

<b>REPORT TO:</b>	<b>COUNCIL</b> <b>5 July 2021</b>
<b>SUBJECT:</b>	<b>GOVERNANCE MODEL REFERENDUM</b>
<b>LEAD OFFICER:</b>	<b>Katherine Kerswell, Interim Chief Executive</b> <b>Asmat Hussain, Interim Executive Director of Resources</b>
<b>CABINET MEMBER:</b>	
<b>WARDS:</b>	<b>All</b>
<b>COUNCIL PRIORITIES 2021-24:</b>	
<p>The recommendation is designed to support the aim ‘to become a much more transparent, open and honest Council’. The referendum planned for 7<sup>th</sup> October 2021 will enable residents to choose their preferred governance model for Croydon.</p>	

<p><b>FINANCIAL IMPACT</b></p> <p>A report considered by Council in February 2021 estimated the costs arising from a referendum as anything between £400,000 and £650,000. Further, more detailed planning will take place to confirm costs, including consideration of the additional costs relating to the COVID-19 pandemic arising in the May 2021 elections.</p> <p>The anticipated cost of holding the referendum has been budgeted for and included in the Medium Term Financial Strategy.</p> <p>The additional cost of adding the Mayoral vote to the ballot is estimated as between £210,000 and £293,000 every four years from 2022.</p> <p>It is anticipated that there would be no additional support costs for a Mayor than currently exist for the Leader.</p> <p>If the Council moved to a Mayoral model of governance, it would need to revise its Scheme of Members Allowances. The Council considers the findings of the Independent Panel on the Remuneration of Councillors in London in determining the special allowances payable to elected members. The Panel currently recommends that the salary for an elected Mayor is £85,162, 25% higher than that for a Leader. However, the current allowance for the Leader in Croydon is £35,972.</p>
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<p><b>1. RECOMMENDATION TO FULL COUNCIL</b></p> <p>1.1 That the Council agree the draft referendum proposals set out at Appendix 2.</p> <p>1.2 That the Council agree to the establishment of a politically proportionate Constitution Working Group to keep the Constitution under review and inform proposals for any revisions to the Constitution.</p>
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## **2. EXECUTIVE SUMMARY**

- 2.1 An Extraordinary Council Meeting resolved on 8<sup>th</sup> February 2021 that the Council should hold a referendum on Thursday 7<sup>th</sup> October 2021 on the subject of the Council's governance arrangements.
- 2.2 This report asks Council to approve the draft referendum proposals prior to their publication in line with the statutory timetable of proceedings for the referendum.

## **3. BACKGROUND**

- 3.1 An Extraordinary Council Meeting on 8<sup>th</sup> February 2021 agreed that a referendum be held on 7<sup>th</sup> October 2021 to allow local electors to decide upon the future governance arrangements of the Council.
- 3.2 Council agreed that the model of governance available for electors to choose from at the referendum will be either:
  - A. The current model of the Executive Leader and Cabinet ('the Leader and Cabinet Model') OR
  - B. The Mayor and Cabinet Model ('the Mayoral Model')
- 3.3 Council also agreed that a further report be presented at a Council meeting prior to the referendum in order to approve the referendum proposals that must include detailed constitutional changes in the governance arrangements for a Mayoral Model in accordance with the Local Government Act 2000 (LGA 2000) that also requires those proposals to be available for inspection and to be published.
- 3.4 The LGA 2000 requires that where a change of governance from one form of executive to another is to be considered by local electors through a referendum, the council must draw up proposals for the change which include:
  - a) a timetable with respect to the implementation of the proposals
  - b) details of any transitional arrangements necessary for the implementation of the proposals and
  - c) a statement that the change in governance arrangements is to be subject to approval in a referendum.
- 3.5 The local authority is then required to
  - a) ensure that copies of a document setting out the proposals are available at its principal office for inspection by members of the public at all reasonable times and
  - b) publish in one or more newspapers circulating in the area a notice which:

- i) states that the authority has drawn up the proposals
- ii) describes the main features of the proposals
- iii) states that copies of a document setting out the proposals are available at the authority's principal office for inspection by members of the public at such times as may be specified in the notice and
- iv) specifies the address of the authority's principal notice.

3.6 The timetable of proceedings for referendum appears at Appendix 1.

## **4. THE PROPOSAL**

4.1 Members will be aware of the significant work undertaken in the Council in relation to prioritisation and the capitalisation directive during the past year. Consequently, there has been insufficient capacity to explore with Members the range of potential options for a Mayoral model of governance. These options can be characterised at high level as:

- The Mayor reserves most/ all decision-making powers to themselves
- The Mayor delegates some decision-making powers to individual Cabinet members or to Cabinet collectively
- The Mayor reaches decisions with Cabinet by consensus.

4.2 Under all three options, the Council would still have an Overview and Scrutiny Committee to hold the Mayor/ Executive to account.

4.3 The Mayoral model proposed is therefore closest to current practice in Croydon under the Leader/ Cabinet model.

4.4 Draft referendum proposals appear at Appendix 2. These explain:

- i) Only two options can be offered in the referendum, so that voters will be able to choose between the status quo and the Mayoral referendum
- ii) The main difference between the Leader/ Cabinet and Mayor/ Cabinet models is the method of election of the Leader/ Mayor
- iii) If a majority of voters choose the Mayor/ Cabinet model then the standard Executive arrangements would be changed such that the Mayor replaced the Leader in selecting a Cabinet, presenting the Budget to Council and having oversight (with the Cabinet) over the majority of day to day Council services.

4.5 In both models the Council would appoint Committees to be responsible for certain services including planning, licensing, scrutiny, audit and ethics.

4.6 It is proposed that these proposals, as set out at Appendix 2, be published on the website and in the Croydon Guardian by Tuesday 20<sup>th</sup> July in accordance with the requirements of the LGA 2000.

4.7 If a majority votes for change, detailed changes to the Constitution would be required. The most material changes, reflecting the replacement of Leader with Mayor, would appear at:

Part 3 – Responsibility for Functions, Section 3 – Responsibility for Executive Functions: the Leader’s power to create Cabinet Committees

Part 4D – Executive Procedure Rules

Part 6C – Leader’s Scheme of Delegations

4.8 It is normal local authority good practice for a Constitution Working Group to keep the Constitution under review and make recommendations for changes as and when required. It is therefore proposed to establish a politically proportionate Constitution Working Group with this remit. If constitutional changes were required as a result of the mayoral referendum, the Working Group would inform the development of proposed changes for consideration by Council.

4.9 If a majority votes for change, a report will be presented to the first Council meeting following the referendum setting out the proposed transition arrangements and seeking approval for the detailed changes to the Constitution.

## **5. CONSULTATION**

5.1 A public consultation is not required, but to ensure good and transparent governance a notice was published on the Council’s website and within the Croydon Guardian newspaper in February 2021 advertising the proposal that Council agree to conduct a referendum on the Council’s governance.

## **6 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

6.1 The anticipated cost of holding the referendum has been budgeted for and included in the Medium Term Financial Strategy.

Approved by: Matt Davis, Interim Deputy s151 Officer

## **7. LEGAL CONSIDERATIONS**

7.1 This report seeks approval of the referendum proposals along with explaining the alternate governance arrangements for any change in arrangements and follows on from the report of 8<sup>th</sup> February 2021 seeking approval for a resolution of the Council to hold a referendum on 7<sup>th</sup> October 2021.

7.2 The body of the report sets out the legal framework under the Local Government Act 2000 (‘2000 Act’), as amended, and outlines the factors to be taken into account by the Council when making its decision as to the proposed proposals.

- 7.3 It should be noted that the Local Authorities (Conduct of Referendums) (England) Regulations 2012 ('Referendum Regulations') supplement the 2000 Act and stipulate the detailed rules for conduct of a governance referendum.
- 7.4 The Referendum Regulations also sets out the strict restrictions on Council publicity about the referendum for the 28 days before polling day, save for factual information about the poll itself.

Approved by: Sandra Herbert, Head of Litigation and Corporate Law on behalf of Doutimi Aseh, Interim Director of Law and Governance.

## **8. HUMAN RESOURCES IMPACT**

- 8.1 There are no immediate workforce implications raised by this report.

Approved by: Sue Moorman, Director of Human Resources

## **9. EQUALITIES IMPACT**

- 9.1 There are no equalities implications under s149 of the Equality Act 2010 arising from the proposals which are set out at Appendix 2, nor from any change in governance arrangements for the Council. The Council will follow the mandatory statutory procedure for the conduct of referendums related to local authority governance.
- 9.2 The Counting Officer is responsible for ensuring the duty is complied with in administering the referendum.

Approved by: Yvonne Okiyo, Equalities Manager

## **10. DATA PROTECTION IMPLICATIONS**

### **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

- 10.1 The conduct of the referendum will not involve the processing of personal data over and above processing which takes place as part of the administration of elections and subject to existing policies and procedures.

Approved by: Asmat Hussain, Interim Executive Director of Resources and Monitoring Officer

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**CONTACT OFFICER:** Heather Wills, Governance Improvement Adviser;  
[heather.wills@croydon.gov.uk](mailto:heather.wills@croydon.gov.uk)

**APPENDICES TO THIS REPORT:**

**Appendix 1: Referendum Timetable**

**Appendix 2: Draft detailed notice of proposals**

**BACKGROUND PAPERS:** None

## APPENDIX 1 – Referendum timetable

Council resolved to consider a change in governance arrangements by way of a referendum	Monday 8 <sup>th</sup> February 2021
Notice of referendum with details of proposals (at least 56 days* but no more than 73 days* before the referendum)	No later than Tuesday 20 <sup>th</sup> July 2021
Pre-referendum period starts (28 days* before the referendum)	Monday 30 <sup>th</sup> August 2021
Publication of Notice of Referendum (at least 25 days* before the referendum)	No later than Thursday 2 <sup>nd</sup> September 2021
Deadline for applications to register to vote	Tuesday 21 <sup>st</sup> September 2021
Deadline for new applications to vote by post and cancellation or amendment to existing absent voting arrangements	Wednesday 22 <sup>nd</sup> September 2021
Deadline for new applications for proxy votes	Wednesday 29 <sup>th</sup> September 2021
Publication of notice of poll	Wednesday 29 <sup>th</sup> September 2021
Polling (7am – 10pm)	Thursday 7 <sup>th</sup> October 2021
<i>Special Full Council Meeting if referendum is in favour of change in governance (within 28 days of the referendum)</i>	<i>No later than Tuesday 16<sup>th</sup> November 2021</i>
<i>First election for a new Elected Mayor if the referendum is in favour of change in governance</i>	<i>Thursday 5<sup>th</sup> May 2022</i>

\*Excluding Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday or a Bank Holiday.

## **APPENDIX 2 – DRAFT DETAILED NOTICE OF PROPOSALS**

On Thursday 7<sup>th</sup> October 2021, Croydon voters are being asked to choose how they think the borough should be governed in future, following a decision made by councillors at the Emergency Council meeting (ECM) on 8<sup>th</sup> February 2021.

The Council currently operates with an Executive Leader and Cabinet model of governance.

The ECM passed a resolution, in accordance with Section 9MA of the Local Government Act 2000 (as amended), to hold a referendum asking voters in Croydon whether they wished to change the Council's governance arrangements. Minutes of that meeting can be found here:

<https://democracy.croydon.gov.uk/documents/s27198/ECM%20Report.pdf> or by clicking on [this link](#).

The law states that councils can only offer two options in the referendum (one of which must be the existing model). The alternative option will be the Mayor and Cabinet model (the 'Mayoral model').

### **Main features/ differences between the Leader/ Cabinet and Mayor/ Cabinet models:**

Both models are set up in a similar way and are 'Executive' forms of governance.

This refers to the model of governance whereby meetings of the full Council agree the budget and council tax whilst an Executive has oversight of most day to day policy and decision making.

The Executive meet together as the 'Cabinet' but may also establish sub-committees on specific subjects or take decisions individually if such delegations have been established.

Council will then appoint Committees to be responsible for certain services including planning, licensing, scrutiny, audit and standards which, by law, cannot be the responsibility of the Executive.

The main difference between the two versions is that a Leader is selected from amongst the Councillors, whilst the Mayor is an additional elected representative, chosen directly by all electors.

This also means that a Mayor can normally only be replaced by local electors at the next local elections once every four years. A Leader could be replaced by a vote at Council should they no longer have the support of Councillors.

The other standard Executive arrangements would not change except that the Mayor replaced the Leader, such as:

1. The Mayor would select a Cabinet of between two and nine Members
2. The Mayor would present a budget to the Council



3. The Mayor and Cabinet would have oversight of the majority of the Council's day to day services

In both models the Council would appoint Committees to be responsible for certain services including planning, licensing, scrutiny, audit and ethics.

Further detailed decision-making arrangements can be set up under either model, such as having decision-making by individual Cabinet Members. There are no proposals to change other arrangements such as to introduce individual Cabinet Member decision-making but these could be amended at any time by an incoming administration.

### **What happens if a majority of voters agree to a change?**

If a majority of voters agree to a change then the Council will continue to operate under the Leader/ Cabinet model until the local elections in May 2022, at which point the Council will move to the Mayor/ Cabinet model.

If a change is agreed by voters, the result of the referendum is binding. Any further change of this kind could only take place at least ten years after the date of the first referendum.

A report will be presented to the first Council meeting following the referendum setting out the proposed transition arrangements and seeking approval for the necessary changes required to the Council's constitutional arrangements.

### **What happens if a majority of voters do not agree to a change?**

If a majority of voters do not agree to a change then the May 2022 local elections will be run on the current Leader and Cabinet model.

If a change is not agreed by voters, the result of the referendum is binding. Any further change of this kind could only take place at least ten years after the date of the first referendum.

### **The referendum details**

The poll for the Referendum will be held on Thursday 7<sup>th</sup> October 2021 between the hours of 7am and 10pm.

Anyone eligible to vote in local elections will be entitled to vote in the referendum.

The question to be asked at the poll will be:

#### **How would you like the London Borough of Croydon to be run?**

By a leader who is an elected councillor chosen by a vote of the other elected councillors. This is how the council is run now.

Or

By a mayor who is elected by voters. This would be a change from how the council is run now.

The referendum will be conducted in accordance with the rules for local elections.

The referendum expenses limit for campaign organisers promoting a particular outcome is the aggregate of £2,362 plus the amount found by multiplying by 5.9 pence the number of entries in the Council's electoral register in effect on the day on which the Notice of Proposals is published (Thursday 15<sup>th</sup> July). [As at 30<sup>th</sup> June there are 279,231 registered electors and, based on this figure, expenses would be £2,362 + £16,475 = **£18,837.**]

### **Copies for Inspection**

A copy of these proposals may be inspected by appointment at the Croydon Town Hall, Katherine Street, Croydon, CR0 1NX, during normal office working hours (9am to 5pm). Contact [seth.alker@croydon.gov.uk](mailto:seth.alker@croydon.gov.uk) (Tel 020 8604 7469) to make an appointment.

The proposals are also published on the Council's website at or on the Council's website at [www.croydon.gov.uk/council-and-elections/voting-and-elections/referendum-directly-elected-mayor-croydon](http://www.croydon.gov.uk/council-and-elections/voting-and-elections/referendum-directly-elected-mayor-croydon).