is be convened to consider whether to exercise the power of suspension within paragraph 7.5 within, if practical, 10 working days following the decision to provisionally suspend.

#### 4.8 **Independent Persons**

In respect of the Head of Paid Service, the Chief Finance Officer and Monitoring Officer, 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 will fulfil this role on 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 Appointments Committee in reaching its decision on the matter.

#### 4.9 Dismissal Notification Requirements

- (1) In this paragraph, "dismissor" means, in relation to the dismissal of an officer of the Authority, the Authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Authority, that committee, sub-committee or other officer, as the case may be.
- (2) Notice of the dismissal of the Head of Paid Service, or Chief Officer, must not be given by the dismissor until –
  - a) the dismissor has notified the proper officer of the name of the person whom the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - b) the proper officer has notified every Member of the Cabinet of -
    - (i) the name of the person whom the dismissor wishes to dismiss;
    - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
    - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the proper officer; and
  - c) either -
    - (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he/she nor any other Member of the Cabinet has any objection to the dismissal;
    - (ii) the proper officer has notified the dismissor that no objection was received by him within that period from the Leader; or
    - (iii) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well founded.

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

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

### Contents:

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### 1 INTRODUCTION

- 1.1 This Procedure applies 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 this Procedure 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 or Vice Chair is a reference to the Chair or Vice 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 this Procedure and the Planning Code of Good Practice are subordinate to the requirements set out in the Members' Code of Conduct and nothing in this Procedure 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. This part of the Procedure 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 below 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 This section deals with:
- **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 or Vice Chair, a Member for the Ward within which the application site is situated or immediately adjoins (Ward Member), the Croydon Member of the Greater London Assembly (GLA Member), the Member of Parliament ('MP') for the constituency within which the application site is situated or immediately adjoins and Resident Associations (RA) plus Representations from other people or bodies
- 2.4 For probity reasons, the Timescales, General Requirements and Criteria set out in this Procedure must be adhered to. The decision of the 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 or at least by noon on the day of the Committee (see paragraph 3.13 below) .
- 2.6 Nothing in this Procedure interferes with the absolute right of the Director of Planning and Strategic Transport to refer an application or planning matter to Committee as prescribed by Part 3 of the Constitution.

### **Timescales**

#### Statutory Notification Period

- 2.7 The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires the local planning authority to publicise applications for planning permission by site display in at least one place on or near the land to which the application relates for not less than 21 days or by serving a notice on any adjoining owner or occupier. There are also situations (in relation to “major” application, applications that are considered to depart from the provisions of the development plan and applications involving works to listed buildings and properties in conservation areas) where such development is advertised in the local press and by way of site notice(s) in vicinity of the relevant site. The local planning authority is obliged to comply with these statutory requirements.
- 2.8 It does not matter how someone gets to hear about a proposal, as anyone can submit Representations to the Development Management service. Representations on applications must be made in writing (letter or email) or via the Council’s web site. The time limit for doing this is specified on the site notice, press advertisement or the notification forwarded to adjoining occupiers/owners. Where applications are publicised through the service of a notice on an adjoining occupier or owner, those individuals will have 23 days to respond to this notification (to take into account the period for postage).
- 2.9 Where amended plans for an application have been accepted by the Council and if it is necessary to re-publicise them, the Council will undertake further application publicity. In the case of major applications, the local planning authority will display a new site notice on different coloured paper to the original so that local people can distinguish it. Local residents will be given a further 14 days to respond to any re-notification.
- 2.10 Amended plans are often negotiated in response to Representations. Whilst the Council may consider that an amendment it receives has overcome the Representations previously made, it might elect to advise local people of the changes (depending on the specific circumstances) to see whether they would like 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, Vice Chair, Ward and GLA Member and MP Timescales

- 2.11 All elected representatives will be notified by email about planning applications in respect of which they have a right of referral. The Chair and Vice Chair will be notified by email about planning applications in Croydon.

- 2.12 If the Chair, Vice Chair, a Ward Member, GLA Member or MP wishes to make Representations on the application they must respond by replying to the notification email within 23 days – to tie in with the period offered to adjoining occupiers/owners. This timescale may be extended in certain circumstances at the discretion of the Development Management Service to ensure that the timescales for elected representatives align with the deadlines set for members of the public. It is the intention that the Chair, Vice Chair and elected representatives will be notified at the same time as local residents.
- 2.13 Where the elected representative 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 within 14 days. Where 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 which are sent by email should be sent only to the email address on the notification email as other email addresses may not be monitored and the email may therefore not be actioned. Representations sent by post must be sent to the exact address specified on the notice or other written notification from the Council.

### **General Requirements**

- 2.15 Under this Procedure, 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.
- 2.16 Identical pro-forma letters or emails, which also meet the above requirements, will be treated as forming a Petition (i.e. 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 2.32 to 2.35 below for the Criteria for Petitions.

### **Committee Referral Criteria**

#### Chair/Vice Chair

- 2.17 An application may be reported to Committee where the Chair or Vice 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 immediately adjoins the Member's Ward 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 2.12 to 2.14 above).
  - The application is within, partly within or immediately 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.
  - The Ward Member has attended pre-arranged training on the planning application referral arrangements, development presentation protocols and the management of breaches of planning control (to be arranged from time to time).
- 2.19 The application will only be reported to Committee under these Criteria where the recommendation by the 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.
- 2.20 In order to address the Committee when the application comes to be determined, the Ward Member must have confirmed notification of their wish to address the Committee in accordance with paragraph 3.6 below.

## Greater London Assembly Member

- 2.21 An application may be reported to Committee where 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 2.12 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 2008 (or as subsequently amended or replaced).
- The GLA Member has stated that they either object to or support the application and given their reason(s).
- 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.

As of May 2017, an application that is referable to the Mayor includes an application that involves:

- development of 150 residential units or more
- development over 30 metres in height (outside the City of London)
- development on Green Belt or Metropolitan Open Land

2.22 The application will only be reported to Committee under these Criteria where the recommendation by the 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.

2.23 In order to address the Committee when the application comes to be determined, the GLA Member must have confirmed notification of their wish to address the Committee in accordance with paragraph 3.6 below.

#### Member of Parliament

2.24 An application may be reported to Committee where the MP for the constituency within which the application site is situated or immediately adjoins 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 2.12 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 2008 (or as subsequently amended) (see paragraph 2.21 above).
- The application is within, partly within or immediately 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.

2.25 The application will only be reported to Committee under these Criteria

where the recommendation by the 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.

- 2.26 In order to address the Committee when the application comes to be determined, the MP must have confirmed notification of their wish to address the Committee in accordance with paragraph 3.6 below..

#### Criteria for Resident Associations (RA)

- 2.27 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 London Borough of Croydon that contains at least 50 residential properties and what that area is.
  - It holds regular elections for association officers.
- 2.28 An application may be reported to Committee where the RA has made Representations that additionally meet all the following Criteria:
- It is received by the Development Management service within the Statutory Notification Period (paragraphs 2.7 to 2.10 above).
  - The application is within, partly within or immediately adjoining the area that the RA covers.
  - The RA has stated that they object to the application and given their reason(s).
  - The RA 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.
- 2.29 The application will only be reported to Committee under these Criteria where the recommendation by the Director of Planning and Strategic Transport is for approval.
- 2.30 The right to refer applications under paragraphs 2.17 to 2.28 does not extend to minor material amendments or non-material amendments to existing planning permissions dealt with under section 73 or 96A of the Town and Country Planning Act 1990 (as amended) respectively, all applications submitted under the Town and Country Planning (General Permitted Development Order, advertisements, or minor extensions and alterations (including boundaries and rear outbuildings) involving less than 20 square metres of additional internal accommodation (gross internal). These application types will be determined by officers under delegated authority in all instances (see Part 3)

#### Other Representations

- 2.31 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 2.7 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.
- 2.32 The application will only be reported to Committee under these Criteria where the recommendation by the Director of Planning and Strategic Transport is for approval.

### Petitions

- 2.33 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 40 signatures with clearly readable and bona fide names and addresses from within the Borough of Croydon.
  - Where those who have signed a petition are well aware of the purpose and reasoning for signing the petition, which should be specific to material planning considerations only.
- 2.34 Petitions will not be accepted where the wording of the Petition has been varied, post those having signed the Petition. The wording of Petitions and pro forma letters will be published in full by the Council on its website.
- 2.35 The application will only be reported to Committee under these Criteria where the recommendation by the Director of Planning and Strategic Transport is for approval.
- 2.36 Where such Petition(s) (including pro-forma letters – paragraph 2.16 above) contain less than 40 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 notification and registration requirements in paragraphs 3.6 and 3.8 there are up to five separate speaking slots in the following order allocated to:
1. Objectors/Residents Associations
  2. The applicant or his/her agent/representative/supporters – hereinafter referred to as the Applicant
  3. 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 Referral Criteria
  4. The MP for the constituency within which the application site is situated (or immediately adjoins) where they have clearly indicated that they wish to address the Committee in accordance with the Committee Referral Criteria
  5. A Member for the Ward within which the application site is situated or immediately adjoins who has clearly indicated that they wish the application to be referred to Committee for consideration in accordance with the Committee or (b) has clearly indicated that they wish to address the Committee regarding a major application which has automatically been referred to Committee
- 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 or elected representative (i.e. a referring Ward Member, GLA Member or MP) who wishes to address Committee must notify

the Democratic Services Manager by 4pm on the Tuesday prior to the day of the meeting or, where the meeting is held on a day other than a Thursday by 4pm two working days before the meeting. Email or telephone should be used for this purpose. In the case of an Objector or Applicant, 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, in the case of Objectors if they individually 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. Where more than one Objector, Ward Member or MP has registered to speak, the provisions of paragraphs 3.9 and 3.10 will apply. Failure to comply with these requirements will prevent the speaker from addressing the Planning Committee

- 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 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 3.6;
- 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 above and paragraph 3.6;

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 representing the same Ward, or a neighbouring Ward, to address the Committee on their behalf. If a referring Ward Member (or substitute Ward Member), GLA Member or Local MP has not registered to speak by 4pm on the Tuesday prior to the day of the meeting or, where the meeting is held on a day other than a Thursday, by 4pm two working days before the meeting (see paragraph 3.6 above) or who has registered to speak does not attend the Committee and there are no other reasons for Committee consideration, the application will be referred back to the Director of Planning and Strategic Transport for delegated decision.

### 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 If a speaker, or any other member of the public, wishes to bring additional representations or other material beyond those which they have already submitted to the Committee's attention, they need to supply it to the Development Management service. This needs to be done by, at the latest, noon on the day of Committee, to be included in the Addendum Report (see paragraphs 5.6 to 5.11 below for procedures, limitations and deadlines). The distribution of additional material or information to Members of the Committee is not prohibited but objectors and supporters should be aware that although they may have sent information directly to Members of the Committee via email or other means, the Members are not under an obligation to consider the information and may not have an opportunity to review such material. Members of the public are therefore encouraged to ensure they send their correspondence directly to the Development Management service.
- 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 and 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 the Public Speaking Procedure set out above 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:
- **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.
  - **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.

## **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 and Strategic Transport and will identify and analyse the material considerations, of which the Committee will need to take account when considering the application on the planning merit.
- 5.2 In addition to the written report, illustrative material will usually be presented by officers at the meeting to explain the scheme.

### **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 (including the use of pre commencement conditions).
- 5.4 Delegated powers are therefore given to the 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. 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.

- 5.7 The Head of Democratic Services and Scrutiny will email the Addendum Report to Planning Committee members as soon as it is ready.
- 5.8 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 and Strategic Transport has an absolute discretion in this regard.
- 5.9 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 3.13 above.
- 5.10 The points raised in representations about a particular application, which are received prior to the cut-off point (paragraph 5.8 above) are summarised either in the main Committee report or in the addendum report.

## **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. Where any item is on the agenda only because it has been referred by a Ward Member, GLA Member, MP or Resident Association and none of the referring person(s)/organisation(s) or their representative(s) have registered their attendance at the Town Hall in accordance with paragraphs 3.6 and 3.8 and notwithstanding the fact that other parties may have also registered to speak, the item will revert to the Director of Planning and Strategic Transport to deal with under delegated powers and not be considered by the Committee.
- 6.2 At the discretion of the Chair, the agenda may be re-ordered at the meeting.

### **Development Presentations**

- 6.3 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.
  - A Ward Councillor (who is not a member of the Planning Committee) may address the Planning Committee for up to 5 minutes to present a local viewpoint on the development presentation. This may be either before or after the questions referred to above. In the latter case, additional questions may be asked by the Chair or Committee Members to address new points raised by the Ward Councillor. Ward Councillors within whose Ward the emerging development is proposed will be contacted by the Development Management service by email and the Ward Councillor will be required to contact the Democratic Services Manager by 4pm on the

Tuesday before the Committee meeting to advise whether he/she is attending (or, where the meeting is held on a day other than a Thursday by, 4pm two working days before the meeting). Where more than one Ward Councillor wishes to address the Planning Committee, the 5 minute slot will be shared

- At the end of this process, the Chair or Senior Planning Officer will summarise the issues, points and questions raised

### **Planning Applications for Decision**

6.4 The procedure for considering each application shall be as follows:

- the 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 the Public Speaking Procedure above
- the Director of Planning and Strategic Transport or his/her representative, will present the report, outline the reasons for the officer recommendation and will respond (as appropriate) to comments raised by the Speakers; and
- the Committee will then 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 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 report and either note the content or reach a decision (as required).

### **Other Procedural Issues**

6.6 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.

6.7 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 identify of any public speakers and the decisions.

6.8 Meetings of the Committee are subject to a guillotine of 10:00pm. After that time, any item of the agenda that has not started to be considered by the Committee is delegated to the 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.

### **Role of the Committee Chair**

- 6.9 With the assistance and support of officers, the Chair of the Planning Committee/Sub Committee is responsible for the good and orderly running of Planning Committee/Sub Committee meetings. The Chair aims to ensure, with the assistance of officers where necessary, that the meeting is run in accordance with the provisions set out in the Council's Constitution and particularly Part 4K of the Constitution. The Chair's most visible responsibility is to ensure that the business of the meeting is conducted effectively and efficiently. This includes several components:-
- determining the order in which questions may be addressed from the Committee members following the officers presentation;
  - ensuring that the Public Speaking Procedure is followed which allows time slots specified timeslots for Applicants, Supporters, Objectors, Ward Members, GLA Members and Members of Parliament to address the Committee where relevant criteria are met;
  - managing the Committee members debate about applications including the order in which Members who wish to address the Committee may speak;
  - determining when the debate has come to a close and votes should be cast in the order in which the motions were first completed (i.e. where the motion has been moved and seconded by Members of the Committee).
  - Ensuring that debate is suitably focussed on relevant planning considerations.
- 6.10 The Chair has discretion in the interests of natural justice to vary the public speaking rules where there is good reason to do so and such reasons will be minuted.
- 6.11 The Chair is also charged with ensuring that the general rules of debate are adhered to (e.g. Members should not speak over each other) and that the debate remains centred on relevant planning considerations.
- 6.12 Notwithstanding the fact that the Chair of the Committee has the above responsibilities, it should be noted that the Chair is a full member of the Committee who is able to take part in debates and vote on items in the same way as any other Member of the Committee. This includes the ability to propose or second motions. It also means that the Chair is entitled to express their views in relation to the applications before the Committee in the same way that other Members of the Committee are so entitled and subject to the same rules set out in the Council's constitution and particularly Planning Code of Good Practice.

### **Role of Committee Members**

- 6.8 The role of Members of the Planning Committee is to make planning decisions on applications presented to the Committee openly, impartially, with sound judgement and for sound planning reasons. In doing so Members should have familiarised themselves with Part 5D of the Council's Constitution 'The Planning Code of Good Practice'. Members should also seek to attend relevant training and briefing sessions organised from time to time for Members
- 6.9 Members are to exercise their responsibilities with regard to the interests of the London Borough of Croydon as a whole rather than with regard to their particular Ward's interest and issues.

## **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 the procedures set out in this Part 4k of the Constitution.
- 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 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 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, 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 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 part of the Constitution is necessary due to legislative changes, the Council Solicitor may make such consequential changes as are necessary to take such changes into account



# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 4.L – TERMS OF REFERENCE HEALTH AND WELLBEING BOARD

### 1. FUNCTIONS OF THE CROYDON HEALTH AND WELLBEING BOARD

The Health and Wellbeing Board's terms of reference are, without prejudice to any statutory provisions:

- 1.1. To encourage, for the purpose of advancing the health and wellbeing of people in Croydon, persons who arrange for the provision of any health or social care services in Croydon to work in an integrated manner.
- 1.2. To provide such advice, assistance or other support as appropriate for the purpose of encouraging partnership arrangements under section 75 of the National Health Service Act 2006 between the Council and NHS bodies in connection with the provision of health and social care services.
- 1.3. To encourage persons who arrange for the provision of health-related services (i.e. services which are not health or social care services but which may have an effect on the health of individuals) to work closely with the Board and with persons providing health and social care services.
- 1.4. To exercise the functions of the Council and its partner Clinical Commissioning Groups in preparing a joint strategic needs assessment under section 116 of the Local Government and Public Involvement in Health Act 2007 and a joint health and wellbeing strategy under section 116A of that Act.
- 1.5. To give the Council the opinion of the Board on whether the Council is discharging its duty to have regard to the joint strategic needs assessment and joint health and wellbeing strategy in discharging the Council's functions.
- 1.6. To agree the delivery plans of the Health and Wellbeing Strategy.
- 1.7. To monitor the delivery plans in fulfillment of the Health and Wellbeing Strategy.
- 1.8. To report to Council the outcome of the Board's monitoring of the delivery plans in fulfillment of the Health and Wellbeing Strategy as part of its annual report.
- 1.9. To exercise such other Council functions which are delegated to the Board under the Constitution.

### 2. MEMBERSHIP, QUORUM AND VOTING RIGHTS

#### **Membership**

- 2.1. Subject to the provisions of Article 13, the Board shall comprise of the following members:
  - 5 Majority Group Members (voting) such members to include the

As amended 02.2019 and 08.2019

- Cabinet Member for Families Health and Social Care and the Cabinet Member for Children, Young People and Learning ,
  - 2 Minority Group Members (voting),
  - The Executive Director People (non-voting),
  - The Director of Public Health (non-voting),
  - 1 Croydon Clinical Commissioning Group (CCG) Representative (voting),
  - The Croydon University Hospital Chair (non-voting),
  - 1 Healthwatch Representative (voting)
  - 1 SLAM representative (non-voting)
  - 1 Croydon Voluntary Action representative (non-voting)
  - 1 Croydon Voluntary Action representative
- 2.2. The Chair shall be appointed by full Council and shall be a Majority group member. The Vice Chair shall be the CCG Representative. In the absence of the Chair, the Vice chair shall fulfil the role of Chair of the Board.
- 2.3. The below mentioned parties shall be invitees to attend the Health and Wellbeing Board meetings. While these parties will not be members of the Board, they will, subject to requirements around confidential and exempt information:
- receive copies of agenda papers;
  - receive copies of Board reports;
  - At the Chair's discretion, be invited to participate in discussions and submit information for consideration by the Board.
  - National Commissioning Board Representative x 1
  - Croydon University Healthcare NHS Trust representative x1
  - South London & the Maudsley NHS Trust representative x1
  - Croydon Voluntary Sector Alliance representative x2
  - BME Forum representative x1
  - Croydon Charity Services Delivery Group representative x1
  - Police Service x1
  - Croydon College representative x 1
  - London Fire and Rescue Service representative x1
  - London Probation Service representative x1
  - Chairs of Partnership Groups representatives x3
  - Faiths Together in Croydon representative x1
  - Pharmacist Representative x1
- 2.4. The term of office of Board members, other than ex officio members shall normally be one year from the date of appointment (or reappointment), provided that, for the duration of that period, they remain a Member or duly nominated representative of their appointing body and have been appointed by that body to be or remain a member of the Board.
- 2.5. Except where a person is appointed or nominated as an individual each appointing or nominating body shall notify the Clerk of the Board of the name and contact details of their appointed or nominated members of the Board.
- 2.6. Nominating Bodies who have a nominated representative on the Board may change their appointed or nominated Board representative members at any

As amended 02.2019 and 08.2019

time provided that written notice of any such change is given to the Clerk. Such change shall not take effect until acknowledgement of receipt is sent to the nominating body by the Clerk

- 2.7. Each appointing and nominating body shall, as far as possible, ensure that the persons appointed as members have the skills and qualities required to fulfil the role of a Board member.
- 2.8. Each appointing or nominating body may send appropriate officer(s) to meetings of the Board to support their Board Members. Any such officers shall have no voting or speaking rights.

### **Voting Rights and Voting Procedures**

- 2.9. Each of the voting Board members shall have one vote with all decisions being made through simple majority of those voting members present. The Chair shall have a casting vote.
- 2.10. All voting shall be by a show of hands but recorded votes shall be taken if requested by any Voting member, and any such Voting member shall have the right to have the way he/ she voted (or abstained) recorded in the minutes.

### **Putting items on the agenda**

- 2.11. Any Board member may request through the Chair that any matter relevant to the functions of the Board is placed on the board agenda.
- 2.12. Where a relevant overview and scrutiny committee have resolved that an item be considered by the Board, the Clerk will, subject to consultation with the Chair, place that item on the agenda of the next available meeting of the Board.
- 2.13. The Council Solicitor, and/or the Chief Financial Officer and Section 151 Officer of the Council may include an item for consideration on the agenda of a Board meeting and may require the Chair to call such a meeting in pursuance of their statutory duties.

### **Public Questions**

- 2.14. Public questions can be asked of the Board on issues pertaining to the policy and business of the Health and Wellbeing Board due to be conducted at the Meeting in question, as set out within these Terms of Reference. Any questions of a purely factual or of a detailed nature shall be noted and shall receive a written response within 3 weeks following the meeting.
- 2.15. Questions which relate to a current planning, licensing, safeguarding or enforcement matter, any confidential matter or any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review, or right of appeal conferred by or under any enactment shall not be permitted. In addition, questions shall not be received or responded to where they pertain to anticipated or on-going litigation, conciliation or

mediation or any employment or personnel related issues or disputes. A named member of staff shall not be the subject of a question. If necessary, the Council Solicitor shall provide guidance for members of the public and staff on the above.

- 2.16. Questions shall be directed through the Chair and shall only be taken at the Chair's discretion and subject to the parameters set out herein. Any period allowed for questions shall not exceed a total time of 15 minutes. This time frame shall include both the questions and responses by the relevant Board Member.
- 2.17. The Chair has absolute discretion to decline to allow any question to be dealt with under this procedure on the grounds that it addresses matters that would be inappropriate to consider at the meeting, including where the questions being asked are repetitive, inappropriate, relate to confidential matters or have already been addressed.
- 2.18. Any questions for the Board meeting must be received by the relevant Committee Clerk not later than noon, on the third working day prior to the meeting date. Questions shall be dealt with in the order in which they are received, although the Chair has discretion, where a number of queries relate to the same matter, to address them (or direct that they be addressed) in a single response.

### **3. PROCEDURES AND QUORUM AT MEETINGS**

- 3.1. The meetings of the Board will be governed by the Non-Executive Committee Procedure Rules Part 4F.
- 3.2. The quorum shall be three voting members two of whom shall be a majority group members.
- 3.3. Meetings of the Board will be open to the public and press except during consideration of items containing confidential or exempt information within the meaning of the Local Government Act 1972 (as amended).
- 3.4. The Access to Information procedure rules in Part 4B of the Constitution shall apply to the Board as a non-executive committee of the Council. Minutes of the Board shall be available to the public and press as though they were minutes of a meeting of the Council.
- 3.5. The Chair may invite any person to attend a meeting of the Board for the purpose of making a presentation, or participating in discussion, on any item relevant to the Board's functions where that person is able to provide a professional or user viewpoint, which the Chair considers would be of assistance to the Board.

### **4. ROLE OF A BOARD MEMBER**

The responsibilities of a Board Member are as follows:-

As amended 02.2019 and 08.2019

- To be committed to, and act as a champion for the achievement, of the Objectives;
- To be a good ambassador for the Board;
- To attend Board meetings regularly, vote on items of business (as required) and make a positive contribution to the achievement of the Objectives;
- To be and to remain acquainted with key current issues in the area of health and social care locally and nationally.
- To act as an advocate for the Board in seeking any necessary approval of their nominating body to the Draft Business Plan and Annual Action Plan.
- To report back to the appointing body after every meeting and to ensure that the views of the appointing body are made known to the Board in respect of any matter under consideration by the Board or under consultation by the Board. To suggest items of business for the consideration of the Board via the Chair.
- To comply with the Members' Code of Conduct set out in Part 51 of the Constitution (all voting members of the Board) or the Code of Conduct for Non-voting Co-opted members of the Council (all non-voting members of the Board) as adopted and updated by the Council from time to time.

## **5. SCRUTINY ARRANGEMENTS**

- 5.1. The decisions, actions and activities of the Board shall be subject to the Scrutiny Arrangements of the Council.
- 5.2. Decisions (including recommendations) of the Board shall be notified to all those to whom agenda papers etc are despatched within seven working days of the decision being reached The Board, its Members and its Officer advisors, shall fully co-operate with the Scrutiny and Strategic Overview Committee of the Council.
- 5.3. The Overview and Scrutiny Procedural Rules set out in the Council constitution shall apply but as a non-executive committee the decisions of the Board shall not be subject to the call-in procedure.

## **6. EXPENSES OF MEMBERS**

- 6.1. Each appointing or nominating member shall be responsible for meeting any expenses to which any Board member , is entitled as a result of their attendance at duly authorised meetings in accordance with each appointing or nominating organisations own rules regarding such matters.

## **7. ACCESS TO INFORMATION RULES**

As amended 02.2019 and 08.2019

- 7.1. The provisions of the Access to information Procedure Rules in Part 4B of the Constitution shall apply to the meetings of the Board and its sub- committees in the same manner as they apply to non-executive committees of the Council.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## PART 4.M – Local Pension Board Procedure Rules

### 1. Definitions

<b>“Advisers”</b>		means those provided for in paragraph 11 of these Terms of Reference;
<b>“Administering Authority”</b>		means a body listed in Part 1 of Schedule 3 of the Regulations who maintains a fund within the LGPS
<b>“Board”</b>		means the members of the Local Pension Board;
<b>“Chair”</b>		means the suitably qualified individual who is selected and appointed by the Scheme Manager who has responsibility of ensuring the Board acts appropriately in accordance with these Terms of Reference;
<b>“Employer Representative”</b>		means persons appointed to the Board for the purpose of representing employers of the Scheme and any connected Scheme;
<b>“Fund”</b>		means the Croydon Council Pension Fund that is run by Croydon Council and is part of the National Local Government Pension Scheme;
<b>“Internal Dispute Resolution Procedure”</b>		means the Local Pension Board’s internal dispute resolution procedure as set out in a separate document titled “Internal Dispute Resolution Procedure”.
<b>“LGPS”</b>		means the Local Government Pension Scheme;

<b>“Local Pension Board”</b>	means the Local Pension Board (LPB) for Croydon Council as administering authority for the Fund as required under the Public Service Pension Act 2013;
<b>“Member Representative”</b>	means persons appointed to the Board for the purpose of representing members of the Scheme and any connected Scheme;
<b>“Members”</b>	means the Employer and Member Representatives collectively;
<b>“Pensions Regulator”</b>	means the UK regulator of work-based pensions whose powers derive from the Pensions Act 2004 and its powers inherited from the Occupational Pensions Regulatory Authority (OPRA) from 6 April 2005
<b>“Scheme”</b>	means the Local Government Pension Scheme in England and Wales;
<b>“Scheme Manager”</b>	means the Croydon Council as Administering Authority of the Fund exercised through the Director of Finance Investment and Risk and section 151 Officer;
<b>“Scheme Regulations”</b>	means the Local Government Pension Scheme as constituted by the Local Government Pension Scheme Regulations 2013, the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 and the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 and any subsequent legislation made in relation to the LGPS;



## **2. Introduction**

- a. The purpose of this document is to set out the terms of reference for the Local Pension Board (“LPB”) of the Fund, and to set out the rules of the Procedure of the Board.

## **3. Role of the Local Pension Board**

3.1. The role of the LPB, as defined by section 5(1) and (2) of the Public Services Pensions Act 2013, is to –

- a. Assist the Administering Authority (Croydon Council) in its role as a Scheme Manager of the Scheme;-
  - b. To secure compliance with the Scheme Regulations and any other legislation relating to the governance and administration of the LGPS;
  - c. To secure compliance with requirements imposed in relation to the LGPS by the Pensions Regulator;
  - d. In such other matters as the LGPS regulations may specify;
- b. Secure effective and efficient governance and administration of the LGPS for the Fund;
  - c. Provide the Scheme Manager with such information as is required to ensure any member of the LBP or person to be appointed to the LPB does not have a conflict of interest.

3.2. The LPB will ensure it effectively and efficiently complies with any code of practice on the governance and administration of public service schemes issued by the Pension Regulator.

3.3. The LPB shall meet sufficiently regularly to discharge its duties and responsibilities effectively.

## **4. Establishment**

4.1. The LPB is established on 1 April 2015 subsequent to recommendation by the Croydon Council Pension Committee to the General Purposes and Audit Committee on 24/03/2015 of the recommendation to establish the LPB [report reference GPAC20150325AR9].

## **5. Appointment of members of the Local Pension Board**

5.1. The process for the selection and appointment of members of the LPB is set out below, with all appointments being made by the Scheme Manager.

5.2. The LPB shall consist of 6 voting members constituted as follows:

- a. 3 Employer Representatives;
- b. 3 Member Representatives;

5.3. The LPB Board shall be an equal number of voting Employer representatives and voting Member Representatives. No person shall be a representative on both the London Borough of Croydon Pension Committee and Croydon Council's LPB.

Employer Representatives

5.4. Employer Representatives shall be office holders or senior employees of employers of the Fund or have experience of representing scheme employers in a similar capacity. No officer or elected member of Croydon Council who is responsible for the discharge of any function of Croydon Council under the Scheme Regulations may serve as a member of the LPB.

5.5. Employer Representatives should be able to demonstrate their capacity to represent the employers. This will be in relation to attending and completing the necessary preparation for meetings and participating in training as and when required.

5.6. Substitutes for Employer Representatives shall be appointed by the same process as Member and Employer Representatives. This will be limited to one (1) substitute per Employer Representative. Where appointed, substitutes should be named and must undertake the same training as full members.

5.7. Each Employer Representative shall serve for a fixed 2 year term which may be extended by the Scheme Manager for further periods subject to their re-nomination. Such appointments will be determined following an expression of interest and then a shortlist and interview process.

5.8. Employer Representatives shall endeavour to attend all Board meetings during each year.

Member Representatives

5.9. Member Representatives shall either be Scheme members or have capacity to represent Scheme members of the Fund.

5.10. Member Representatives should be able to demonstrate their capacity to attend and completed the necessary preparation for meetings and participate in training as and when required.

5.11. Substitutes shall be appointed by the same process as Member and Employer Representatives. This will be limited to one (1) substitute per Member Representative. Where appointed substitutes should be named and must undertake the same training as full members

5.12. Each Member Representative shall serve for a fixed 2 year term which may be extended by the Scheme Manager for further periods subject to their re-nomination.

5.13. Member Representatives shall endeavour to attend all Board meetings during each year.

## **6. Suspension/Termination/Removal of Employer Representatives, Member Representatives and Substitutes**

6.1. A Representative's (including substitute's) term of office may be suspended or come to an end in any of the following circumstances:

- a. Expiry of a fixed term of office without any extension being granted/authorised by the Scheme Manager;
- b. A Representative's death;
- c. Unable to act appropriately in his/her role because of illness or injury;
- d. Failure to attend two consecutive meetings (this would be to the Scheme Manager's discretion);
- e. Representative wishes to resign – a notice period of 4 weeks is required to be given to the Scheme Manager;
- f. Representative ceases to represent their constituency, for example if an employer representative leaves the employment of their employer and therefore ceases to have the capacity to represent the Fund's employers;
- g. Representative has a conflict of interest which cannot be managed in accordance with the LPB's conflicts policy;
- h. Representative has breached the Members' code of conduct.

6.2. The Scheme Manager may suspend a Member Representative whilst investigations into (but not limited to) the above are conducted. Upon the conclusion of any investigation the Scheme Manager may either approve the Member to return to his/her role or can terminate their appointment and secure a replacement.

## **7. The Chair**

7.1. The Chair of the LPB will be a suitably qualified person who is selected and appointed by the Scheme Manager for a fixed term of office to be determined by the Scheme Manager. It will be the role of the Chair to ensure that all Members of the Board show due respect for process, that all views are fully heard and considered and to determine when consensus has been met.

7.2. The Chair shall:

- a. Ensure the LPB delivers its purpose as set out in these Terms of Reference;
- b. Ensure that meetings are productive and effective and that opportunity is provided for the views of all members to be expressed and considered; and
- c. Seek to reach consensus and ensure that decisions are properly put to a vote when it cannot be reached. Instances of a failure to reach a consensus position will be recorded and published;
- d. Be non-voting.

## **8. Quorum**

8.1. The Board shall have a quorum of three (3) Members not including the Chair. If a meeting is inquorate it will be re-scheduled for as soon as is reasonably practicable.

8.2. Advisers do not count towards the quorum.

## **9. Conflicts of Interest**

9.1. The policy applicable to Members and for identifying conflicts of interest is set out in a separate policy document titled "Local Pension Board Conflicts of Interest Policy".

## **10. Board Review Process**

10.1. The Board will undertake a formal review process during June of each year to assess how well it and the voting and non-voting members are performing with a view to seeking continuous improvement in the Board's performance.

## **11. Advisers to the Board**

11.1. The Board may be supported in its role and responsibilities by Council officers and by External Advisers appointed by the Pension Committee, to support the London Borough of Croydon Pension Committee. Subject to any applicable regulation and legislation from time to time in force, the Board may consult with Advisers including but not limited to:

- a. Governance Adviser
- b. The Fund's Actuary;
- c. The Fund's Legal Adviser
- d. The Fund's Investment Managers(s)
- e. The Fund's Investment Advisers
- f. The Fund's Employer Covenant Adviser
- g. The Scheme Manager

11.2. The Board shall ensure that the performance of all Advisers who are appointed are reviewed on a regular basis as part of the Board Review Process.

## **12. Knowledge and Skills**

12.1. Employer and Member Representatives (including substitutes) of the LPB must be conversant with –

- a. The legislation, Scheme Regulations and associated guidance of the LGPS;
- b. Any document recording policy about the administration of the LGPS (which is for the time being adopted by the Fund).

12.2. All members of the LPB must have a working knowledge and understanding of –

- a. The law relating to pensions, and
- b. Any other matters which are prescribed in Scheme Regulations.

12.3. It is for the Scheme Manager to be satisfied that those seeking to be appointed have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the LPB.

12.4. In line with the duties under their role, the LPB members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date on anything that would fall within the remit of their role. LPB members are therefore required to maintain a written record of all relevant training and development (whether internal or external) they have undertaken. In the event that LPB members wish to attend an external course/training event prior approval must be sought from the Scheme Manager. All information in relation to training and development of all LPB members shall be made available to the Board as part of the Board Review Process. In addition, the Scheme Manager may, at any time request to inspect such records upon providing the relevant member with a written request which must be adhered to within 7 days of receipt of such a request.

12.5. All LPB members will undertake an annual personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses as well as mandatory training that the Board or Scheme Manager considers is required to ensure the Board operates as effectively as possible. LPB members will comply with the Scheme Manager's training policy, details of which are found in the separate document titled "Local Pension Board Training Policy".

### **13. Board Meetings – Notice, Agendas, Minutes, Timings and Location**

13.1. The Scheme Manager shall give 5 days' written notice, by email, to the Chair and to all Employer and Member Representatives of every meeting of the LPB. The Scheme Manager shall ensure that formal minutes of all LPB meetings are maintained. Following the approval of the minutes by the Chair they shall be circulated by email to all members within 14 days of the meeting date and then published in accordance with paragraph 17.

13.2. There will be a minimum of 4 LPB meetings each year. The dates of such meetings are to be agreed in June of each year by the Board, taking into account the dates of scheduled Pensions Committees which will then provide the Board with the opportunity to effectively review the work of the Pensions Committee.

13.3. All LPB meetings will be held in the Croydon Town Hall, Katharine Street, Croydon, CR0 1NX at 2pm, unless stated otherwise in the notice for the meetings.

#### **14. Remit of the Board**

14.1. The role of the LPB will be determined by the relevant Scheme Regulations. The LPB will assist the Scheme Manager with such other matters as any relevant Scheme Regulations may specify.

#### **15. Standards of Conduct of Members**

15.1. The role of LPB members requires the highest standards of conduct and therefore the “seven principles of public life” embodied in the Council’s Code of Conduct will be applied to all LPB members. These are –

- a. Selflessness
- b. Integrity
- c. Objectivity
- d. Accountability
- e. Openness
- f. Honesty
- g. Leadership

15.2. LPB members will be required to sign the Council’s Code of Conduct as soon as reasonably practicable on being appointed, but in any case before attending their first meeting of the LPB. The Council Code of Conduct for Members which will apply to Members of the LPB is set out in a separate document.

#### **16. Decision making**

16.1. All Employer Representatives and Member Representatives of the LPB will have an individual voting right but it is expected the LPB’s decisions (in so far as is possible) will be reached by consensus.

#### **17. Publication of Local Pension Board Information**

17.1. Scheme members and other interested parties will want to know that the Croydon Council Pension Fund is being efficiently and effectively managed. They will also want to be confident that the LPB is properly constituted, trained and competent in order to comply with Scheme Regulations, the governance and administration of the Scheme and requirements of the Pension Regulator.

17.2. To this end information will be posted on the Fund website showing:

- a. The names and biographies about the LPB members
- b. How the Scheme and employer members are represented on the LPB
- c. The responsibilities of the LPB as a whole
- d. The full terms of reference and policies of the LPB and how they operate
- e. The LPB appointment process
- f. Who each individual LPB members represents
- g. Any specific roles and responsibilities of individual LPB members.

17.3. LPB papers, agendas and minutes of meetings will be published on the Council's website. These may be published in redacted form at the discretion of the Council Monitoring Officer in consultation with the Scheme Manager and having consideration to s100A Local Government Act 1972 or exempt information as specified in Part 1 Schedule 12A of the Local Government Act 1972, which provides that information should not be disclosed due to its confidential nature. The Scheme Manager will also consider requests for additional information to be published or made available to individual scheme members to encourage scheme member engagement and promote a culture of openness and transparency. However, the final decision as regards the release of exempt information rests with the Council Monitoring Officer.

## **18. Accountability**

18.1. The LPB will be collectively and individually accountable to the Scheme Manager and must also report annually to the Secretary of State, as provided in the Regulations.

## **19. Expense Reimbursement**

19.1. The Administering Authority shall meet the expenses of Member Representatives for Out-of-Borough travel in line with the relevant travel allowances/rates, as agreed from time to time by (Croydon Council) Members' Allowances Scheme.

19.2. The Administering Authority shall reimburse the Employer of the relevant Employer Representative in respect of any time off work that has been taken that is both necessary and reasonable in the opinion of the Scheme Manager to fulfil their role as a member of the LPB.

## **20. Reporting Breaches**

20.1. Any reported breach in connection with the administration of the LGPS, whether potential, or actual, brought to the attention of the LPB shall be dealt with in accordance with the procedure set out in a separate policy document titled "Local Pension Board Reporting Breaches Policy". For the purposes of this policy a breach is considered to include any statutory responsibilities/obligations that have not been performed as and when required.

## **21. Internal Dispute Resolution Procedure**

21.1. The LPB's Internal Dispute Resolution is set out in a separate policy document titled "Internal Dispute Resolution Procedure (IDRP) System Employees' Guide."

## **22. Complaints**

22.1. Any complaint received in relation to the LPB will be dealt with in accordance with the Complaints Policy, which is set out in a separate document titled "Local Pension Board Complaints Procedure".

### **23. Budget**

23.1. The LPB must seek approval from the Administering Authority's s151 Officer or Deputy s151 Officer for any expenditure it wishes to incur in line with its responsibilities. Until a written decision has been communicated to the LPB by the relevant officer, the LPB is not authorised to make any financial commitment to a third party.

### **24. Review of Terms of Reference**

24.1. These Terms of Reference shall be reviewed:-

- a. on the making of any material change to those part of the Scheme Regulations; and
- b. annually.

### **25. Interpretation**

25.1. Any uncertainty or ambiguity or interpretation required relating to any matters contained in this document shall be resolved by reference to the Scheme Manager.



# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## PART 4.N – Pension Committee Terms of Reference

### 1. Introduction

- 1.1 Without prejudice to the Non-Executive Committee Procedure Rules, Part 4.F of the Constitution, the purpose of this document is to set out the terms of reference for the Pension Committee (“the Committee”), to discharge the responsibilities for Croydon Council in its role as lead authority for the administration of the Croydon Pension Fund (“the Fund”).

### 2. Role of the Committee

- 2.1 To ensure that the Fund is properly operated in accordance with the Local Government Pensions Scheme Regulations (“the Regulations”) all other relevant legislation and best practice as advised by the Pensions Regulator, including financial, governance and administrative matters.
- 2.2 To adopt Fund specific policies concerning the administration of the Fund, investing of Fund monies and the management of the Fund’s solvency level. In addition, the Committee is responsible for compliance with all financial and regulatory requirements of the Fund.
- 2.3 To discharge its fiduciary responsibility in the best interest of the Fund, in particular:
  - a. To set the investment policy and review the performance of the Fund’s investment managers, pooling arrangements, scheme administration, and external advisors;
  - b. To make arrangements for the triennial actuarial valuation;
  - c. To determine the Pension Administration Strategy;
  - d. To approve and monitor compliance of statutory statements and policies required under the Regulations;
  - e. To approve the Fund’s Statements of Accounts and annual report;
  - f. To ensure that the Council discharges its obligation, as administrating authority for the local government pension scheme, to other scheme employers;
  - g. To make representations to government as appropriate concerning any proposed changes to the Local Government Pension Scheme; and

- h. To keep these terms of reference under review.

### **3. Delegations**

1. Unless otherwise reserved for this Committee or Full Council by law or the Constitution, this Committee hereby delegates all Fund matters to the Executive Director Resources (Section 151 Officer). As appropriate the Executive Director Resources (Section 151 Officer) will delegate aspects of the role to other officers of the Council including the Head of Pensions and Treasury, and to professional advisors within the scope of the Regulations.

### **4. Structure**

- 4.1 In accordance with those recommendations made by Chartered Institute of Public Finance and Accountancy (CIPFA) and the Myners Principles and notwithstanding resignations etc. the Committee will comprise the following members:
  - a. 8 elected voting Members (plus 6 substitutes) at a ratio of 5 majority Members to three minority Members;
  - b. Two representatives of Pensioners of the Fund elected by ballot of Pensioners of the Fund, one of whom shall be a voting member and one of whom shall be a non-voting member. The representative with the most votes following the ballot of Pensioners of the Fund shall be the voting member. The other representative of the Pensioners of the Fund shall be non-voting however is permitted to exercise a vote only in the absence of, and on behalf of, the voting representative and
  - c. One non-voting Trade Union Representative nominated by the three Trade Unions.
- 4.2 There will be a minimum of three meetings in public a year of the Committee. Informal meetings will be arranged as required. The outcomes of informal meetings will be reported at formal Committee meetings.

### **5. Quorum**

- 5.1 Three voting members.

### **6. Local Pensions Board**

- 6.1 As part of good governance of the scheme, the Committee will work with, receive and consider reports from the Local Pensions Board. The Board is not a decision making body and it will be for the Committee to ensure that the appropriate actions are undertaken as required.

## **7. Knowledge and Understanding**

- 7.1 Members of the Committee are expected to continually demonstrate their own personal commitment to training and to ensure that governance objectives are met. To assist in achieving these objectives training sessions will be organised to ensure Committee members are familiar with the rules of the Fund with relevant legislation.

## **8. Review of Terms of Reference Policy**

- 8.1 The Terms of Reference will be reviewed annually and updated as required

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# **CONSTITUTION OF THE LONDON BOROUGH OF CROYDON**

## **PART 5**

### **PROTOCOLS AND CODES**

#### **CONTENTS**

##### **Protocols - General**

- 5.A Protocol for Decision Making
- 5.B Protocol on Staff – Councillor Relations
- 5.C Monitoring Officer Protocol

##### **Planning**

- 5.D Planning Code of Good Practice
- 5.E Not used

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- 5.F Protocol for Licensing Hearings
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##### **Other**

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- 5.I Members' Code of Conduct

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.A – Protocol for Decision Making

### **Provisions with respect to proceedings of the Leader, Cabinet, Cabinet Members and Cabinet Committees and Non-Executive Committees and Sub-Committees**

This protocol constitutes provisions for the allocation of functions under Section 9E and provisions in respect of the proceedings of the Executive and Executive Committees under Schedule A1, Paragraph 3 of the Local Government Act 2000 as amended and is incorporated into the terms and conditions of employment of officers.

The Leader, Cabinet, a Cabinet Committee, a Non-Executive Committee or Sub-Committee shall not take any “relevant decision”, as defined in article 1.8 below, until the following requirements have been complied with:

- 1.1 All relevant decisions shall be allocated to the Leader, Cabinet or delegated to a Committee or Sub-Committee.
- 1.2 No relevant decision shall be taken except upon a written report in accordance with this Protocol.
- 1.3 An Executive Director or other Senior Manager of the Authority shall prepare a written report which shall be the subject of consultation with:
  - (a) the Chief Finance Officer and the Council Solicitor (except to the extent that they agree otherwise in respect of certain clauses of reports);
  - (b) other officers as appropriate; and
  - (c) Executive Directors whose service may be affected by the proposal.
- 1.4 The written report shall set out:
  - (a) the body proposing to take the decision;
  - (b) the issue to be decided;
  - (c) an executive summary of the issue, where the length of the report so requires for clarity;
  - (d) any recommended restrictions upon the publication of the report or public attendance at the making of the final decision;

- (e) the facts upon which any decision must be based;
- (f) comments of the Council Solicitor
- (g) any policy of the Authority relating to the issue;
- (h) any relevant national or regional guidance;
- (i) the options available to the decision making body;
- (j) the staffing implications of the issue;
- (k) the Chief Finance Officer comments on the financial implications;
- (l) any consultations undertaken, the views of any consultees and a summary of any other representations received;
- (m) any implications for any other areas of the Authority's activities;
- (n) Equalities Impact Assessment;
- (o) the comments of any other professional officer or Executive Director where appropriate;
- (p) if an Executive matter, the Cabinet Portfolio which the issue falls within;
- (q) the electoral areas which are particularly affected by the issue under consideration;
- (r) the recommendation in respect of the proposed decision and the reasons supporting the recommendation;
- (s) the place, date and time at which the body proposes to make its decision;
- (t) any other relevant considerations such as Human Rights, Environmental and Crime and Disorder implications and
- (u) a list of any background papers.

1.5 At least 5 clear working days before the proposed date and time for taking the final decision, the Council Solicitor shall send a copy of the report, or arrange for a copy of the report to be sent to all Members of the decision making body.

1.6 The requirements for consultation and public participation set out above are to be regarded as a minimum, and officers are responsible for determining when further consultation and public participation would be appropriate.



## 1.7 Urgent Decisions

Where the Executive Director or other Director preparing a report for the Chief Executive is of the opinion that a relevant decision should be made urgently in order to prevent or reduce the risk of damage to persons or property or to the interests of the Authority, and that the urgency of the matter is such that it is not practicable to complete the decision making process set out above:

- (a) the Executive Director shall use their best endeavours, as far as the urgency of the matter permits, to consult those persons whom he would have been required to consult had the full decision making process been followed; and
- (b) in respect of a key decision, or a decision to be taken at a private meeting of the executive, the executive shall ensure that the relevant provisions of the Access to Information Procedure Rules set out in Part 4B of this Constitution are complied with

Then the decision making body shall have the power to take that relevant decision, notwithstanding that the procedure set out in 1.4 – 1.6. above has not been followed.

## 1.8 Relevant Decisions

A decision shall comprise a relevant decision if either:

- (a) it is a “Key Decision” within the meaning of Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and Article 13.02 of this Constitution; or
- (b) it is not within an approved budget; or
- (c) it is in conflict with a policy approved by the Council; or
- (d) it raises new issues of policy; or
- (e) it requires:
  - (i) a virement of funding in excess of the virement limits approved by the Council; or
  - (ii) the making, approval or publication of a draft or final scheme which may require, either directly or in the event of objection, the approval of a Minister of the Crown; or
  - (iii) the initiation or adoption of legislation; or

- (f) is of such significance to the locality, the Authority or the services which it provides that the Executive Director is of the opinion that it should be treated as a relevant decision.

#### 1.9 Amendments/ variation to this protocol

Where amendments/variation to this Protocol are necessary due to legislative changes, the Council Solicitor may make such consequential changes to this Protocol as are necessary to take such changes into account.

# **CONSTITUTION OF THE LONDON BOROUGH OF CROYDON**

## **Part 5.B – Protocol on Staff – Councillor Relations**

### **INTRODUCTION**

- 1.1 The relationship between Members and staff is important to the successful working of the Authority. This relationship within Croydon Council is characterised by mutual respect and trust. Members and employees feel free to speak to one another openly and honestly. Nothing in this Protocol is intended to change this relationship. The purpose of this Protocol is to help Members and employees to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong.
- 1.2 The Protocol must be read and operated in the context of any relevant legislation and the Members' Code of Conduct and any procedure for confidential reporting.

### **ROLES OF MEMBERS AND STAFF**

- 1.3 The respective roles of Members and staff can be summarised as follows:  
  
Members and staff are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Staff are responsible to the Authority. Their job is to give advice to Members and the authority, and to carry out the Council's work under the direction and control of the Council, the Executive, and relevant committees.
- 1.4 Mutual respect between Members and staff is essential to good local government.

### **MEMBERS' RESPONSIBILITIES**

- 1.5 Members have three main areas of responsibility: determining the policy of the Council and giving it political leadership, representing the Authority externally, and acting as advocates on behalf of their constituents. It is not the role of Members to involve themselves in the day to day management of Authority services.

## 1.6 Members of the Executive, Chairs and Vice Chairs

- (i) Members of the Executive and Chairs and Vice Chairs of Committees have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from and more complex than those of Members without those responsibilities and this is recognised in the expectations they are entitled to have.

## 1.7 Opposition Members

- (i) Members shall be given timely access to information that they require in their role as Members. As individual Members of the Council, all Members have the same rights and obligations in their relationship with employees and should be treated equally. This principle is particularly important in the context of scrutiny and overview. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between staff, particularly those at a senior level in the organisation, and the administration shall differ from that with opposition groups.

### **STAFF**

1.8 The role of staff is to give advice and information to Members and to implement the policies determined by the Council.

1.9 Certain employees e.g. Head of Paid Service, Monitoring Officer, Chief Financial Officer (Section 151 Officer) and the Statutory Chief Officers have responsibilities in law over and above their obligations to the Authority and its Members which they must be allowed to discharge.

### **EXPECTATIONS**

1.10 Members can expect from staff:

- (i) A commitment to the Authority as a whole, and not to any political group
- (ii) A working partnership
- (iii) An understanding of and support for respective roles, workloads and pressures
- (iv) Timely response to enquiries and complaints
- (v) Professional advice not influenced by political views or preference, which does not compromise the political neutrality of employees.
- (vi) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to

any individual responsibilities that they have and positions that they hold

- (vii) Awareness of and sensitivity to the political environment
- (viii) Respect, dignity and courtesy
- (ix) Training and development in order to carry out their role effectively
- (x) Integrity, mutual support and appropriate confidentiality
- (xi) That staff shall not use their relationship with Members to advance their personal interests or to influence decisions improperly
- (xii) That staff shall at all times comply with the relevant Code of Conduct.

1.11 Staff can expect from Members:

- (i) A working partnership
- (ii) An understanding of and support for respective roles, workloads and pressures
- (iii) Political leadership and direction
- (iv) Respect, dignity and courtesy
- (v) Integrity, mutual support and appropriate confidentiality
- (vi) Not to be subject to bullying *or harassment or to be intimidated* or put under undue pressure *or improper influence. This specifically includes any person who is involved in any complaint about any alleged breach of the Council's Member's Code of Conduct.* Members should have regard to the seniority of employees in determining what reasonable requests are, having regard to the power relationship between Members and employees, and the potential vulnerability of employees, particularly at junior levels  
*(Note: Bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone. Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.)*
- (vii) That Members shall not use their position or relationship with employees to advance their personal interests or those of others or to influence decisions improperly
- (viii) That Members shall at all times comply with the relevant Code of Conduct.

## **WHEN THINGS GO WRONG**

### **1.12 Procedure for staff**

- (i) From time to time the relationship between Members and staff may break down or become strained. Whilst it shall always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Member, staff shall have recourse to the Council's Monitoring Officer, as appropriate to the circumstances. The Monitoring Officer shall decide whether the matter should be referred to the Chief Executive. The Chief Executive, who, having advised the Leader of the Council and where appropriate, the appropriate Group Leader shall decide on the course of action to be taken.

### **1.13 Procedure for Members**

- (i) In the event that a Member is dissatisfied with the conduct, behaviour or performance of an employee, the matter should be raised with the appropriate Executive Director. Where the matter concerns an Executive Director, it should be raised with the Chief Executive. Where the matter concerns the Chief Executive it shall be raised with the Director of Human Resources or with the Leader as appropriate.

## **AMENDMENTS/ VARIATION TO THIS PROTOCOL**

- 1.14 Where amendments/variation to this Protocol are necessary due to legislative changes, the Council Solicitor may make such consequential changes to this Protocol as are necessary to take such changes into account.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.C – Monitoring Officer Protocol

- 1.1 The Monitoring Officer undertakes to discharge their duties in a manner that will support the Executive and the democratic responsibilities of Members. Their ability to discharge the duties in this way depends upon excellent working relations with Members, Executive Directors and other senior officers to facilitate the flow of information and access to issues at an early stage.
- 1.2 The following arrangements and understandings between the Monitoring Officer, the Executive, Members and the Chief Executive and Executive Directors are designed to help ensure the effective discharge of the Monitoring Officer's functions:
  - a) The Monitoring Officer is entitled to attend the Council Management Team meetings and will have advance notice of those meetings and be provided with copies of all agendas and reports and, at all times, has access to, and is available to assist, all Members of the Council.
  - b) Advance notice of meetings whether formal or informal between Chief Officers and members of the Executive or Committee Chairs will be given to the Monitoring Officer where any procedural, vires, legal or constitutional issue is likely to arise.
  - c) Executive Directors and their senior staff will alert the Monitoring Officer to all emerging issues of concern regarding legality, probity, vires and constitutional issues.
  - d) The Council's external contracted solicitors have standing instructions to inform the Monitoring Officer of any such issues that are identified in the course of their work for the Council.
  - e) The Monitoring Officer will be consulted at the earliest possible stage where any possible change is proposed in Council policy or services.
  - f) The Monitoring Officer will have access to all papers held by any officer or Department of the Council including all papers supplied by officers to Members.
  - g) The Monitoring Officer will report to the Council from time to time on the Constitution and any necessary desirable changes following consultation with the Head of Paid Service and the Section 151 Officer.

- h) The Monitoring Officer will develop good liaison and working arrangements with the Audit Commission and the Ombudsman including the giving and receiving of relevant information whether confidential or otherwise.
- i) The Monitoring Officer shall consider applications for a grant of a dispensation from Members in accordance with the Code of Conduct in the following circumstances:
  - i. That so many Members of the decision-making body have disclosable pecuniary interests (DPIs) in a matter that it would impede the transaction of the business; or
  - ii. That, without a dispensation, no Member of the Cabinet would be able to participate in consideration of this matter.

And may refer the dispensation request to the Ethics Committee to advise on or express a view should the Monitoring Officer consider it appropriate to do so. Granting dispensations in other circumstances is a matter reserved to the Ethics Committee.

- 1.3 To ensure the effective and efficient discharge of the arrangements set out herein, Members and officers will report any breaches of statutory duty or Council policies or procedures and other vires or constitutional concerns to the Monitoring Officer, as soon as practicable.
- 1.4 The Monitoring Officer will have absolute right of access to all meetings and all papers and will have absolute right of access to Full Council.
- 1.5 The Monitoring Officer is available for Members and officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Standing Orders, policy framework, terms of reference, scheme of delegations etc).
- 1.6 To ensure the effective and efficient discharge of this Protocol, the Chief Financial Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.
- 1.7 Where amendments/variation to this Protocol are necessary due to legislative changes, the Council Solicitor may make such consequential changes to this Protocol as are necessary to take such changes into account.



# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5D – Planning Code of Good Practice

### Contents:

1	Introduction
2	General role and conduct of Members and officers
3	Interests: Disclosable Pecuniary Interests
4	Predisposition, predetermination and bias
5	Applications submitted by the Council, Members or officers
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### 1 INTRODUCTION

- 1.1 This code has been prepared using the advice in the Local Government Association's revised guidance note on good planning practice for Members and officers dealing with planning matters – Probity in Planning: the Role of Councillors and Officers (May 2009).
- 1.2 **The aim of this code:** To ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 1.3 **The key purpose of planning:** To manage development in the public interest.
- 1.4 **Your role as a Member of the Planning Committee:** To make planning decisions openly, impartially, with sound judgement and for justifiable planning reasons.
- 1.5 **When the Code applies:** This code applies to Members at all times they are involved in the planning process. This includes, where applicable, when part of decision making meetings of the Council, in exercising the functions of the planning authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications. If you have any doubts about the application of this code to your own circumstances you should seek advice early, and preferably well before any meeting takes place, from the Monitoring Officer.
- 1.6 In this Code when the term "Councillor" or "Member" is used it means that the advice is applicable to all Members of the Council. The term "Planning

Committee Member” means a Member or a substitute Member of any of the Council’s Planning Committees or sub-committees.

- 1.7 **Relationship to the Members’ Code of Conduct:** Members are reminded that the Planning Code of Good Practice is designed primarily for Members of the Council’s Planning Committees and Members who, for whatever reason, find themselves involved in the planning process. Whilst the planning code interprets the Members’ code of conduct with respect to planning matters it is subordinate to the Members’ Code of Conduct and in the event of any inconsistencies arising between this Code and the Members’ Code of Conduct, the Members’ Code of Conduct shall prevail.

## **2 GENERAL ROLE AND CONDUCT OF MEMBERS AND OFFICERS**

### **General roles of Members and officers**

- 2.1 Members and officers have different, but complementary roles. Both serve the public. Officers are responsible to the Council as a whole, whilst Members are responsible to the electorate.
- 2.2 Officers are not appointed to serve any political group and therefore advise all Members and the Council. Officers carry out the daily functions of the Council’s business in accordance with Council, Cabinet or Committee decisions or under powers delegated to them pursuant to the constitution. Officers are governed by the Employees Code of Conduct contained in the constitution. In addition, planning officers, who are Members of the Royal Town Planning Institute (RTPI), are subject to a professional code of conduct and breaches may be subject to disciplinary action by the RTPI. Similarly, officers who are solicitors are subject to regulation by The Solicitors Regulation Authority. Officers in other professions will have corresponding codes.

### **Relationship between Members and officers**

- 2.3 Mutual trust, respect and understanding between Members and officers are the keys to achieving effective local government. A successful relationship between Members and officers can only be based upon mutual trust and understanding of each other’s positions. This relationship, and the trust that underpins it, must never be abused or compromised.
- 2.4 Planning officers’ views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.
- 2.5 Members must not put pressure on officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a Member from asking questions or submitting views to the officer. These views, when received in written form, will be placed on the planning file and considered together with other material planning considerations.

### **3 INTERESTS: DISCLOSABLE PECUNIARY INTERESTS**

- 3.1 A Member should refer to the Members' Code of Conduct for assistance in identifying Disclosable Pecuniary Interests or seek advice from the Monitoring Officer prior to attending a meeting.
- 3.2 Members should have regard to the Members' Code of Conduct in relation to actions required where a Disclosable Pecuniary Interest exists.
- 3.3 Under the Members' Code of Conduct a Member who has a disclosable pecuniary interest must, if the interest is not one which is already on the register of interests or subject to a pending notification to the Monitoring Officer, disclose the existence of that interest to the meeting and thereafter notify the Monitoring Officer of that interest within 28 days of this disclosure.
- 3.4 Where a Member has a disclosable pecuniary interest, the Member may not participate or participate further in any discussion of the matter at the meeting or participate in any vote or further vote on the matter although there is no obligation for that Member to withdraw from the Chamber. This means that a Member with a disclosable pecuniary interest is precluded from making representations orally to the Committee or from making representations on behalf of a party to the hearing.
- 3.5 A Member with a disclosable pecuniary interest can still present their views to the Committee through other means. For example, the Member can:
- make written Representations in their private capacity in accordance with Committee Consideration Criteria as set out in the Planning and Planning Sub-Committee Rules The existence and nature of the interest should be disclosed in such representations and the Member should not seek preferential consideration for their representations. Such written representations should be addressed to officers rather than other Members of the Authority;
  - use a professional representative to make a representation on the Members' behalf in circumstances where the Members' planning application is under consideration; and
  - arrange for another Member of the Authority to represent the views of the Member's constituents on matters in which their ward Member has a disclosable pecuniary interest.

### **4 PREDISPOSITION, PREDETERMINATION AND BIAS**

- 4.1 In addition to being aware and taking appropriate action in relation to Disclosable Pecuniary Interests, Planning Committee Members need to avoid bias or predetermination or any appearance of bias or predetermination before taking a decision on a planning application.
- 4.2 Avoidance of bias or predetermination or the appearance of bias or predetermination is a principle of natural justice that the decision maker is expected to adhere to. The determination of a planning application is a formal administrative process involving the application of national, regional and local policies, reference to legislation and case law as well as rules of procedure.

Members of the Committee should not decide or declare which way they will vote in advance of the planning meeting, or before hearing evidence and arguments on both sides. However, Members will often form an initial impression or view; this is not necessarily predetermination or bias. A distinction is drawn by the courts between having clearly expressed an intention to vote in a particular way before a meeting (predetermination), and a predisposition to an initial view (such as supporting the policies in the Development Plan) where the Member is clear they are willing to listen to all the material considerations presented at the Committee and keep an open mind before deciding on how to exercise their vote. In the latter case there would be no predetermination or bias, just a legitimate predisposition.

- 4.3 This distinction is particularly important in the context of the Council's practice of facilitating presentations by developers of schemes at the pre-application stage. After these presentations, the Committee Members question details of the development so that they have the opportunity to input into the design development of these strategic developments. They will therefore express views on aspects of the development (such as its external appearance, impact on neighbours or transport network implications) which will often display predisposition around these elements. What the Members of the Committee should not do at this stage is to express a firm view on the development as a whole, as this could amount to predetermination. Such a view should only be formed at the end of the process when all the material considerations are available to the Members of the Committee to consider and weigh up before finalising their view.
- 4.4 A useful test to determine whether a position or view could be considered to be biased is to think about whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias. Predetermination goes beyond predisposition and essentially evades the process of weighing and balancing relevant factors and taking into account other viewpoints.
- 4.5 If a Planning Committee Member has been lobbied and wishes to promote or oppose a planning application, they will need to consider whether this is likely to be regarded as amounting to bias and going against the fair determination of the planning application. If they have predetermined their position or have given that impression, they should avoid being part of the decision-making body for that application.
- 4.6 A Planning Committee Member who is also a ward Member and wishes to campaign for or against a proposal, could speak at the Planning Committee (in accordance with the Council's public speaking procedures) on behalf of their constituents, having declared their pre-determined position. The Member can continue to represent those ward interests as a spokesperson for their local community, notwithstanding their normal Planning Committee Membership provided that if the Member has a Disclosable Pecuniary Interest, they may not participate in any discussion of the matter unless they have received a dispensation to do so.

4.7 Participation in a Planning Committee where a Member is or may be perceived to be biased, in addition to the risk of a complaint against the individual Member, also places the decision of the Committee at risk from legal challenge. As such, if a Planning Committee Member considers that they are or have given the impression that they are biased or predetermined it is advisable that they carefully consider whether it is appropriate for them to participate in the matter.

## **5 APPLICATIONS SUBMITTED BY THE COUNCIL, MEMBERS OR OFFICERS**

### **Applications submitted by the Council**

5.1 Proposals for a Council's own development can give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted to and determined by the Council. Proposals for a Council's own development will be treated no differently from any other application.

5.2 Certain Members, such as Cabinet Members, may through their other roles outside of a Planning Committee, have been heavily committed to or involved in a Council's own development proposal. In such circumstances, when an item comes to be considered at Committee the Member concerned, if they sit on the Committee, must consider whether they have an interest or degree of involvement with the proposals that could give the impression of bias. If in doubt, they are encouraged to seek advice from the Monitoring Officer. The most appropriate course of action if that is the case, is that the Member concerned may address the Committee in the applicant's speaking slot (see part 4K of the constitution: Planning and Planning Sub-Committee Procedure Rules) but does not take part in its consideration and determination and therefore withdraws before the debate by Members commences. It is important that the Member should restrict their address to the Committee to relevant planning considerations rather than wider non-planning issues that are not material to the determination of the application.

### **Applications submitted by Members or officers**

5.3 It is perfectly legitimate for planning applications to be submitted by Members and officers. However, it is vital to ensure that they are handled in a way that gives no grounds for accusations of bias or pre-determination

5.4 If a Member or an officer submits their own proposal to the Council which they serve, they should take no part in its processing. A Member who acts as an agent or representative for someone pursuing a planning matter with the authority should also take no part in its processing. The 1APP planning application form requires applicants to indicate whether they are members of staff or an elected Member or partners/spouses of a Member or Officer of the Council. Where decisions relate to applications made by members of staff or an elected Member these should be reported to Committee where they relate to the following:

- Members of the Council
- Senior officers of the Council (Service Head and above)

- Officers of the Local Planning Authority.

5.5 The term “Officers of the Local Planning Authority” means officers within the Council who are closely involved in the day-to-day work of the Council’s planning function.

5.6 The procedures to be followed in Committee in such circumstances are as follows:

- The consideration in Committee of an application from a Member may be considered a disclosable pecuniary interest for that Member and Members need to be mindful of their obligations in relation to Disclosable Pecuniary Interests as set out in the Members’ Code of Conduct.
- If such a Member does not have a Disclosable Pecuniary interest they may address the Committee as the applicant in accordance with the Council’s public speaking procedures. If however, such a Member has a Disclosable Pecuniary Interest they may not participate in the consideration of the matter and may therefore not speak on the matter. They would need to have a representative speak on their behalf.
- The Members of the Committee must consider whether the nature of any relationship means that they have a Disclosable Pecuniary Interest in relation to the matter and if so, they may not participate in the consideration of that matter.

5.7 The principle in the final bullet point also applies to applications submitted by officers when they are considered in Committee.

## **6 LOBBYING OF AND BY COUNCILLORS**

6.1 Lobbying is a normal and perfectly proper part of the political process. Members of the public, applicants or local interest groups will often seek to influence a decision through an approach to their ward Member. In the case of a Planning Committee Member, care needs to be taken to avoid the perception of bias or predetermination of any planning matter.

### **Lobbying of Members**

6.2 A Planning Committee Member should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may prejudice their impartiality and ability to participate in the Committee’s decision making if they are asked to express either an intention to vote one way or another or such a firm point of view that it amounts to the same thing. Planning Committee Members should ensure that it is made clear to any lobbyists that they will only be in a position to reach a final decision on any planning matter after they have heard all of the relevant arguments and looked at the relevant information during the sitting of the determining Committee.

6.3 Planning Committee Members should therefore:

- suggest to lobbyists that they write to the Head of Development Management in order that their views can be included in the officer reports prepared for determination under delegated powers or by Committee;
- pass on any lobbying correspondence received (including plans, data, correspondence etc in respect of an application) to the Head of Development Management as soon as practicably possible so that it can be taken into account and included in the report on the application;
- remember that their overriding duty is to the whole community not just to the residents and businesses within their ward and that they have a duty to make decisions impartially, and should not improperly favour, or appear to improperly favour, any person, company, group or locality;
- not accept gifts or hospitality from any person involved in or affected by a planning proposal, but if a degree of hospitality is entirely unavoidable, ensure that they comply with the provisions in the Members' Code of Conduct on gifts and hospitality; and
- inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up where necessary.

6.4 Planning Committee Members should note that, subject to the requirements to ensure that Members comply with the Members' Code of Conduct and the rules regarding bias and pre-determination and ensure that they take appropriate action in relation to Disclosable Pecuniary Interests, they are not precluded from:

- listening or receiving viewpoints from residents or other interested parties;
- making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to predetermination and they make clear they are keeping an open mind;
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion or speaking at the meeting as a ward Member, provided they explain their actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate.

6.5 In the interest of openness, it is recommended that Planning Committee Members declare any lobbying to which they have been subject.

### **Lobbying by Members**

6.6 Planning Committee Members should not become a member of, lead or represent a national or local organisation whose primary purpose is to lobby to



promote or oppose planning proposals. If a Member does, he/she may appear to be biased. Whilst they may be able to address the Committee as a ward Member or an objector, Members are not able to participate or vote on any matter in respect of which they have a disclosable pecuniary interest unless they have received a dispensation for this purpose.

- 6.7 Members can join general groups which reflect their areas of interest and which concentrate on issues beyond particular planning proposals, but they should disclose a personal interest where that organisation has made representations on a particular proposal. A Member should make it clear to that organisation and the Committee that they have reserved judgement and the independence to make up their own mind on each separate proposal.
- 6.8 Members should not excessively lobby Planning Committee Members regarding their concerns or views on a planning application, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- 6.9 Members should not decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so.

## **7 PRE-APPLICATION DISCUSSIONS**

- 7.1 Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties. However, it would be easy for such discussions to become, or to be seen by objectors to become, part of a lobbying process on the part of the applicant. For this reason the Council have developed pre-application processes that enable Member engagement at the pre-application stage.
- 7.2 Members should try to attend meetings which may be organised for them by officers as part of the Council's pre-application process. All Members are encouraged to participate in these pre-application discussions, but particularly ward Members, Planning Committee Members and relevant Cabinet Members. Please remember that both this Code and the Members' Code of Conduct will apply when attending such meetings.
- 7.3 In all cases these meetings will be subject to the following procedures:
- No meeting shall be convened without the presence of a Council planning officer for the entire duration of the meeting.
  - Any Planning Committee Members involved in such a meeting, who sit on the Committee that subsequently considers any resulting application, should declare their attendance at the meeting in the same way as lobbying would be declared.
  - Officers (and any Member, if present) should make it clear from the outset that the discussion will not bind the Council to making a particular decision and that any views expressed are personal and provisional.



- Any advice given should be consistent and in accordance with the Development Plan and officers should agree, prior to any meeting, on a consistent interpretation of Development Plan policies as applied to the particular proposal.
- A contemporaneous note of the meeting should be prepared by the planning officer attending wherever possible and a copy sent to all parties for their agreement.
- The final version of the note of the meeting will form part of the planning file and should a planning application subsequently be received, it will thereby be open to public inspection.

7.4 Planning Committee Members should not attend pre-application meetings that are not organised through officers.

## **8 POST-SUBMISSION DISCUSSIONS**

8.1 A Planning Committee Member should not usually be involved in discussions with a developer or agent when a planning application has been submitted and remains to be determined. Potentially, these discussions could be interpreted, particularly by objectors to a proposal, as an indicator of predetermination or bias.

8.2 In limited circumstances Planning Committee Members may legitimately engage in post-submission discussions. An example would be in the case of a large-scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives. Such meetings will be organised by officers and run under the same procedural rules as pre-application discussions.

8.3 If a Planning Committee Member is contacted by the applicant, their agent or objectors, they should follow the rules on lobbying and consider whether or not it would be prudent in the circumstances to make notes when contacted. A Member should report to the Head of Development Management any significant contact with the applicant or other parties, explaining the nature and purpose of the contacts and their involvement in them, so that it can be recorded on the planning file.

8.4 Planning Committee Members should not attend post-submission meetings that are not organised through officers.

## **9 PLANNING APPEALS**

9.1 Appeals into the planning decisions of the Council are heard by a Planning Inspector appointed by the Secretary of State. Any hearing or inquiry will be open to the public and Members are able to attend. Members are encouraged to attend such hearings, as they can be a good learning experience. This part of the code is concerned with Members who wish to actively participate in these appeals.

- 9.2 If a Member wishes to attend a public inquiry or informal hearing as a ward Member or as a member of the public, they are free to do so. It is strongly recommended that they discuss their participation with the Director of Planning & Strategic Transport or the Head of Development Management to ensure that they are aware of the process and that they do not act in a manner which compromises their position as a Member of the Council or brings the Council into disrepute or puts the decision made at risk of challenge
- 9.3 A Member cannot attend an appeal on behalf of the Council's Planning Committee, even if they sat on that Committee, unless this is as part of the Council's case as decided by the Director of Planning & Strategic Transport or the Head of Development Management. The decision of the Committee will be documented in the minute and set out in the decision notice. The planning officer will present the Council's case on its planning merits, in accordance with the Committee's decision. The inspector is required to determine the appeal on its planning merits and therefore all representations should be so directed.
- 9.4 Where the appealed decision was contrary to the officer's recommendation, officers are generally able to present the Council's case in a satisfactory manner. Where this may not be possible, the case will be presented by a planning consultant employed by the Council.

## **10 PLANNING ENFORCEMENT**

- 10.1 It is perfectly legitimate for Members to bring to the attention of the planning service suspected breaches of planning control so that they may be investigated to see whether any action is possible or necessary. They should bring these to the attention of the Head of Development Management.
- 10.2 The Council's planning enforcement service operates to a priority system so that those breaches that cause the most harm are dealt with first. This priority system is designed to produce a fair and responsive enforcement service.

## **11 MEMBER TRAINING**

- 11.1 Members may not participate in decision making at meetings of the Council's Planning Committees unless they have attended mandatory planning training. This will be provided by the Council's planning and legal services and will cover the principles of planning and probity in planning.
- 11.2 Whilst all new Members and new substitute Members have to attend this training before they can participate in the Council's Planning Committees, all other Planning Committee Members and substitute Members are encouraged to attend the training so that they can ensure that they keep up-to-date on these matters.
- 11.3 All Planning Committee Members should endeavour to attend any other specialised training sessions provided, since these will be designed to extend their knowledge of planning law, policy, procedures, and good practice, which will assist them in carrying out their role properly and effectively.

11.4 Training provided on planning related matters is aimed at Planning Committee Members but is always open to any Member with an interest to attend.

## 12 **AMENDMENTS/VARIATION**

12.1 Where amendments to this Code are necessary due to legislative changes, the Council Solicitor may make such consequential changes to this Code as are necessary to take such changes into account.

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.F – Protocol for Licensing Hearings

Protocol adopted by the Licensing Committee on 19 April 2005

1<sup>st</sup> Revision: 6.1.06

2<sup>nd</sup> Revision: 22.11.07

Updated: November 2012

### 1. DEFINITIONS

1.1 In this Protocol:

- **'The Act'** means the Licensing Act 2003.
- **'The Regulations'** means the Licensing Act 2003 (Hearings) Regulations 2005 and the Licensing Act 2003 (Hearings) (Amendment) Regulations 2005.
- **'Applicant'** means the applicant for a licence under the Licensing Act 2003. This includes an applicant making an application for a new premises licence or club premises certificate, a variation to a premises licence or club premises certificate, a personal licence, a transfer, an interim authority, designated premises supervisor, a provisional statement or a temporary event notice. The term Applicant also refers to a person representing the Applicant.
- **'The Authority'** means the Licensing Authority for the London Borough of Croydon.
- **'Licensing Sub-Committee'** means a Sub-Committee of the Licensing Committee empowered under the Act and the Council's Constitution to determine applications under the Act.
- **'Party to the hearing'** means a person to whom a notice of hearing is required to be given in accordance with Regulation 6(1) of the Regulations including the Applicant, Responsible Authorities and 'Other Persons' and "Party" and "Parties" shall be construed accordingly. "Party" includes a person representing the Applicant, Responsible Authority and Other Persons.
- **'Responsible Authority'** means a person or body as defined by the Act and/or the Regulations and includes the Police, the Fire Authority, the Health Authority, the Licensing Authority, Planning Officers, Noise and Nuisance Officers, Health and Safety Officers Trading Standards Officers and officers responsible for protecting children from harm. "Responsible Authority" includes a person representing the Responsible Authority.
- **'Other Persons'** means any of the following: -
  - An individual or a body representing the same;
  - a business or a body representing the same."Other Person" and "Other Persons" shall be construed accordingly. "Other Person" includes a person representing the 'Other Person'

## **2. INTRODUCTION/APPLICATION OF PROTOCOL**

- 2.1 This protocol applies to hearings held by the London Borough of Croydon under the Act. It sets out how the Licensing Committee and its Sub-Committees will manage their business under the Act and the procedure to be followed in determining applications/requests for review and at hearings.
- 2.2 The protocol shall comply with the Regulations and any regulations or enactment amending or replacing the same. The protocol applies to all applications which are required under the Act to be determined by the Licensing Sub-Committees, and to the conduct of all Members whether or not Members of the Licensing Committee or its Sub-Committees.

## **3. DETERMINATION OF APPLICATIONS**

- 3.1 Where a hearing is required under the Act, this shall be held by one of the Licensing Sub-Committees.
- 3.2 Applications and other matters shall be determined in accordance with the Guidance issued under section 182 of the Act. Unopposed applications will be determined by officers under delegated authority, except where the Act or Regulations require otherwise. Officers will report periodically to the Licensing Committee on applications determined under delegated authority.

## **4. THE LICENSING SUB-COMMITTEES**

- 4.1 The membership of each Licensing Sub-Committee shall be three Members, drawn from the pool of 22 Members and Reserve Members of the Licensing Committee. The Council Solicitor shall, after consultation with the appropriate Group Whip(s), nominate Members, to serve on meetings of the Licensing Sub-Committees taking into account member availability, group proportionality and the need to avoid any potential conflict of interests.
- 4.2 The quorum of the Licensing Sub-Committee is three Members and all three Members must be present throughout the hearing.
- 4.3 Each Political Group shall nominate a reserve member for each meeting of the Licensing Sub-Committee to provide for the eventuality that a Member is unavailable at short notice.
- 4.4 The Licensing Sub-Committees shall be subject to the 'access to information' rules applying to committees and sub-committees appointed under Section 102 of the Local Government Act 1972 and the Council's Access to Information Procedure Rules set out in Part 4B of this Constitution, provided always that the Licensing Sub-Committees may at any time decide to withdraw to private session to deliberate on any matter.
- 4.5 The Licensing Sub-Committees shall be subject to the 'political balance' rules

applying to committees and sub-committees appointed under Section 102 of the Local Government Act 1972.

- 4.6 The Licensing Sub-Committee shall appoint a chair for the meeting from amongst its Membership at the start of each meeting.

## **5. HEARINGS**

- 5.1 Hearings will be convened and conducted in accordance with the procedure at Annex 1 to this protocol.
- 5.2 Hearings shall normally take place at the Town Hall, Katharine Street, Croydon. Hearings may take place during the daytime or evening.
- 5.3 The agenda for meetings of the Licensing Sub-Committees shall be agreed by the Council Solicitor after any necessary consultation with the relevant Chair. The Council Solicitor, after consultation with the Chair and the Licensing Officer, shall determine how many applications shall be heard at each meeting of the Licensing Sub-Committee and in what order, taking into account all relevant factors including the number of parties who are present for each item.
- 5.4 Hearings shall be scheduled in accordance with the timescales set out in the Regulations. In general a hearing must be held within 20 working days after the time has expired for making representations.

## **6. NOTIFICATION OF HEARINGS**

- 6.1 The Applicant and all parties who have made relevant representations shall be notified of the hearing in accordance with the timescales set out in the Regulations. Information to accompany the notice of hearing shall be provided in accordance with the Regulations, and shall include:
- a copy of this Protocol;
  - confirmation that a Party may be assisted or represented by a person whether or not that person is legally qualified;
  - confirmation that a Party to the hearing may address the Authority, give further information on a point on which the Authority requires clarification and, if considered by the Licensing Sub-Committee to be required, question another Party to the hearing;
  - the consequences of not attending or being represented at a hearing (which normally will be that the hearing will proceed in the Party's absence); and
  - a note of any particular points on which the Authority wants clarification.
- 6.2 In order to consider whether there are any issues of clarification to be requested, from Applicants or those making representations, Members of the Licensing Sub-Committee may meet with the Clerk and/or Legal Adviser in advance of the hearing. No decisions will be made or discussions held regarding the substantive merits of the application or submissions at this meeting.

- 6.3 Subject to any restrictions in the Regulations, a Party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.
- 6.4 All Parties upon whom a notice of hearing has been served are required to give to the Authority, in accordance with the timescales set out in the Regulations, notice of:
- whether they intend to attend or to be represented at the hearing;
  - whether or not they consider a hearing to be unnecessary; and
  - whether they wish to request that another person appear at the hearing (other than their representative). If such a request is made, it should be accompanied by details of the name of that person and a full description of the points about which that person may be able to assist the Authority.
- 6.5 The Authority may dispense with the requirement to hold a hearing if all Parties agree that such a hearing is unnecessary provided (1) all the Parties involved in the application agree to dispense with a hearing and (2) all Parties have each served a notice on the Authority that a hearing is unnecessary. Where all the persons required by the Act to agree that a hearing is unnecessary have done so in accordance with paragraph 6.4 above, the Authority, if it agrees that a hearing is unnecessary, shall forthwith give notice to the Parties that the hearing has been dispensed with and the application will be determined by the officers under delegated authority. The Authority will determine the application within **10 working days** from the date the Notice is served dispensing with the hearing. Once the application has been determined the Authority will notify the Parties of its decision forthwith.
- 6.6 Subject to the requirement to determine an application within the timescale set out in the Regulations and to any other restrictions contained in the Regulations, the Authority has the power to extend a time limit specified in the Regulations for a specified period where it considers this is necessary in the public interest, or to adjourn a hearing to a specified date. Where the Authority has exercised its discretion to extend a time limit or adjourn a hearing, it must forthwith give notice to the Parties, stating the period of the extension and the reasons why it considers it is necessary in the public interest, or the date, time and place to which the hearing has been adjourned, as appropriate.

## **7. FAILURE OF PARTIES TO ATTEND THE HEARING**

- 7.1 If a Party, who has not given prior notice of his/her intention not to attend the hearing, is absent from the hearing the Licensing Sub-Committee may either adjourn the hearing or hold the hearing in the Party's absence. Where the hearing is held in the absence of a Party, the Licensing Sub-Committee will still consider the application, representation or notice submitted by that Party.

## **8. OFFICERS TO ATTEND THE HEARING**



- 8.1 The hearing will be attended by a Legal Officer, a Democratic Services Officer who shall act as the clerk, and a Licensing Officer. The officers are present to provide advice and are not Parties to the hearing. Where the Licensing authority determines that it will make representations as a Responsible Authority, these representations will not be made by the same Licensing Officer who presents the application to the Sub-Committee at the hearing.
- 8.2 The role of the Legal Officer is to provide legal advice relating to the application and submissions. Any legal advice that may be given to the Licensing Sub-Committee in private shall be repeated when the Licensing Sub-Committee returns in open session.
- 8.3 The role of the Clerk is to record the hearing and the decisions of the Licensing Sub-Committee, and to ensure efficient administration.

## **9. LICENSING OFFICER'S REPORT TO THE LICENSING SUB-COMMITTEE**

- 9.1 The Licensing Officer shall prepare a report for consideration by the Sub-Committee including:
- a brief summary of the application;
  - a brief summary of representations by responsible authorities and Interested Parties;
  - relevant aspects of the Council's Licensing Policy and National Guidance; and
  - Other information as appropriate and as included in the Council's standard report format.
- 9.2 The Licensing Officer's report shall be sent to the Parties and will be accompanied by the relevant documentary material that has been submitted by the Parties.
- 9.3 After having heard the representations and prior to retiring to make its decision the Licensing Sub-Committee may, if it wishes, seek the guidance of the licensing officer regarding possible suitable conditions in respect of any particular application.

## **10. REPRESENTATIONS**

- 10.1 Other Person(s) or Responsible Authority may make written representations about an application for a premises licence or certificate. Generally these must be made at any time up to and including 20 working days after the day on which the application was received. A copy of all relevant representations will be provided, in full, to the Applicant. The papers for the Licensing Sub-Committee hearing will be available to the press and public. Correspondence submitted anonymously will not be considered.
- 10.2 Licensing Sub-Committee Members will not enter into correspondence or discussion with Applicants, their agents or representatives, Other Persons or Responsible Authorities about the merits of the application(s) they may be called upon to decide.

- 10.3 Where an application is to be decided at a hearing by the Licensing Sub-Committee, Applicants and those who have made relevant written representations in connection with the application, will be invited to attend.
- Representations or requests for review will only be relevant if they relate to one or more of the four licensing objectives:
    - the prevention of crime and disorder;
    - public safety;
    - the prevention of public nuisance; and
    - the protection of children from harm.
- 10.5 At the hearing a Party shall be entitled to:
- give further information in response to a point upon which the Authority has given notice that it will want clarification;
  - if given permission by the Authority, question any other Party; and
  - address the Authority.
- 10.6 Members of the Licensing Sub-Committee may question any Party or other person appearing at the hearing.
- 10.7 In considering any representations or notice made by a Party the Authority may take into account documentary or other information produced by a Party either before the hearing or, with the consent of all the other Parties, at the hearing.
- 10.8 Statements made by people in support of a Party's representation who are not present at the hearing, must be signed by the maker, dated and witnessed by another person. The statement must also contain the witness's full name and occupation.
- 10.9 A Party who wishes to withdraw any representations they have made, may do so by giving written notice to the Authority no later than 24 hours before the day on which the hearing is scheduled to be held, or orally at the hearing.
- 10.10 The Licensing Sub-Committee has the discretion to consider whether to take into account any documentary or other evidence produced by a Party before the hearing. Any documentary or other evidence produced by any Party in support of an application, representations or notice of hearing, which has not been produced before the hearing can only be heard with the consent of all other Parties present, and the Licensing Sub-Committee. During the hearing no new matters may be raised without the express consent of the Chair of the Licensing Sub-Committee.

## **11. HEARINGS TO BE OPEN TO THE PUBLIC**

- 11.1 The hearing will take place in public. However, the Licensing Sub-Committee may exclude the public (including a Party and any person assisting or representing a Party) from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

- 11.2 The Chair may exclude from the hearing any person who is behaving in a disruptive manner. This may include a Party who is seeking to be heard at the hearing. In the case where a Party is to be excluded, the Party may submit to the Licensing Sub-Committee in writing any information which they would have been entitled to give orally had they not been excluded from the hearing.
- 11.3 The Licensing Sub-Committee may retire into private session during or at the end of the hearing to deliberate on any matter or decide how it wishes to determine the application. The Licensing Sub-Committee may be accompanied by the Clerk and the Legal Advisor who will be available to assist the Licensing Sub-Committee with any legal problems but will not participate in any decision making of the Licensing Sub-Committee.

## **12. DETERMINATION OF APPLICATIONS**

- 12.1 Normally the Licensing Sub-Committee shall make its determination at the conclusion of the hearing and in all cases the Licensing Sub-Committee shall make its determination in accordance with the timescales laid down by the Regulations.
- 12.2 Where all Parties have notified the Authority that a hearing is not required and the Authority agrees that a hearing is not required, the application shall be determined in accordance with the timescales set out in the Regulations.
- 12.3 The Licensing Sub-Committee shall give reasons for its decision and these shall be recorded in the minutes of the meeting.
- 12.4 The Authority shall notify Parties of its determination, and provide any accompanying information in accordance with the Regulations. The Chief Officer of Police shall also be notified even in a case where the Police have not made a representation.

## **13.1 RECORD OF PROCEEDINGS**

- 13.1 The Authority shall keep a record of the hearing in a permanent and intelligible form for 6 years from the date of the determination or, where an appeal is brought against the determination of the Authority, from the disposal of the appeal.

## **14. CODE OF CONDUCT AND PRINCIPLES OF DECISION-MAKING**

- 14.1 Members shall at all times comply with the provisions of the Members' Code of Conduct.
- 14.2 In making their determinations under the Act, Members shall have regard to:
- the material relevant facts in light of the evidence presented;
  - the relevant statutory provisions;
  - relevant national guidance and the policy statement;
  - the licensing objectives; and

- the individual merits of the case.

14.3 Applications shall be determined on the basis of whether they promote the licensing objectives in the Act, namely:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

14.4 The Licensing Sub-Committee shall disregard any information or evidence given which is not relevant to the application, representations or notice; or to the promotion of the licensing objectives.

14.5 Decisions must not be influenced by any political party direction whether given at a previous party group meeting or otherwise.

14.6 Members of the Licensing Committee or its Sub-Committee(s) must act without bias or predetermination, must have no disclosable pecuniary interest (DPI) in any application before them, and must keep an open mind on all applications until they have considered all of the evidence and arguments presented. They shall not take or express any view on the merits of an application, nor organise support for or opposition to any application in advance of a hearing. Any Member who does so shall not be eligible to serve on the Licensing Sub-Committee [meeting] that hears the application.

## **15. MEMBERS' INTERESTS: GENERAL**

15.1 Members must at all times comply with the Members' Code of Conduct in relation to the disclosure of disclosable pecuniary interests, participation in relation to disclosed interests and registration of disclosable pecuniary interests and other interests and of gifts and hospitality.

## **16. MEMBERS' INTERESTS: MEMBERS OF THE LICENSING COMMITTEE**

16.1 A Member of the Licensing Committee who has been involved in a licence application shall not serve on the Licensing Sub-Committee hearing at which the licence application is to be determined.

16.2 No Member sitting on the Licensing Sub-Committee can represent one of the interested Parties or applicant. If a Member wishes to do so s/he must excuse him/herself from membership of the Licensing Sub-Committee which is considering the application and address the Licensing Sub-Committee as a representative for an Interested Party (subject to 17.2 below).

16.3 Members involved in Council meetings which approved the Licensing Policy (or any amendment to it), will not be excluded from membership of the Licensing Sub-Committee solely on this basis.

## **17. MEMBERS' INTERESTS: WARD MEMBERS AND OTHER MEMBERS**

- 17.1 Under the Members' Code of Conduct a Member who has a disclosable pecuniary interest must, if the interest is not one which is already on the register of interests or subject to a pending notification to the Monitoring Officer, disclose the existence of that interest to the meeting and thereafter notify the Monitoring Officer of that interest within 28 days of this disclosure.
- 17.2 Where a Member has a disclosable pecuniary interest in relation to the application under consideration they may not sit on that sub-committee.
- 17.3 Any Member with a disclosable pecuniary interest is also precluded from making representations orally to the Sub-Committee or from making representations on behalf of a party to the hearing. They can still present their views through other means. For example, the Member can:
- make written representations in their private capacity. The existence and nature of the interest should be disclosed in such representations and the Member should not seek preferential consideration for their representations. Such written representations should be addressed to officers rather than other Members of the Authority;
  - use a professional representative to make an application on the Members behalf; or
  - arrange for another Member of the Authority to represent the views of the Member's constituents on matters in which their ward Member has a disclosable pecuniary interest.
- 17.4 The Member who has a disclosable pecuniary interest but has been asked to represent the views of a party making representations should advise them about that interest and inform them that another Member may represent their views on the issue. When representing those views the other Member should make it clear to the relevant committee or officers that he or she is acting in place of the original Member because of that Member's disclosable pecuniary interest.

## **18. LOBBYING**

- 18.1 If a Member of the Licensing Committee is approached by a person(s) wishing to lobby him/her on a licence application then that Member should explain that they cannot discuss the matter and refer the lobby person(s) to the Licensing Officer or his/her Ward Member who can explain the process of decision making. Any written representations received by a Member of the Licensing Committee should be passed to the Licensing Officer and reported at the hearing at which the application is being determined. Requests for procedural advice with regards to licensing applications should be referred to Council Officers for advice and information.
- 18.2 Other Members must not lobby Members who sit on the Licensing Sub-Committee, directly or indirectly, before or after a meeting, in writing or otherwise, in respect of items to be decided by the Licensing Sub-Committee. Any representation by other Members, on behalf of an Other Person(s), should be sent to the relevant Licensing Officer for inclusion in his/her report. A

Member shall not attempt to use her/his status as a Member to influence consideration of a submission, or try to get officers to change a decision or recommendation.

## **19. SITE VISITS**

19.1 The Licensing Sub-Committee may undertake a site visit to the premises which are the subject of an application. If required, the site visit may occur prior to the hearing or the Licensing Sub-Committee may adjourn the hearing part way through to undertake a site visit. The Chair of the Licensing Sub-Committee shall give reasons justifying the need for a site visit and these shall be notified to the Parties.

19.2 If a site visit is necessary the following procedure should be observed:

- the visit should be undertaken as a group visit attended by all the Licensing Sub-Committee Members and its purpose should be confined to that indicated by the Chair;
- the visit should be attended by an officer who may be asked factual questions by the Members;
- no indication of the likely outcome of the application should be given on the visit;
- no representation from the applicant or from those making representations shall be heard or accepted on the visit; and
- a record should be kept of those attending the visit, the questions asked, and answers given.

## **20. APPLICATIONS SUBMITTED BY THE LOCAL AUTHORITY OR BY ANOTHER PUBLIC AUTHORITY**

20.1 Where the Authority is the applicant for a licence, that application shall be determined in accordance with the normal procedure. The Licensing Sub-Committee shall give no regard to the interests of the Council itself, aside from receiving relevant representations on this issue. Members who were part of the Authority's decision to apply for the licence, or who express a view in respect of such an application, shall not serve on the Licensing Sub-Committee to determine the application.

20.2 A Member who also serves on another local authority, or carries out a function for another public authority, or is appointed by Croydon Council as its representative on another body, shall not serve on the Licensing Sub-Committee to determine an application which has been made by that other authority or body, or on which that other authority or body has made a representation.

## **21. VARIATION/AMENDMENT OF THIS PROTOCOL**

21.1 The Licensing Sub-Committee may waive, vary or modify any part of this protocol in relation to a particular case if it considers that this is necessary to ensure fairness to the Parties and/or proper consideration of the application in

question, provided always that this does not result in any contravention of the Regulations.

- 21.2 This protocol may be amended by the Licensing Committee. In addition, where amendments to this protocol are necessary due to legislative changes, the Council Solicitor may make such consequential changes to this Protocol as are necessary to take such changes into account.

## **ANNEX 1 - Procedure for Licensing Sub-Committee Hearings**

Note: (1) This procedure shall normally be followed for all Hearings held by the Licensing Sub-Committee(s). The Chair may vary the procedure in respect of any hearing if he/she considers that this would facilitate the proper consideration of the application or notice before the Licensing Sub-Committee.

Note: (2) The hearing shall take the form of a discussion led by the Licensing Sub-Committee. Cross-examination shall not be permitted unless the Licensing Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice before it.

1. The Licensing Sub-Committee will elect a Chair from amongst their number
2. The Chair will introduce those present, Parties to indicate their names and who they represent. Chair to ascertain who will speak.
3. The Chair of the Licensing Sub-Committee will inform the Parties whether their applications to have certain people attend the hearing (e.g. witnesses) have been granted or refused (Note this relates to people other than those attending on behalf of a Party in the capacity as a representative of the Party).
4. The Chair will explain to the Parties the procedure to be followed at the hearing and to consider any request made by a Party in accordance with the Regulations for permission for another person to appear at the hearing (Such permission shall not be unreasonably withheld).
5. The Licensing Sub-Committee will confirm or vary the time limits set out below to be applied to contributions from the Parties. (Note: under the Regulations an equal maximum time period must be allowed to the Parties to exercise their rights under the Regulations).
6. The Chair will summarise the paperwork before the Licensing Sub-Committee and confirm that all present have copies; will ascertain whether any representations have been or are now to be withdrawn, and will hear any requests to adduce additional documentary or other information.
7. The Licensing Officer will outline:
  - details of the application and relevant representations received from the Parties; and the outcome of any discussions
  - relevant legislation;
  - relevant Licensing Policy; and
  - the time limit in which the Council must reach a determination.
8. The Chair will invite each of the Parties or their representative in turn to address the Licensing Sub-Committee and call any person/s to whom permission has been granted to appear. Each Party will be allowed a maximum period of 10 minutes in which to address the Licensing Sub-Committee and call persons on his/her behalf, and clarify any points on which the Licensing Sub-Committee has sought clarification prior to the hearing. This



10 minute period should be uninterrupted unless a member of the Licensing Sub-Committee or Legal Adviser considers that the speaker is making submissions that are irrelevant, frivolous or vexatious.

9. Members of the Licensing Sub-Committee or their Legal Adviser may ask questions of any Party, at any time throughout the proceedings.
10. The sequence in which each of the Parties will be invited to address the Licensing Sub-Committee will normally be in the order of:
  - the Police;
  - the Fire Authority;
  - the Health Authority
  - the Licensing Authority
  - the Health and Safety at Work Enforcing Authority;
  - the Local Planning Authority;
  - the Local Environmental Health Authority – Noise and Nuisance Officers;
  - the Local Trading Standards Authority;
  - the Authority Responsible for the Protection of Children from Harm;
  - any Other Person(s) that has submitted representations in respect of the application, certificate, notice or other matter appearing before the Licensing Sub-Committee (if there are a large number of Other Persons present who are making relevant representations they may be invited to share the maximum time available or to nominate a spokesperson to speak on their behalf); and
  - the Party that has submitted the application, certificate, notice or other matter appearing before the Licensing Sub-Committee.
11. At the discretion of the Licensing Sub-Committee the above order may be varied.
12. Parties may give their evidence by making a statement or if appropriate by being questioned by the person calling them.
13. If the Licensing Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice as the case may require, a period of up to 5 minutes cross-examination shall be allowed after each submission.
14. The Sub-Committee will then ask any outstanding points requiring clarification.
15. The Chair will ask the Applicant whether in the light of any representations made, they wish to amend their application or offer any additional conditions to overcome the representations and/or promote the licensing objectives.
16. If the Applicant makes any comments in relation to 15 above, the Licensing Sub-Committee will ask the other Parties whether they wish to make any further comment in relation to any amendment or additional comments offered by the Applicant.
17. The Chair will invite the Parties to indicate if they wish to make any final

comments. If any Party wishes to do so they will be given a maximum of 3 minutes to do so and the other Parties will be given the same maximum period, finishing with the Applicant.

18. The Licensing Sub-Committee will deliberate on and determine the matter under consideration. The Licensing Sub-Committee may withdraw to a private room to do this.
19. The Licensing Sub-Committee will return to open session. The Chair will ask the Legal Adviser to inform the Parties of any legal advice given during the Licensing Sub-Committee's private discussion that has informed their decision.
20. The Chair will then announce in open session to all Parties the decision of the Licensing Sub-Committee and reasons, unless (where permitted by the Regulations) the decision is to be communicated at some later time.

## ANNEX 2 – Delegation of Functions

Applications and other matters shall be determined under delegated powers in accordance with the following schedule:

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COMMITTEE</b>	<b>SUB-COMMITTEE</b>	<b>OFFICERS</b>
Application for personal licence		If a police objection is raised	If no objection is made
Application for personal licence, with unspent convictions		All cases	
Application for premises licence/club registration Certificate		If a relevant representation is made	If no relevant representation is made
Application for provisional statement		If a relevant representation is made	If no relevant representation is made
Application to vary premises licence/club registration Certificate		If a relevant representation is made	If no relevant representation is made
Application to vary designated premises supervisor		If a police Representation is made	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection is raised	All other cases
Application for interim authorities		If a police objection is raised	All other cases
Application to review premises licence/club registration Certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application.		All cases	
Determination of a police objection to a temporary event notice		All cases	

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.G – Protocol for Licensing Hearings under the Gambling Act 2005

Protocol adopted by the Licensing Committee on: 10<sup>th</sup> October 2007  
Effective from: 22<sup>nd</sup> November 2007  
Amended: November 2012

### 1. DEFINITIONS

#### 1.1 In this Protocol:

- **'The Act'** means the Gambling Act 2005.
- **'The Regulations'** mean the Gambling Act 2005 (Proceedings of Licensing Committees & Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007.
- **'Applicant'** means the person who makes an application under the Act. This includes an applicant making an application for a premises licence for an adult gaming centre, casino, bingo premises, betting premises, track or licensed family entertainment centre, travelling fair permits or for a variety of permits and temporary or occasional use notices. The term Applicant also refers to a person representing the Applicant.
- **'The relevant committee'** means the Licensing Committee or Licensing Sub-Committee, empowered under the Act and the Council's Constitution to determine applications under the Act.
- **'Party to the hearing'** means a person to whom a notice of hearing is required to be given in accordance with Regulation 5(1) of the Regulations including the Applicant, Responsible Authorities and Interested Parties and "Party" and "Parties" shall be construed accordingly. "Party" includes a person representing the Applicant, Responsible Authority and Interested Parties.
- **'Responsible Authority'** means a public body as defined by s.157 of the Act and the Regulations that must be notified of applications and is entitled to make representations. They are the Licensing Authority, the Gambling Commission, HM Revenue and Customs, the Police, the Fire Authority, Planning Officers, Noise and Nuisance Officers and the Croydon Children's Safeguarding Board. "Responsible Authority" includes a person representing the Responsible Authority.
- **'Interested Party'** means any of the following:
  - a) a person who lives sufficiently close to the premises likely to be affected by the authorised activities;
  - b) a person who has business interests that might be affected by the authorised activities; or
  - c) a person who represents the persons who satisfy para.a) or b)."Interested Party" and "Interested Parties" shall be construed accordingly.

## **2. INTRODUCTION/APPLICATION OF PROTOCOL**

- 2.1 This protocol applies to hearings held by the London Borough of Croydon under the Act. It sets out how the Licensing Committee and its Sub-Committees will manage their business under the Act and the procedure to be followed in determining applications/requests for review and at hearings. It includes the matters required to be explained in the notice of hearing under Regulation 6(1) of the Regulations.
- 2.2 The protocol shall comply with the Regulations and any regulations or enactment amending or replacing the same. The protocol applies to all applications which are required under the Act to be determined by the relevant committees, and to the conduct of all Members whether or not Members of the Licensing Committee or its Sub-Committees.

## **3. DETERMINATION OF APPLICATIONS**

- 3.1 Applications where a hearing is required under the Act shall be heard by one of the Licensing Sub-Committees.
- 3.2 Applications and other matters shall be determined in accordance with the guidance issued under section 25 of the Act.

## **4. THE LICENSING SUB-COMMITTEES**

- 4.1 The membership of each Licensing Sub-Committee shall be three Members, drawn from the pool of 22 Members and Reserve Members of the Licensing Committee. The Council Solicitor shall, after consultation with the appropriate Group Whip(s), nominate members to serve on meetings of the relevant committee taking into account member availability, group proportionality and the need to avoid any potential conflict of interests.
- 4.2 The quorum of the relevant committee is three members and all three members must be present throughout the hearing.
- 4.3 Each Political Group shall nominate a reserve member for each meeting of the relevant committee to provide for the eventuality that a member is unavailable at short notice.
- 4.4 The relevant committee shall be subject to the 'access to information' rules applying to committees and sub-committees appointed under Section 102 of the Local Government Act 1972 and the Council's Access to Information Procedure Rules set out in Part 4B of this Constitution, provided always that the relevant committee may at any time decide to withdraw to private session to deliberate on any matter.
- 4.5 The relevant committee shall be subject to the 'political balance' rules applying to committees and sub-committees appointed under Section 102 of the Local Government Act 1972.

4.6 The Licensing Sub-Committee shall appoint a chair for the meeting from amongst its membership at the start of each meeting.

## **5. HEARINGS**

5.1 Hearings will be convened and conducted in accordance with the procedure at Annex 1 to this protocol.

5.2 Hearings shall normally take place at the Town Hall, Katharine Street, Croydon. Hearings may take place during the daytime or evening.

5.3 The agenda for meetings of the relevant committee shall be agreed by the Council Solicitor, after any necessary consultation with the relevant Chair. The Council Solicitor, after consultation with the Chair and the Licensing Officer, shall determine how many applications shall be heard at each meeting of the relevant committee and in what order, taking into account all relevant factors including the number of parties who are present for each item.

5.4 Hearings shall be arranged to commence as soon as is reasonably practicable after the expiry of any period for representations. If the hearing is to be held on more than one day it must be arranged to take place on consecutive working days.

## **6. NOTIFICATION OF HEARINGS**

6.1 Interested Parties shall be notified of the hearing in accordance with the timescales set out in the Regulations. Information to accompany the notice of hearing shall be provided in accordance with the Regulations, and shall include:

- a copy of this Protocol;
- confirmation that a Party may be assisted or represented by a person whether or not that person is legally qualified;
- confirmation that a Party to the hearing may address the Authority, give further information on a point on which the Authority requires clarification and, if considered by the relevant committee to be required, question another Party to the hearing;
- the consequences of not attending or being represented at a hearing (which normally will be that the hearing will proceed in the Party's absence); and
- a note of any particular points on which the Authority wants clarification.

6.2 In order to consider whether there are any issues of clarification to be requested from Applicants or those making representations, Members of the relevant committee may meet with the Clerk and/or Legal Adviser in advance of the hearing. No decisions will be made or discussions held regarding the substantive merits of the application or submissions at this meeting.

6.3 Subject to any restrictions in the Regulations, a Party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

- 6.4 All Parties upon whom a notice of hearing has been served are required to give to the Authority, in accordance with the timescales set out in the regulations, notice of:
- whether they wish to attend, address, or to be assisted or represented at the hearing;
  - whether or not they consider a hearing to be unnecessary; and
  - whether they wish to request that another person appear at the hearing (other than their representative). If such a request is made, it should be accompanied by details of the name of that person and a full description of the points about which that person may be able to assist the Authority.
- 6.5 The Authority may dispense with the requirement to hold a hearing if all Parties agree that such a hearing is unnecessary provided (1) all the Parties involved in the application agree to dispense with a hearing and (2) all Parties have each notified the Authority that a hearing is unnecessary. Where all the persons required by the Act to agree that a hearing is unnecessary have done so in accordance with paragraph 6.4 above, the Authority, if it agrees that a hearing is unnecessary, shall as soon as is reasonably practicable, give notice to the Parties that the hearing has been dispensed with and proceed to determine the application or review. Once the application has been determined the Authority will notify the Parties of its decision forthwith.
- 6.6 Subject to the requirement to determine an application within the timescale set out in the regulations and to any other restrictions contained in the Regulations, the Authority has the power to extend a time limit specified in the Regulations for a specified period where it considers this is necessary in the public interest, or to adjourn a hearing to a specified date. Where the Authority has exercised its discretion to extend a time limit or adjourn a hearing, it must forthwith give notice to the Parties, stating the period of the extension and the reasons why it considers it is necessary in the public interest, or the date, time and place to which the hearing has been adjourned, as appropriate.

## **7. FAILURE OF PARTIES TO ATTEND THE HEARING**

- 7.1 If a Party, who has not given prior notice of his/her intention not to attend the hearing, is absent from the hearing or has left the hearing in circumstances which would enable the relevant committee to reasonably conclude that he does not intend to participate further, the relevant committee may either adjourn the hearing or hold the hearing in the Party's absence. Where the hearing is held in the absence of a Party, the relevant committee will still consider the application, representation or notice submitted by that Party.

## **8. OFFICERS TO ATTEND THE HEARING**

- 8.1 The hearing will be attended by a Legal Officer, a Democratic Services Officer who shall act as the clerk, and a Licensing Officer. The officers are present to



provide advice and are not Parties to the hearing.

- 8.2 The role of the Legal Officer is to provide legal advice relating to the application and submissions. Any legal advice that may be given to the relevant committee in private shall be repeated when the relevant committee returns in open session.
- 8.3 The role of the Clerk is to record the hearing and the decisions of the relevant committee, and ensure efficient administration.

## **9. LICENSING OFFICER'S REPORT TO THE RELEVANT COMMITTEE**

- 9.1 The Licensing Officer shall prepare a report for consideration by the relevant committee including:
- a brief summary of the application;
  - a brief summary of representations by responsible authorities and Interested Parties;
  - relevant aspects of the Council's Statement of Principles and National Guidance;
  - other information as appropriate and as included in the Council's standard report format.
- 9.2 The Licensing Officer's report shall be sent to the Parties and will be accompanied by the relevant documentary material that has been submitted by the Parties.
- 9.3 After having heard the representations and prior to retiring to make its decision the relevant committee may, if it wishes, seek the guidance of the licensing officer regarding possible suitable conditions in respect of any particular application.

## **10. REPRESENTATIONS**

- 10.1 An Interested Party or Responsible Authority may make written representations about an application for a premises licence within a period of 28 days beginning on the date on which the application was made to the Authority. A copy of all relevant representations will be provided, in full, to the Applicant. The papers for the relevant committee hearing will be available to the press and public. Correspondence submitted anonymously will not be considered.
- 10.2 Relevant committee members will not enter into correspondence or discussion with Applicants, their agents or representatives, other Interested Parties or Responsible Authorities about the merits of the application(s) they may be called upon to decide.
- 10.3 Where an application is to be decided at a hearing by the relevant committee, Applicants and those who have made relevant written representations in connection with the application will be invited to attend.

- 10.4 Representations or requests for review will only be relevant if they relate to one or more of the three licensing objectives:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - Ensuring that gambling is conducted in a fair and open way; and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 10.5 At the hearing a Party shall be entitled to:
- address the relevant committee on any relevant matter;
  - call witnesses to give evidence on any relevant matter;
  - give further information in response to a point upon which the Authority has given notice that it will want clarification; and
  - if given permission by the relevant committee, question any other Party.
- 10.6 Members of the relevant committee may question any Party or other person appearing at the hearing.
- 10.7 Statements made by people in support of a Party's representation who are not present at the hearing, must be signed by the maker, dated and witnessed by another person. The statement must also contain the witness's full name and occupation.
- 10.8 A Party who wishes to withdraw any representations they have made, may do so by giving written notice to the Authority no later than 24 hours before the day on which the hearing is scheduled to be held, or orally at the hearing.
- 10.9 The relevant committee has the discretion to consider whether to take into account any documentary or other evidence produced by a Party before the hearing. Any documentary or other evidence produced by any Party in support of an application, representations or notice of hearing, which has not been produced before the hearing can only be heard with the consent of all other parties present, and the relevant committee. During the hearing no new matters may be raised without the express consent of the Chair of the relevant committee.

## **11. HEARINGS TO BE OPEN TO THE PUBLIC**

- 11.1 The hearing will take place in public. However, the relevant committee may decide that all or part of the hearing will be in private if it is necessary in all the circumstances of the case having regards to:
- any unfairness to a Party that is likely to result from a hearing in public; and
  - the need to protect as far as possible, the commercial or other legitimate interests of a Party.
- 11.2 The relevant committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner, or in breach of conditions specified under this paragraph, to leave the hearing and:

- refuse to permit him to return; or
- permit him to return only on such conditions as the relevant committee may specify.

The relevant committee may allow a person who is attending the hearing and in their opinion is behaving in a disruptive manner, or in breach of conditions specified under paragraph (11.2), to remain at the hearing only on such conditions as the committee may specify.

Where a person is required to leave the hearing in accordance with paragraph (11.2), the relevant committee must:

- permit him to submit in writing, before the end of the hearing, any information which he would have been entitled to give orally had he not been required to leave; and
- take into account that information in reaching a determination of the application or review.

11.3 The relevant committee may retire into private session during or at the end of the hearing to deliberate on any matter or decide how it wishes to determine the application. The relevant committee may be accompanied by the Clerk and the Legal Adviser who will be available to assist the relevant committee with any legal problems but will not participate in any decision making of the relevant committee.

## **12. DETERMINATION OF APPLICATIONS**

12.1 Normally the relevant committee shall make its determination at the conclusion of the hearing and in all cases the relevant committee shall make its determination before the end of five working days starting with the day after the last day of the hearing. That time limit may be extended if it is considered to be in the public interest, in which case, as soon as is reasonably practicable, the relevant committee must give notice of the extension to the Parties stating the period of the extension and the reasons for it.

12.2 Where all Parties have notified the Authority that a hearing is not required and the Authority agrees that a hearing is not required, the application shall be determined as soon as is reasonably practicable.

12.3 The relevant committee shall give reasons for its decision and these shall be recorded in the minutes of the meeting.

12.4 The Authority shall notify Parties of its determination, and provide any accompanying information in accordance with the Regulations. The Chief Officer of Police shall also be notified even in a case where the Police have not made a representation.

## **13.1 RECORD OF PROCEEDINGS**

13.1 The Authority shall keep a record of the hearing in a permanent and intelligible

form for 6 years from the date of the determination or, where an appeal is brought against the determination of the authority, from the disposal of the appeal.

#### **14. CODE OF CONDUCT AND PRINCIPLES OF DECISION-MAKING**

14.1 Members shall at all times comply with the provisions of the Members' Code of Conduct.

14.2 In making their determinations under the Act, Members shall have regard to:

- the material relevant facts in light of the evidence presented;
- the relevant statutory provisions;
- relevant national guidance and the policy statement;
- the licensing objectives; and
- the individual merits of the case.

14.3 Applications shall be determined on the basis of whether they promote the licensing objectives in the Act, namely:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

14.4 The relevant committee shall disregard any information or evidence given which is not relevant to the application, representations or notice; or to the promotion of the licensing objectives.

14.5 Decisions must not be influenced by any political party direction whether given at a previous party group meeting or otherwise.

14.6 Members of the Licensing Committee or its Sub-Committee(s) must act without bias or predetermination, must have no disclosable pecuniary interest in any application before them, and must keep an open mind on all applications until they have considered all of the evidence and arguments presented. They shall not take or express any view on the merits of an application, nor organise support for or opposition to any application in advance of a hearing. Any Member who does so shall not be eligible to serve on the relevant committee meeting that hears the application.

#### **15. MEMBERS' INTERESTS: GENERAL**

15.1 Members must at all times comply with the Members' Code of Conduct in relation to the disclosure disclosable pecuniary interests, participation in relation to disclosed interests and registration of financial and other interests and of gifts and hospitality.

#### **16. MEMBERS' INTERESTS: MEMBERS OF THE LICENSING COMMITTEE**

- 16.1 A Member of the relevant committee who has been involved in a licence application shall not serve on the relevant committee hearing at which the licence application is to be determined.
- 16.2 No Member sitting on the relevant committee can represent one of the interested parties or applicant. If a Member wishes to do so s/he must excuse him/herself from membership of the relevant committee which is considering the application and address the relevant committee as a representative for an Interested Party (subject to 17.2 below).
- 16.3 Members involved in Council meetings which approved the Licensing Policy (or any amendment to it), will not be excluded from membership of the relevant committee solely on this basis.

## **17. MEMBERS' INTERESTS: WARD MEMBERS AND OTHER MEMBERS**

- 17.1 Under the Members' Code of Conduct a Member who has a disclosable pecuniary interest must, if the interest is not one which is already on the register of interests or subject to a pending notification to the Monitoring Officer, disclose the existence of that interest to the meeting and thereafter notify the Monitoring Officer of that interest within 28 days of this disclosure.
- 17.2 Where a Member has a disclosable pecuniary interest in relation to the application under consideration they may not sit on that sub-committee.
- 17.3 Any Member with a disclosable pecuniary interest is also precluded from making representations orally to the Sub-Committee or from making representations on behalf of a party to the hearing. They can still present their views through other means. For example, the Member can:
- make written representations in their private capacity. The existence and nature of the interest should be disclosed in such representations and the Member should not seek preferential consideration for their representations. Such written representations should be addressed to officers rather than other Members of the Authority;
  - use a professional representative to make an application on the Members behalf; or
  - arrange for another Member of the Authority to represent the views of the Member's constituents on matters in which their ward Member has a disclosable pecuniary interest.
- 17.4 The Member who has a disclosable pecuniary interest but has been asked to represent the views of a party making representations should advise them about that interest and inform them that another Member may represent their views on the issue. When representing those views the other Member should make it clear to the relevant committee or officers that he or she is acting in place of the original Member because of that Member's disclosable pecuniary interest.

## **18. LOBBYING**

- 18.1 If a Member of the relevant committee is approached by a person(s) wishing to lobby him/her on a licence application then that Member should explain that they cannot discuss the matter and refer the lobby person(s) to the Licensing Officer or his/her Ward Member who can explain the process of decision making. Any written representations received by a Member of the relevant committee should be passed to the Licensing Officer and reported at the hearing at which the application is being determined. Requests for procedural advice with regards to licensing applications should be referred to Council Officers for advice and information.
- 18.2 Other Members must not lobby Members who sit on the relevant committee, directly or indirectly, before or after a meeting, in writing or otherwise, in respect of items to be decided by the relevant committee. Any representation by other Members, on behalf of an Interested Party, should be sent to the relevant Licensing Officer for inclusion in his/her report. A Member shall not attempt to use her/his status as a Member to influence consideration of a submission, or try to get officers to change a decision or recommendation.

## **19. SITE VISITS**

- 19.1 The relevant committee may undertake a site visit to the premises which are the subject of an application. If required, the site visit may occur prior to the hearing or the relevant committee may adjourn the hearing part way through to undertake a site visit. The Chair of the relevant committee shall give reasons justifying the need for a site visit and these shall be notified to the Parties.
- 19.2 If a site visit is necessary the following procedure should be observed:
- the visit should be undertaken as a group visit attended by all the relevant committee Members and its purpose should be confined to that indicated by the Chair;
  - the visit should be attended by an officer who may be asked factual questions by the Members;
  - no indication of the likely outcome of the application should be given on the visit;
  - no representation from the applicant or from those making representations shall be heard or accepted on the visit; and
  - a record should be kept of those attending the visit, the questions asked, and answers given.

## **20. APPLICATIONS SUBMITTED BY THE LOCAL AUTHORITY OR BY ANOTHER PUBLIC AUTHORITY**

- 20.1 Where the Authority is the applicant for a licence, that application shall be determined in accordance with the normal procedure. The relevant committee shall give no regard to the interests of the Council itself, aside from receiving relevant representations on this issue. Members who were part of the Authority's decision to apply for the licence, or who express a view in respect of

such an application, shall not serve on the relevant committee to determine the application.

- 20.2 A Member who also serves on another local authority, or carries out a function for another public authority, or is appointed by Croydon Council as its representative on another body, shall not serve on the relevant committee to determine an application which has been made by that other authority or body, or on which that other authority or body has made a representation.

## **21. VARIATION/AMENDMENT OF THIS PROTOCOL**

- 21.1 The relevant committee may waive, vary or modify any part of this protocol in relation to a particular case if it considers that this is necessary to ensure fairness to the Parties and/or proper consideration of the application in question, provided always that this does not result in any contravention of the Regulations.
- 21.2 This protocol may be amended by the Licensing Committee.
- 21.3 Where amendments to this Protocol are necessary due to legislative changes, the Council Solicitor may make such consequential changes to this Protocol as are necessary to take such changes into account.

## **ANNEX 1 - Procedure for Licensing Sub-Committee Hearings**

Note: (1) This procedure shall normally be followed for all Hearings held by the Licensing Sub-Committee(s). The Chair may vary the procedure in respect of any hearing if he/she considers that this would facilitate the proper consideration of the application or notice before the relevant committee.

Note: (2) The hearing shall take the form of a discussion led by the relevant committee. Cross-examination shall not be permitted unless the relevant committee considers that cross-examination is required for it to consider the representations, application or notice before it.

1. The relevant committee will elect a Chair from amongst their number
2. The Chair will introduce those present, Parties to indicate their names and who they represent. Chair to ascertain who will speak.
3. The Chair of the relevant committee will inform the Parties whether their applications to have certain people attend the hearing (e.g. witnesses) have been granted or refused (Note this relates to people other than those attending on behalf of a Party in the capacity as a representative of the Party).
4. The Chair will explain to the Parties the procedure to be followed at the hearing and to consider any request made by a Party in accordance with the Regulations for permission for another person to appear at the hearing (Such permission shall not be unreasonably withheld).
5. The relevant committee will confirm or vary the time limits set out below to be applied to contributions from the Parties (Note: under the Regulations an equal maximum time period must be allowed to the Parties to exercise their rights under the Regulations).
6. The Chair will summarise the paperwork before the relevant committee and confirm that all present have copies; will ascertain whether any representations have been or are now to be withdrawn, and will hear any requests to adduce additional documentary or other information.
7. The Licensing Officer will outline:
  - details of the application and relevant representations received from the Parties; and the outcome of any discussions
  - relevant legislation;
  - relevant Licensing Policy; and
  - the time limit in which the Council must reach a determination.
8. The Chair will invite each of the parties or their representative in turn to address the relevant committee and call any person/s to whom permission has been granted to appear. Each Party will be allowed a maximum period of 10 minutes in which to address the relevant committee and call persons on his/her behalf, and clarify any points on which the relevant committee has sought clarification



prior to the hearing. This 10 minute period should be uninterrupted unless a member of the relevant committee or Legal Adviser considers that the speaker is making submissions that are irrelevant, frivolous or vexatious.

9. Members of the relevant committee or their Legal Adviser may ask questions of any party, at any time throughout the proceedings.
10. The sequence in which each of the Parties will be invited to address the relevant committee will normally be in the order of:
  - the Gambling Commission
  - the Police;
  - the Fire Authority;
  - the Licensing Authority
  - Her Majesty's Revenue & Customs (HMRC);
  - the Local Planning Authority;
  - the Local Environmental Health Authority – Noise and Nuisance Officers;
  - the Authority Responsible for the Protection of Children from Harm;
  - any other Interested Party that has submitted representations in respect of the application, certificate, notice or other matter appearing before the relevant committee (if there are a large number of Interested Parties present who are making relevant representations they may be invited to share the maximum time available or to nominate a spokesperson to speak on their behalf).
  - the Party that has submitted the application, certificate, notice or other matter appearing before the relevant committee.
11. At the discretion of the relevant committee the above order may be varied.
12. Parties may give their evidence by making a statement or if appropriate by being questioned by the person calling them.
13. If the relevant committee considers that cross-examination is required for it to consider the representations, application or notice as the case may require, a period of up to 5 minutes cross-examination shall be allowed after each submission.
14. The relevant committee will then ask any outstanding points requiring clarification.
15. The Chair will ask the Applicant whether in the light of any representations made, they wish to amend their application or offer any additional conditions to overcome the representations and/or promote the licensing objectives.
16. If the Applicant makes any comments in relation to 15 above, the relevant committee will ask the other Parties whether they wish to make any further comment in relation to any amendment or additional comments offered by the Applicant.
17. The Chair will invite the Parties to indicate if they wish to make any final

comments. If any Party wishes to do so they will be given a maximum of 3 minutes to do so and the other Parties will be given the same maximum period, finishing with the Applicant.

18. The relevant committee will deliberate on and determine the matter under consideration. The relevant committee may withdraw to a private room to do this.
19. The relevant committee will return to open session. The Chair will ask the Legal Adviser to inform the Parties of any legal advice given during the relevant committee's private discussion that has informed their decision.
- 20 The Chair will then announce in open session to all Parties the decision of the relevant committee and reasons, unless (where permitted by the Regulations) the decision is to be communicated at some later time.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## PART 5H- Protocol for Participation in Meetings of the Traffic Management Advisory Committee

This protocol applies to the Traffic Management Advisory Committee.

The Cabinet Member for Environment, Transport & Regeneration (or such other Member as the Leader may from time to time determine) as Chair of the Committee shall exercise complete discretion as to the interpretation of this Protocol.

1.1 One representative of each political group or ungrouped Member objecting to a scheme may be invited to address the Committee for not more than 2 minutes.

1.2 Where more than one organisation or individual is objecting to a scheme they shall nominate one person to speak on behalf of all those groups. In the absence of agreement between the groups, the Chair shall invite a representative of the organisation having the largest membership or signatures on a petition to address the Committee.

Speakers are urged to arrive at least 15 minutes before the start of the meeting to facilitate this process, and allow the order of speakers to be prepared. Please note that all public speaking at the meeting is at the discretion of the Chair. Speakers invited to address the Committee must do so on the basis that they live in that ward.

1.3 The selection to speak in support of a scheme shall be made in accordance with the same principles set out in 1(a) and 1(b) above.

Where more than one group are in support of a scheme they shall nominate one person to speak on behalf of all those groups objecting. In the absence of agreement between the groups, the Chair shall invite a representative of the group having the largest membership or signatures on a petition, to address the Committee.

Speakers are urged to arrive at least 15 minutes before the start of the meeting to facilitate this process, and allow the order of speakers to be prepared. Please note that all public speaking at the meeting is at the discretion of the Chair. Speakers invited to

address the Committee may do so on the basis that they live in that ward

- 1.4 One representative of the Members elected to represent the Ward shall be entitled to speak for up to 2 minutes in respect of a scheme proposed for any part of their Ward.
- 1.5 The GLA Member and the MP for the constituency in respect of a scheme proposed for any part of their constituency shall each be entitled to speak for up to 2 minutes.
- 1.6 Subject to the prior agreement of the Chair, a speaker representing an organisation recognised by the Council, e.g. the Public Transport Liaison Panel, may be given an opportunity to address the meeting.

## **Procedure**

- 1.7 The procedure at Committee for each agenda item will be at the discretion of the Chair but will usually be as follows:
  - The Council Officers will give a brief introduction to the report;
  - An objector will then be invited to address the meeting for a maximum of 2 minutes;
  - A supporter will be invited to address the meeting for a maximum of 2 minutes.
  - Ward Members and Greater London Authority Members for the area under discussion will then be invited to address the meeting for a maximum of two minutes, with a limit of one objector and one supporter for each agenda item;
  - Members of the Committee will debate the item and make a recommendation to the Cabinet Member for Environment, Transport & Regeneration (or such other Cabinet Member as the Leader may from time to time determine) for consideration.
  - The Cabinet Member for Environment, Transport & Regeneration (or such other Cabinet Member as the Leader may from time to time determine) may then, in the Cabinet Members' sole discretion, make the decision or recommend such other steps as the Cabinet Member considers appropriate, including requesting further information or a further report from officers for future consideration.

## **Variation/amendment of this protocol**

- 1.8 Where amendments to this protocol are necessary due to legislative changes, the Council Solicitor may make such consequential changes to this Protocol as are necessary to take such changes into account.

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.I - Members' Code of Conduct\*

1. You are a member or co-opted member of the London Borough of Croydon or a Member of the Health and Wellbeing Board and as such you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and truthfulness, leadership and undertake to observe this Code when acting in your capacity as a member or co-opted member.
2. When acting in your capacity as a member or co-opted member:-
  - i) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
  - ii) You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you inappropriately in the performance of your official duties.
  - iii) When carrying out your public duties you must make all choices, such as making public appointments, determining applications, awarding contracts or recommending individuals for rewards or benefits, on merit without discrimination or bias.
  - iv) You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office as determined by the Council.
  - v) You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
  - vi) You must declare any private interests, both pecuniary and non-pecuniary, which relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest. This means you must register and declare the interests set out in paragraph 3 below, in a manner conforming with the procedures set out therein.
  - vii) You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have

regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

- viii) You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example, including not doing anything which breaches the equalities legislation and observing the Council's Protocol on Staff - Councillor Relations.

### 3. Registering and disclosing pecuniary and non-pecuniary interests

- i) You must, within 28 days of taking office as a member or co-opted member, notify the Council's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
- ii) In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's Monitoring Officer of any disclosable pecuniary or non-pecuniary interest which the Council has decided should be included in the register. For these purposes the Council has determined that you will disclose any gift(s) or hospitality the value of which exceeds £50 or multiple gifts and/or instances of hospitality with a cumulative value of £50 or more when received from a single donor within a rolling twelve month period.
- iii) If an interest described in (i) above has not been entered onto the Council's register, or is not pending inclusion on the register following your notification to the Monitoring Officer then you must disclose the interest to any meeting of the Council at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>
- iv) Following any disclosure of an interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
- v) Unless a dispensation has been granted, you may not participate in any discussion of, vote on or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions the Council places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by the Council.



# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## PART 6A

### SCHEME OF MEMBERS' ALLOWANCES

- 1 The Council has adopted a scheme of Members' allowances that complies with the Local Authorities (Members Allowances) (England) Regulations 2003 (No. 1021) as amended and having considered the recommendations of the London Councils' Independent Panel 2018 on the Remuneration of Members in London.

The Croydon scheme provides for:

- Every Member to receive a basic allowance which shall be inclusive of all travel costs incurred within the Borough;
- Members appointed by the Annual Council, or subsequently by virtue of the office they hold, shall receive a Special Responsibility Allowance;
- No Member shall receive more than one Special Responsibility Allowance;
- Out-of-Borough travel and subsistence allowances shall be reviewed by the Corporate Services Committee and paid in line with levels set by the Committee, unless already prescribed by Statutory Instrument or Circular. Costs related to travel and subsistence outside the Borough only when incurred undertaking an approved duty shall be eligible for reimbursement;
- The scheme for reimbursement of costs associated with providing childcare or care for a dependent relative incurred by a Member when undertaking an approved duty is set out in Appendix A and it shall be reviewed periodically by the General Purposes and Audit Committee;
- Any Member may elect to forego all or part of the Basic Allowance and if appropriate the Special Responsibility Allowance, to which they are entitled, by writing to the Council Solicitor. Otherwise all allowances due to each Member shall be paid automatically each calendar month on the basis of one 12<sup>th</sup> of the total;
- Members do not have access to the Local Government Pension Scheme;

- The scheme does not provide for the payment of any allowances to co-optees. The scheme introduces payment for Adoption Panel but not for Fostering Panel;
  - Members shall only be entitled to a pro-rata payment in respect of a term of office which is not for a complete year, which would include any job share arrangements;
  - In all other respects, the scheme of allowances as set out here shall remain in place until such time as the Council decides otherwise.
- 2 The respective levels of Basic and Special Responsibility Allowances payable from 28 May 2018 are set out in Appendix B.
  - 3 The Mayor and Deputy Mayor shall receive allowances for expenses in accordance with relevant legislation in relation to the discharge of their ceremonial and other duties. The level of expenses paid to the Mayor and Deputy Mayor are as shown in Appendix B.
  - 4 The level of the Basic Allowance, Special Responsibility Allowances, Mayor's and Deputy Mayor's Allowances shall be subject to annual adjustment in accordance with the annual local however Members may review this aspect no more frequently than annually to determine whether there will be an adjustment for the upcoming Council year.
  - 5 All Members shall continue to receive their Basic Allowance in full in the case of maternity, adoption, shared parental, paternity and sickness leave (subject to the six month councillor attendance at meetings requirement under section 85 of the Local Government Act 1972).
  - 6 In specific circumstances the payment of a Special Responsibility Allowance may continue during a period of absence in the case of maternity, adoption, shared parental, paternity and sickness leave. Where the SRA is paid at a reduced level the payment will be applied proportionately during the period of absence. Where members have elected not to receive their SRA no payment will be made. The Council, relevant committee/body or Leader in case of Cabinet Members, as appropriate, may depending on the circumstances, appoint a temporary replacement to cover the period of absence, who will be entitled to an SRA pro-rata for the period of the temporary appointment.
  - 7 Full details of entitlement to leave and allowances as a result of maternity, adoption, shared parental, paternity and sickness are attached at Appendix C.

## **DEPENDENT CARERS, TRAVEL & SUBSISTENCE ALLOWANCE SCHEMES**

Members are entitled to claim reimbursement of expenditure incurred on the provision of the care of their children and dependent relations requiring care when undertaking an Approved Duty, subject to the provisions of the scheme set out below. Members are also entitled to claim travel and subsistence expenses incurred in the performance of an Approved Duty.

### **Approved Duties**

An Approved Duty shall be one that is specified in the relevant statutory Regulations, which currently provide for the following activities:

- 1 A meeting of the Executive.
- 2 A meeting of a Committee of the Executive.
- 3 A meeting of the Authority.
- 4 A meeting of a Committee or Sub committee of the Authority.
- 5 A meeting of any other body to which the Member has been appointed or nominated by the Authority.
- 6 A meeting of a Committee or Sub Committee to which the Member has been appointed or nominated by the Authority.
- 7 A meeting which has been authorised by the Authority, a Committee or Sub Committee or a joint Committee of the Authority or one or more other authorities, or a Sub Committee of a joint Committee and to which representatives of more than one political group have been invited.
- 8 A meeting of a local authority association of which the Authority is a member.
- 9 Duties undertaken on behalf of the authority in connection with the discharge of any function of the Authority conferred by or under any enactment and empowering or requiring the Authority to inspect or authorised the inspection of premises.

The following Rates of Allowances shall be monitored by the General Purposes and Audit Committee, who shall also have power to revise them.

**RATES OF  
DEPENDENT CARERS, TRAVEL & SUBSISTENCE ALLOWANCES  
TO MEMBERS OF THE COUNCIL**

**The following allowances will be paid as a reimbursement of INCURRED expenditure FOR AN APPROVED DUTY, following the submission of receipts or other supporting documents, within 2 months of the expenditure being incurred.**

**DEPENDENT CARERS ALLOWANCE**

1. Expenditure not less than the London Living Wage, currently £10.20 per hour, incurred in respect of care provided by a person that is not a member of the Member's household, for:
  - The care of children 15 years of age or under living in the Member's household; or
  - The care of other dependants where there is medical or social work evidence that care is required.

**TRAVEL ALLOWANCES (payable only for Out-of-Borough travel)**

**Rail or other Public Transport**

Ordinary or cheap fare, at first class rates, plus actual expenditure on:

[a] Pullman car or similar supplements; reservation of seats; deposit or portorage of luggage.

[b] Sleeping accommodation for an overnight journey (subject to thirty-three and one third percent reduction of any subsistence allowance payable for that night).

**Taxi-Cab or Cab**

[a] In cases of urgency or where no public service is reasonably available, the amount of the actual fare and any reasonable gratuity paid;

[b] In other cases, the equivalent fare for travel by an appropriate public transport.

**Private motor vehicle**

The rate for travel by a Member's private motor vehicle shall not exceed the following rates:

- [i] motorcycle, tricar or motor car of cylinder capacity 500cc **25.9p per mile**
- [ii] not exceeding 999cc **34.6p per mile**
- [iii] 1000cc - 1199cc **39.5p per mile**
- [iv] 1200cc and above **48.5p per mile**
- [v] For the carriage of each additional Member of the Council (not exceeding four):  
3.0p per mile for the first passenger and 2.0p per mile for second and subsequent passengers.
- [vi] Expenditure on tolls, ferries, parking fees.
- [vii] Reimbursement of overnight parking charges.

### **Private bicycle**

The rate for travel by a Member's private bicycle shall not exceed **24.0p per mile**.

### **Hired Cars**

The rate which would have been applicable had the vehicle belonged to the Member who hired it. Subject to the approval of the Corporate Services Committee, the rate may be increased to an amount not exceeding the actual cost of hiring.

## **SUBSISTENCE ALLOWANCES (payable only for Out-of-Borough subsistence)**

### **Breakfast Allowance** **£4.92**

More than 4 hours away from normal place of residence or a lesser period before 11am.

### **Lunch Allowance** **£6.77**

More than 4 hours away from normal place of residence or a lesser period including the lunchtime between noon and 2pm.

### **Tea Allowance** **£2.67**

More than 4 hours away from normal place of residence or a lesser period including the period 3pm to 6pm.

**Evening Allowance** **£8.38**

More than 4 hours away from normal place of residence or a lesser period ending after 7pm.

**Overnight Absence** **£79.82**

From usual place of residence

**Overnight Absence in London** **£91.04**

Or for the purpose of attendance at an annual conference (including or not including an annual meeting) of the Association of County Councils, the Association of Metropolitan Authorities and the Association of District Councils or such other association of bodies as the Secretaries of State may for the time being approve for the purpose.

For the purposes of the above paragraph, London means the City of London and the London Boroughs of Camden, Greenwich, Hackney, Hammersmith & Fulham, Islington, Kensington & Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth and Westminster.

**NOTE:** Any Subsistence Allowances claimed should be reduced by an appropriate amount in respect of any meal provided free of charge by the Council or body in respect of the meal or the period to which the allowance relates. Additionally, where main meals are taken on trains during a period for which there is an entitlement for a day subsistence allowance, the reasonable cost of the meals (including VAT) may be reimbursed in full. In such circumstances, reimbursement for the reasonable cost of a meal replaces the entitlement to the day subsistence allowance for the appropriate meal period.

**COUNCILLORS' BASIC AND SPECIAL RESPONSIBILITY  
ALLOWANCES MAY 2018 – MAY 2022**

		£
<b>Basic Allowance</b>	All Members	11692
	Mayor's Allowance	19875
	Deputy Mayor's Allowance	9938
<b>to include in the Basic Allowance the following one-off Members' ICT payment</b>		
	Members newly elected since January 2017	800
	Members re-elected in May 2018	400
	Members elected in a by-election following May 2018 (a pro-rata amount based on the length of the remaining 4 year term)	800
	Members elected in local elections in 2022 and thereafter	800
<b>Special Responsibility Allowances</b>	<b>Paid in addition to Basic Allowance</b>	
	Leader of the Council	44965
	Deputy Leader Statutory	37941
	Deputy Leader	37062
	Cabinet Members	34379
	Deputy Cabinet Members	10335
	Non-Acting Cabinet Member	20627
	Chair - Scrutiny and Overview Committee	30942
	Deputy Chair - Scrutiny and Overview Committee	10732
	Majority Group Secretary	10335
	Majority Chief Whip	15151

	Chair - General Purposes & Audit Committee	10308
	Chair - Licensing Committee	10308
	Chair - Planning Committee	16531
	Chair- Health and Wellbeing Board	34379
	Member of Adoption Panel	4604
	Chair - Pension Committee	9210
	<b>Largest Minority Group</b>	
	Leader of the Opposition	22445
	Deputy Leader(s)	9400
	Shadow Cabinet Members	7019
	Chief Whip	7019
	Group Secretary	6882
	Vice Chair - Scrutiny and Overview Committee	10732



## APPENDIX C

### PARENTAL AND SICKNESS LEAVE ARRANGEMENTS

#### Introduction

This Appendix sets out Members' entitlement to maternity, paternity, shared parental adoption leave and sickness leave and relevant allowances.

The objective is to ensure that insofar as possible Members are able to take appropriate leave at the time of birth or adoption that both parents are able to take leave, and that reasonable and adequate arrangements are in place to provide cover for portfolio-holders and others in receipt of Special Responsibility Allowances (SRA) during any period of leave taken.

Improved provision for new parents will contribute towards increasing the diversity of experience, age and background of local authority Members. It will also assist with retaining experienced Members – particularly women – and making public office more accessible to individuals who might otherwise feel excluded from it.

There is at present no legal right to parental leave of any kind for elected Members. This applies to MPs as well as Members and these arrangements can therefore only currently be implemented on a voluntary basis by individual Councils.

#### **1. Leave Periods**

##### *Maternity*

1.1 Members giving birth are entitled to up to 6 months maternity leave from the due date, with the option to extend up to 52 weeks by agreement if required.

1.2 In addition, where the birth is premature, the Member is entitled to take leave during the period between the date of the birth and the due date in addition to the 6 months' period. In such cases any leave taken to cover prematurity of 28 days or less shall be deducted from any extension beyond the initial 6 months.

1.3 In exceptional circumstances, and only in cases of prematurity of 29 days or more, additional leave may be taken by agreement, and such exceptional leave shall not be deducted from the total 52 week entitlement.

##### *Paternity*

1.4 Members shall be entitled to take 2 weeks paternity leave if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren). The Member may take one week at a time or two consecutive weeks of paternity leave, but not single days or less than a week's duration. Paternity leave must be taken within two months of the birth or adoption.

##### *Shared parental leave*

1.5 A Member is entitled to Shared Parental Leave if they have (or share with the other parent) the main responsibility for the care of the child and are either the

Mother, Father, Main Adopter or Other Adopter of the child, or the spouse, civil partner or partner of the Mother/Main Adopter.

A Member may share up to 50 weeks leave if the Mother/Main Adopter curtails their maternity/adoption leave before using their full entitlement of 52 weeks. The number of weeks available as Shared Parental Leave will be reduced by the number of weeks maternity or adoption leave that has already been taken by the Mother or Main Adopter.

Shared Parental Leave can be taken as one continuous block or in multiples of complete weeks, but must end no later than one year after the birth/placement of the child.

1.6 Where both parents are Members leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks. Special and exceptional arrangements may be made in cases of prematurity.

#### *Adoption*

1.7 A Member who adopts a child through an approved adoption agency shall be entitled to take up to six months adoption leave from the date of placement, with the option to extend up to 52 weeks by agreement if required.

#### *Sickness*

A Member who is sick will continue to receive the basic allowance as long as they remain a councillor and comply with the attendance requirements regarding council meetings under section 85 of the Local Government Act 1972. They will also continue to receive any SRA for a period of up to six months during any 12 month period subject to review and a possible extension by six months.

#### *General*

1.8 Any Member who takes maternity, shared parental, adoption or sickness leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six month period.

1.9 Any Member intending to take maternity, paternity, shared parental, adoption or sickness leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council as set out in paragraph 4 below, both in terms of the point at which the leave starts and the point at which they return.

1.10 Any member taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

## **2 Basic Allowance**

2.1 All Members shall continue to receive their Basic Allowance in full whilst on maternity, paternity, adoption or sickness leave as long as they remain a Member (subject to the six month councillor attendance at meetings requirement in section 85 of the Local Government Act 1972.

## **3. Special Responsibility Allowances**

3.1 Members entitled to a Special Responsibility Allowance shall continue to receive their allowance in full in the case of maternity, paternity, shared parental, adoption or sickness leave for a period of 6 months followed by a further period of 6 months at half rate.

3.2 Where a temporary replacement is appointed to cover the period of absence that person shall also receive an SRA on a pro rata basis for the period of the temporary appointment.

3.3 The payment of Special Responsibility Allowances, whether to the primary SRA holder or a temporary replacement, during a period of maternity, paternity, shared parental, adoption or sickness leave shall continue for a period of six months subject to a possible extension for a further six month period or until the Member or temporary replacement ceases to be appointed to a position entitling an SRA or is up for election whichever is the sooner.

3.4 Should a Member appointed to act as a temporary replacement for the Member on maternity, paternity, shared parental, adoption or sickness leave already hold a remunerated position, the ordinary rules relating to payment of more than one Special Responsibility Allowances shall apply.

## **4. Notification**

4.1 Maternity Leave: The Member should notify the Head of Democratic Services of their intention to take maternity leave in writing no later than 28 days before the date they wish the period of maternity leave to start and:

- i) Confirm the expected date of childbirth;
- ii) ) Provide a copy of the MATB1 (available from a doctor or midwife);
- iii) Confirm the dates which the Member will be absent.

4.2 Paternity Leave: The Member should notify the Head of Democratic Services of their intention to take paternity leave in writing no later than 28 days before they wish the period of paternity leave to start and:

- i) Confirm the expected date of childbirth; or date the child is expected to be placed for adoption (UK Adoption); or the date on which the date on which the child is expected to enter Great Britain (Overseas Adoption);

- i) Provide a copy of the MATB1 or matching certificate/official notification;
- iii) Confirm the dates which the Member will be absent.

4.3 Adoption Leave: The Member should notify the Head of Democratic Services of their intention to take adoption leave in writing no later than 28 days before the date they wish the period of adoption leave to start and:

- i) Confirm they are the Main Adopter and the date the child is expected to be placed for adoption (UK Adoption) or the date on which the date on which the child is expected to enter Great Britain (Overseas Adoption);
- ii) ) Provide a copy of the matching certificate/official notification;
- iii) Confirm the dates which the Member will be absent

4.4 Shared Parental Leave: The Member should notify the Head of Democratic Services of their intention to take shared parental leave in writing no later than 28 days before the date they wish the period of shared parental leave to start and:

- i) Confirm their entitlement to shared parental leave and the expected (or actual) date of birth/placement;
- ii) Confirm the start and end dates of the Mother/Main Adopter's maternity/adoption leave, the amount of shared parental leave available and how much each parent intends to take;
- iii) Provide a copy of the MATB1 or matching certificate/official notification;
- iv) Confirm the dates which the Member will be absent.

4.5 Sickness Leave. The Member should notify the Head of Democratic Services where they are likely to be sick for a period in excess of 2 months.

4.6 If the Member wishes to change the start date of a period of leave they should write to the Head of Democratic Services no later than 28 days before either the original start date or the new start date (whichever is earlier).

4.7. If the Member wishes to change the end date of a period of leave they should write to the Head of Democratic Services at least 28 days before either the original end date or the new end date (whichever is earlier).

4.8. The Head of Democratic Services will provide confirmation that the information on revised dates has been received and that relevant re-instatement or adjustment of any SRA has taken place within 10 working days.

## **5. Resigning from Office and Elections**

5.1 If a Member decides not to return at the end of their maternity, paternity, and shared parental, adoption or sickness leave they must notify the Council at the earliest possible opportunity. All allowances will cease from the effective resignation date.

5.2 If an election is held during the Member's maternity, paternity, shared parental, adoption or sickness leave and they are not re-elected, or decide not to stand for re-election, their Basic Allowance and SRA, if appropriate, will cease from the Monday after the election date when they would technically leave office.

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## PART 6D

### Scheme of Co-option

- 1.1 The Localism Act 2011 introduced a requirement for councils to establish a scheme of co-option for all non-elected Members with voting rights. Without such a scheme, it is no longer possible for non-elected representatives to become co-opted Members and hold voting rights. The scheme does not cover the co-option of independent non-voting co-opted Members onto other Committees.
- 1.2 The purpose of this scheme of co-option is to:
- Formalise the appointment of co-opted Members
  - Outline the role and expected contribution of co-opted Members
  - Clarify the induction to be provided to co-opted Members and the support and training to be made available
  - Provide the Scrutiny & Overview Committee with the opportunity to appoint further co-opted Members
- 1.3 Co-opted Members can provide scrutiny committees with outside knowledge, experience and skills that can inform the work of scrutiny and supplement the role of councillors. In Croydon there are four co-opted Members with full voting rights required by statute: two Parent Governor representatives, a representative from the Church of England diocese and a representative from the Roman Catholic archdiocese. There are also two further co-opted Members who do not have voting rights: a teacher representative and a representative from the Healthwatch (Croydon).

### **2. Statutory Co-opted Members**

- 2.1 The Parent Governor representatives and the arch/diocesan representatives on the Scrutiny Sub-Committees exercising education function are required by law (*The School Standards and Framework Act 1998 for Parent Governors and the Education Act 1996 for Diocesan representatives*). The legislation explains that these co-opted Members will have full speaking and voting rights for any decisions relating to education and school matters. Parent Governor representatives are elected by the Borough's parent governors, but once co-opted their role is to be an apolitical voice for *all* parents in the area. The Church of England and Roman Catholic representatives are nominated by the Bishop and Archbishop of Southwark respectively. Co-opted Members have the same rights of access to information as councillors, and are required to comply with the same code of conduct.

### **3. Non-statutory Co-opted Members**

- 3.1 Scrutiny committees, and sub-committees, can also choose to appoint non-statutory co-opted Members. Currently in Croydon there are two non-statutory co-opted

Members: a teacher representative and the Healthwatch (Croydon) representative. These non-statutory co-opted Members do not have voting rights and are co-opted at the discretion of the Scrutiny & Overview Committee, which can also rescind the appointment if it feels it is necessary.

3.2 Scrutiny committees, or sub-committees, have the power to appoint these additional co-opted Members if it is judged that they will be beneficial to the committee as it carries out its work. Before appointing any additional co-opted Members, the committee, or sub-committee, should demonstrate that it has considered the composition of the local community to ensure it is as representative as possible. An over-representation of any particular specialist area should also be avoided and the elected Members of the committee should always have a majority over co-opted Members.

3.3 Non-statutory co-opted Members will usually (but not exclusively) be representatives of specific organisations relevant to the work of the committee. The appointing committee should invite the organisation to make an appropriate nomination, although a vacancy can be advertised more widely if the committee agrees it would be beneficial. Anyone who lives, works (including voluntary work) and/or studies in Croydon is eligible to be a non-statutory co-opted Member, except if they are a Croydon Council Member. In approving an appointment, the committee will be mindful of the potential for any ongoing prejudicial interests between, for example, the co-opted Member's paid employment and the work of the committee.

#### **4. Terms of Office**

4.1 Co-opted Members will usually be appointed for a term of office of four years. Towards the end of a term of office, the appointing committee will consider whether that non-statutory co-opted post is still required. If it is, the existing co-opted Member will be asked whether they wish to continue in their role. At this time, the committee may also decide to advertise the vacancy more widely. Non-statutory co-opted Members can be disqualified during their term of office if they do not attend four consecutive meetings of the committee to which they have been co-opted without giving an apology; or if they are elected as a Member of Croydon Council. If they have been appointed on the basis of representing a particular organisation, then their term of office will also end if they resign or are disqualified from being a Member of that organisation, or if that organisation ceases to exist. It is the responsibility of the co-opted Member to inform the Council if a circumstance arises that they believe disqualifies them from continuing in their term of office. Co-opted Members can also resign during their term of office if they feel that they can no longer fulfil the requirements of the role. Non-statutory co-opted Members can also be appointed for a shorter period to be involved with a specific piece of work, for example a task and finish group.

#### **5. Powers and responsibilities**

5.1 Statutory and non-statutory co-opted Members will:

- Be entitled to speak on any matter that is discussed by the committee to which they have been appointed
- Be encouraged to contribute to the development of the scrutiny work programme and propose agenda items for future meetings



- Have full voting rights on all education matters (excluding any non-statutory co-opted Members)
- Be eligible to chair a scrutiny committee, sub-committee or task & finish group
- Be required to comply with the Members' Code of Conduct and register and declare disclosable pecuniary interests as required
- Be expected to attend all meetings of the committee to which they have been appointed having read the agenda papers
- Bring an external perspective to the work of scrutiny by utilising their specialist knowledge and experience
- Be expected to represent the whole community and not just one sector or viewpoint
- Act independently of party politics and lobbying interests
- Be responsible for keeping the organisation or interest they were appointed to represent informed and engaged in scrutiny
- Be expected to treat other committee Members, officers and external witnesses with respect
- Be required to recognise that they may encounter sensitive information and to act with discretion

## 6. Support for Co-opted Members

6.1 All co-opted Members will be provided with a comparable level of support to the elected Members. This will include:

- All summons, agendas and committee reports will be sent to co-opted Members at the same time as elected Members and will comply with the public access to information regulations
- An induction will be provided for new co-opted Members that will outline their expected contribution to scrutiny and familiarise them with the Members' Code of Conduct
- Co-opted Members will be invited to attend Member training sessions that relate to their role on scrutiny
- Co-opted Members will not receive an allowance or salary

## 7. Why co-opt

Co-option is a way of ensuring that under represented voices are represented on Council committees. The Equality Act 2011 (section 149 places a public sector equality duty (section 146) on the council. The duty requires the Council to have due regard to *the need to advance equality of opportunity* between persons who share a relevant protected characteristic and persons who do not share it;

Having "due regard" to the need to advance equality of opportunity involves having due regard, in particular, to the need to *encourage persons* who share a relevant protected characteristic *to participate in public life* or in any other activity in which participation by such persons is disproportionately low.

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 6.E – TERMS OF REFERENCE CORPORATE PARENTING PANEL

**Established:** First established 2007 and re-established annually since then as an informal advisory body to the Cabinet Member with responsibility for Children's Services.

**Regularity of meetings:** 6 times per year.

**Membership:** 7 Members - 5:2

5 Members of the Administration, including and to be chaired by the Cabinet Member with responsibility for Children's Services.

2 Members of the Opposition

6 Co – Opted Members:

- Virtual School Head
- LAC Nurse/Doctor
- Children in Care Council
- Care leaver
- Foster carer
- Health Commissioner

**Proportionality:** Not applicable

**Democratic Services & Governance Officer:**

Michelle Gerning 0208 726 6000 ext 84246

**Lead Officers:**

- Executive Director Children, Families and Education Director of Early Help and Children's Social Care
- Head of Corporate Parenting, Early Help and Children's Social Care

**Quorum:** 3

**Access to information:**

Due to the nature of the work of the Panel and its Membership, meetings of the Panel are not able to be held in public, however, agenda papers and minutes are made available on the Council's website. Agenda papers are published five clear working days in advance of Panel meetings.

Councillors that are not Members of the Panel are permitted to attend meetings at the discretion of the Panel Chair.

### **Terms of Reference (Revised 2019):**

- The Corporate Parenting Panel will focus on improving outcomes for children looked after by Croydon Council.
- To support the Council's development of a corporate parenting strategy and to monitor and review its implementation.
- To monitor performance targets and priorities so far as they relate to children looked after or young people in receipt of leaving care services.
- To consider recommendations from internal and external inspections and reviews and hear the voice of children looked after and care leavers in responding to them
- To monitor the health needs of looked after children, promoting positive engagement of health partners in Corporate Parenting.
- To monitor the education needs of looked after children, promoting positive engagement of education partners in Corporate Parenting.
- To ensure the Council actively promotes opportunities for looked after children across the whole Council.
- To ensure that the voice and opinions of as wide a range as possible of children looked after and care leavers, including those with disabilities, are heard and that their views are used to co-produce services, shape policy and monitor performance.
- To advise the Lead Member for Children's Services on issues relating to Corporate Parenting Policy.
- To report annually to the Council on the work of the Panel.

As required by part 3 of the Constitution  
RESPONSIBILITY FOR FUNCTIONS

# LONDON BOROUGH OF CROYDON

## *LEADER'S SCHEME OF DELEGATION*

COUNCILLOR TONY NEWMAN  
LEADER OF CROYDON COUNCIL  
June 2018

Contact:  
Stephen Rowan  
Head of Democratic Services and Scrutiny  
Ext. 62529

*Please note the Leader's Scheme of Delegation is included in the Constitution for information only. The Leader is responsible for all executive arrangements.*

## Scheme of Delegation

### Introduction

The Leader is responsible for all executive arrangements and is required to maintain a scheme under Part 3 of this Constitution setting out who has responsibility for particular Executive functions; this may include

- The Leader;
- The Leader in consultation with an individual Cabinet Member or;
- The Leader and Cabinet collectively (Cabinet);
- The Chief Executive (or Executive Directors)
- Joint arrangements or
- Another local authority.

The scheme of officer delegation (except financial delegation) is maintained by the Monitoring Officer and is available for inspection.

Any in-year changes shall be reported to the Monitoring Officer and to the next available Ordinary meeting of the Council.

For the avoidance of doubt this delegation applies to all matters whether before or after the date herein.

For the further avoidance of doubt the Leader hereby declares that any exercise of a power by the Chief Executive or an Officer authorised by him and which, if expressly provided for by this scheme of delegation could have been lawfully exercised by an officer under powers delegated to the Chief Executive by the Leader or a committee shall be deemed to be authorised by this scheme notwithstanding that such express provision may not have been made in it; PROVIDED THAT, where an officer relies on this paragraph, the Monitoring Officer shall be informed in writing by the officer of this action.

- 1. Interpretation:** The Leader's Scheme of Delegation aims to be as comprehensive as possible but cannot be exhaustive. It needs to be flexible to deal with changing circumstances. Therefore the Scheme applies to all major corporate and service policies, strategies and initiatives whether referred to by name or not. Officers will apply the principles of the scheme when determining where and how in the structure decisions will be made. As a general rule therefore, strategic matters will be determined by the Leader in consultation with Cabinet, and operational service matters by the Chief Executive (through the relevant Executive Director) in consultation with the Leader and or relevant Cabinet Member. Where there is doubt, the Leader will be asked to decide. This scheme should be read in conjunction with the Officer Scheme of Delegations. For the avoidance of doubt, management of staff is not covered as staffing is a non-executive matter.

2. **Variations:** The Leader may make ad-hoc one off variations on particular matters. Any variation affecting the generality of any delegation set out in this scheme shall be made in writing. Such written notice to be provided to the Monitoring Officer. The variation shall be effective from the date the written notice is received by the Monitoring Officer.
3. **Plans and Strategies:** All references to Plans and Strategies mean initial approvals to them, and subsequent amendments where the impact of the amendment is significant. (If the amendment is required by law or as a result of litigation to give effect to day to day practical issues required to ensure implementation officers shall implement the change required but shall consult with the Leader and lead Members before doing so). Where the plan or strategy is a joint matter with other bodies the recommendations shall only be in respect of those matters affecting the Council.
4. **Key Decisions:** Any key decision shall be published in accordance with Access to Information Procedure Rules. Whether a matter is a key decision shall be determined in accordance with the definition of key decision.
5. **Officer decisions to be referred to Leader:** Any decision which would ordinarily fall to officers to decide but which is controversial in nature shall be referred to the Leader to determine in accordance with this scheme of delegation. Such determination might include delegating the decision to Cabinet or to an individual Cabinet Member.
6. **Decision making process:** Decisions are made in accordance with Part 4D of the Constitution (Executive Procedure Rules).

## **MATTERS RESERVED**

### **A1. General Matters Reserved by The Leader of the Council to himself**

The Leader may exercise any function which is designated as an executive function under the law or under the Council's Constitution.

*[N.B. Section 9E of the Local Government Act 2000 (as amended) vests all executive functions in the Leader, who may delegate them to the Cabinet, a committee of the Cabinet, individual Cabinet Members, officers or joint committees. Any such delegation is without prejudice to the Leader's ability to exercise these powers notwithstanding the delegation].*

### **A2. Specific Matters Reserved by the Leader of the Council to himself**

1. To determine the appointment and dismissal of Cabinet Members, their portfolios and the scheme of delegations for executive functions.

2. The formulation, co-ordination and implementation of corporate policies and strategies and making decisions relating to such matters to the extent that they are not reserved to Full Council.
3. To chair Cabinet meetings and major partnerships as necessary and ensure the efficient despatch of business consistent with the Council's policies and strategies.
4. To be the lead spokesperson for the Council and deal with external relations with partners and other stakeholders.
5. To represent the Council in national and regional negotiations and consultations.
6. To lead on consultation and other liaison with local communities.
7. To decide who has overall responsibility for the performance framework, including the monitoring of targets.
8. To lead and co-ordinate the Council's work on key cross-cutting policy areas such as equalities, sustainability and communications.
9. To deal with any executive function not specifically delegated to another member of the Cabinet.
10. To appoint elected Members to membership of the Health and Well Being Board.

### **B1. Matters Reserved by the Leader to the Cabinet**

After the Leader, the Cabinet will operate as the highest executive decision-making body. The following functions shall be reserved to the Cabinet:

1. The formulation and submission to Full Council of all plans and strategies that form part of the policy framework.
2. The development, formulation and submission to Full Council of the budget.
3. Any matter which the Leader decides should be dealt with by the Cabinet.
4. Any matter which is delegated to a Cabinet Member by Cabinet and that Member decides to refer the matter back to the Cabinet.



5. Any matter which straddles the portfolios of two or more Councillors and, in the opinion of the Leader, is more appropriately dealt with by the Cabinet.
6. Any executive function which is not specifically delegated to a Cabinet Member under this scheme of delegation.
7. Approval of the Council's Risk Management Strategy.
8. Any matter which, under the Council's Financial Regulations, Tender and Contract Regulations or other Council rules, requires the approval of the Cabinet.

## **B2**

When referring or reserving a matter to the Cabinet under sub-paragraphs 3 and 4 of paragraph 81 above, the Leader or, as the case may be, the Cabinet Member may do so on a one off basis or as part of a general / standing arrangement.

## **C. Matters Reserved by the Leader to Individual Cabinet Members for decision**

### **Individual Cabinet Members**

Decisions relating to contractual transactions from £500,000 up to the value of £5m in accordance with Executive Protocol SA relating to their portfolio in consultation with the Cabinet Member for Finance and Resources. *Where the contract involves more than one portfolio, the decision to award shall be taken in accordance with the Leader's specific delegation.*

All Cabinet Members may establish or disestablish advisory panels or committees to assist them in discharging the duties of their office. In furtherance of this Cabinet Members may establish terms of reference and Membership.

### **Cabinet Member for Finance and Resources**

The Cabinet Member will take decisions, including contractual transactions, which fall within their portfolio, from £500,000 up to a value of £5m; this will be in consultation with the Leader of the Council.

The Cabinet Member for Finance and Resources will take decisions relating to assets including disposals and acquisitions which will include the declaration of land and property as surplus to the Council's requirements with a value of £500,000 up to a value of £5m in consultation with the Leader of the Council. Matters valued in excess of £5m will be referred to Cabinet for a decision.

### **Cabinet Member for Environment Transport and Regeneration**

To exercise all functions, powers and duties of the Council as the Traffic and Highway Authority in relation to Traffic Management issues, making

comments on minor applications which fall to be determined by other authorities, and determining any matters referred to the Cabinet Member by the Executive Director of Place in respect of highways and traffic management, in consultation with the Traffic Management Advisory Committee.

#### **D. Cabinet Committee and Joint Committees**

##### General Purposes Cabinet Committee

To deal with any matters of business allocated by the Cabinet.

##### The Bandon Hill Cemetery Joint Committee

The provision and management of the Bandon Hill Cemetery with London Borough of Sutton

##### The Croydon/Lewisham Street Lighting Joint Committee

The joint governance of a street lighting PFI contract.

##### **South London Partnership Joint Committee**

The setting and reviewing of objectives for strategic growth, regeneration and investment with the London Boroughs of Merton, Sutton, and Richmond upon Thames and the Royal Borough of Kingston upon Thames.

##### The South London Waste Partnership

The joint procurement and management of waste disposal contracts with the Royal Borough of Kingston and the London Boroughs of Merton and Sutton..

##### London Councils

The effective coordination and formulation of policy and discharge of functions and any other related Joint Committees acting on behalf of the constituent authorities and as set out in the Schedules of the Agreement made under section 101 and 102 of the Local Government Act 1972.

##### **The Pensions Collective Investment Vehicle (CIV) Sectoral Joint Committee**

Hosted by London Councils, the joint committee is established under section 102 of the Local Government Act 1972 with a view to pooling pension investments and with functions necessary for the proper functioning of the Authorised Contractual Scheme (ACS) Operator (which is the company that would manage the ACS), including the effective oversight of the ACS Operator.

## **E. Other local authorities**

Croydon has delegated to Birmingham City Council its role in:

- a. Enforcement of Parts III & IV of the Consumer Credit act 1974, and
- b. The enforcement functions and powers under Part XI and XII of the Consumer Credit Act 1974, and
- c. The power of prosecution under section 222 of the Local Government Act 1972

All in connection with money-lending or the activities of money lenders and / or their agents and associates, and the laundering of the proceeds of illegal money-lending.

## **F. Delegation to the Chief Executive and Head of Paid Service of Executive Functions**

Except for Matters reserved (a) to the Leader, or (b) to the Cabinet or (c) to individual Cabinet Members or to a (d) Cabinet Committee or Joint Committee or (e) other local authorities or to an identified officer, all executive functions are delegated to the Chief Executive and Head of Paid Service. This delegation is subject to:-

1. Such protocols as may be approved by the Leader and Cabinet from time to time and deposited with the Council Solicitor, ;
2. All policies of the Authority;
3. Any consequent expenditure being included in the Council's Revenue Budget or approved Capital Programme;
4. The requirements of the Tenders and Contracts Regulations and the Financial Regulations;
5. The approval of the Council Solicitor to the instigation and conduct and settlement of legal proceedings;
6. Compliance with any legal requirements and the provisions of any statutory codes of conduct or statutory guidance.
7. Compliance with the Access to Information Procedure Rules.

For the avoidance of doubt this delegation to the Chief Executive involves the power to appoint 'proper officers' as appropriate.

## **G. Delegation to Executive Director Children, Families & Education: Academies**

1. Subject to the Secretary of State issuing an Academy Order and entering into a Funding Agreement with maintained schools, in accordance with the terms of the Academies Act 2010, the Executive Director Children, Families & Education, in consultation with the Cabinet Member for Children, Young People and Learning, is delegated to:
  - 1.1. Authorise that the Council enters into a Commercial Transfer Agreement for the transfer of staff, assets and third party contract with the academy trust and governing bodies of the relevant schools, to enable the conversion of those schools to Academies on the existing school sites together with lease arrangements on terms satisfactory to the Executive Director Children, Families & Education, and the Council Solicitor and Monitoring Officer.
  - 1.2. Conduct all negotiations to approve and execute all relevant legal agreements, contracts, and/or documents necessary to conclude the arrangements necessary to give effect to the above recommendation for the conversion of the relevant schools, leases and transfer of sites.

In exercising this delegation, the Executive Director Children, Families & Education, should formally record decisions in accordance with Part 4B and 4G of the Council's Constitution.

## **H. Delegation to Council Solicitor**

1. Article 14.03 of the Council's Constitution provides as follows

*"The Council Solicitor is authorised to institute defend or participate in any proceedings or to settle claims where such action is necessary to give effects to decisions of the Authority, protect the interest of the Authority, the Borough or some or all of its citizens. Only the Council Solicitor may authorise the engagement of a lawyer to act for the Council."*
2. For the avoidance of doubt in relation to Executive matters the following legal matters are delegated to the Council Solicitor by the Leader for decision where not already delegated to another officer and is in addition to such delegation. Such decisions must be in accordance with the overall strategic policies set by the Council, and must in all cases be made within approved budgetary provisions and financial procedures.
  - 2.1. The giving authority to institute, defend, or participate in any proceedings or to settle claims where such action is necessary to give effect to decisions of the Authority, protect the interests of the Authority, the Borough or some or all of its citizens.

- 2.2. To arrange for any legal proceedings to be conducted by a Solicitor, Barrister, Legal Executive, paralegal or officer employed or engaged by the Council including appearances before any Court or Tribunal in which the officer has right of audience.
- 2.3. To authorise instruction of any counsel, solicitor or other legal adviser outside the Council's panel or framework of external legal providers as maybe in place from time to time.
- 2.4. To authorise the instructions in proceedings of any expert witnesses or advisers or cost assessors to act on behalf of the Council.
- 2.5. To authorise in consultation with the Head of Paid Service the payment of any award or damages, compensation and costs made by any court or tribunal against the Council.
- 2.6. To settle any legal proceedings on behalf of the Council, in consultation with the appropriate Chief Officer, including the agreement and payment or receipt of damages excluding legal costs.
- 2.7. To give undertakings to any court or tribunal on behalf of the Council and to give solicitors undertakings where appropriate and within the rules and guidance issued by the Law Society.
- 2.8. To issue and serve or complete and agree any legal notice or document necessary or ancillary or incidental to the given effect of any decision taken by Council, Cabinet, any Committee or Sub-Committee or any officer under the Scheme of Authorisations to Officers.
- 2.9. To have general oversight of the use made of the source in respect of covert human intelligence sources and to nominate Authorised Officers to agree applications under the Regulation of Investigatory Powers Act 2000.
- 2.10. To authorise officers who may instruct external solicitors.
- 2.11. To nominate Authorised Officers to determine Regulatory and Investigatory Powers Act requests.
- 2.12. Unless there is an express statutory requirement on a named official or category of officials, any document that is required or authorised by or under any enactment to be given made or issued by the Council in any capacity may be signed on behalf of the Council by the "Authorised Officers". The "Authorised Officer" is the Council Solicitor or any Council Officer authorised in writing by the Council Solicitor.
- 2.13. To consider representations made under the provisions of the Access to Information Procedure Rules in respect of private meetings and

publish a statement of response to such representations on behalf of the relevant decision making body.

## **I. Executive Director - Place: Traffic Management Orders**

The Leader delegates to the Executive Director of Place:

1. Authority to introduce any Traffic Management Orders under the Road Traffic Regulation Act 1984 (as amended) which they consider are necessary to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway and for the purpose of making such Orders:
  - a. Give Public Notice of the Intention to make an Order;
  - b. Consider any objections received in response to the giving of Public Notice;
  - c. Determine whether or not to make and implement the Order.
2. The above delegation be subject to the Executive Director for Place referring to the Traffic Management Advisory Committee for consideration and onward recommendation to the Cabinet Member for Environment Transport and Regeneration any proposal for a Traffic Management Order which may:
  - involve significant expenditure or saving having regard to the Council's budget for the service or function to which the decision relates; or
  - is significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Borough; or
  - the Executive Director - Place in consultation with the Cabinet Member consider it appropriate to do so for any other reason.

## **J. Authentication and sealing of documents**

1. The Council delegation is contained in article 14.04 of the Council's Constitution as follows:

*Where any document is necessary to any legal procedure or proceedings on behalf of the authority, or to give effect to any decision of the authority it shall be signed by the Council Solicitor or other person, authorised by the Council Solicitor.*

*The Common Seal of the Council shall be kept in a safe place in the custody of the Council Solicitor. A decision of the Council or any part of it shall be sufficient authority for sealing any document necessary to give effect to the decision. The common seal shall be affixed to those documents which in the opinion of the Council Solicitor, should be sealed. The affixing of the common seal shall be attested by the Council Solicitor, a deputy Council Solicitor or some other person so authorised by the Council Solicitor. Where the affixing of the common seal follows a*

*decision of the Council it may instead be attested by the Mayor and Chief Executive.*

2. For the avoidance of doubt this delegation applies to Executive matters as it applies to non-executive matters.

**NB:**

These matters are in addition to any delegations and authorisations set out in the Council Constitution.

**Councillor Tony Newman**  
Leader of the Council  
London Borough of Croydon

Date **26.06.2018**

