

# 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 carry out interviews and recommend to Council appointments to the roles of 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. To carry out interviews and recommend to Council appointments in respect of the Independent Chair of General Purposes and Audit Committee
3. The Authority's Consultation requirements with the staff side
4. Consideration and recommendation to Full Council of the Pay Policy Statement as required.
5. 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.
6. The function of deciding, in respect of severance packages, whether the Council wishes to vote on a severance package above the specified threshold
7. 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 Committee's recommendations on appropriate action.

8. Consideration of Suspension of the Head of Paid Service, Chief Finance Officer or Monitoring Officer, including following provisional suspension in accordance with the Staff Employment Procedure Rules in Part 4 of the Constitution;
9. 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 as set out in Article 12 of the Constitution, including the promotion of high standards of Member conduct.
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. Commenting on the content of guidance and advice to be issued to elected and non-elected Members.
6. Considering reports and recommendations from the Member Development Panel in relation to training for elected and co-opted Members.
7. Agreeing programmes of advice and training for elected, co-opted and non-elected Members on ethics and probity, and on the Code.
8. 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.
9. 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.
  10. To make future invitations for appointment of Independent Persons in accordance with and for the purposes of the Staff Procedure Rules.
  11. 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 plus 1 independent non-voting co-opted Chair and 1 independent non-voting co-opted Member 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. Consideration of changes to the Constitution recommended by the Constitution Working Group, except for the allocation of responsibilities by the Leader, and referral of any proposals to full Council for approval. Periodic review of the Constitution.
4. Receive reports relating to the Council's use of powers under the Regulation of Investigatory Powers Act 2000.
5. Any matter not reserved to the Council or delegated to another Committee

and related to a non-executive function.

6. 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.
7. 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, whistleblowing 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
- 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 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:

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  
Executive Director Housing  
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.