

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.A – Protocol for Decision Making

### **Provisions with respect to proceedings of the Mayor, 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.

Under this constitution, there are different decision makers: the Mayor, Cabinet and delegated Sub-Committees, Joint Committees, Non-Executive Committees and Officers.

The following principles will apply to whoever makes a decision on behalf of the Council, including executive decisions:

- (a) decisions will not conflict with the Budget and Policy Framework;
- (b) the decision will be made following an evaluation of options;
- (c) the decision maker will take professional advice (including financial and legal advice where the decision may have legal and/or financial consequences);
- (d) the decision maker will take into account the implications of their decisions on the Council's policies and its legal obligations in relation to environmental sustainability, equality and diversity, respect for human rights, risk management and crime and disorder;
- (e) the decision will be taken following a consideration of all relevant matters and disregarding irrelevancies;
- (f) reasons for the decision will be recorded, as will details of relevant alternative options considered with reasons for their rejection;
- (g) action taken will be proportionate to the result to be achieved;
- (h) a presumption in favour of openness, unless there are compelling lawful reasons preventing the consideration of matters in public;
- (i) consultation to take place as appropriate to the matter under consideration;
- (j) clarity of aims and desired outcomes;
- (k) the highest standards of ethical conduct, avoiding actual, potential and

perceived conflicts of interest; and

- (l) the decision taker will take into account any other relevant considerations that a public body is under a duty to consider

The Mayor, 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 Mayor, 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 A Corporate 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 Director of Legal Services (except to the extent that they agree otherwise in respect of certain clauses of reports);
  - (b) other officers as appropriate; and
  - (c) Corporate 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 Director of Legal Services;
  - (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 Corporate 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 Impact and Crime and Disorder implications;
- (u) a list of any background papers; and
- (v) where appropriate, identification of the timescale for a further report(s) to Members on implementation of the decision

1.5 At least 5 clear working days before the proposed date and time for taking the final decision, the Monitoring Officer 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 Corporate 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 Corporate 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 Corporate Director is of the opinion that it should be treated as a relevant decision.

## 1.9 Review of progress in implementing decisions

Corporate Directors shall keep the implementation of decisions under review. Where any substantial delay occurs to implementation and/or there is a significant change in cost, impact or other material factor, the Corporate Director shall consult with the relevant member of the Executive, having sought the advice of the Director of Legal Services, to ensure that circumstances relevant to the decision still apply. In cases where there has been a material change of circumstances, a further report will be considered by the relevant decision-making body before implementation.

## 1.10 Amendments/ variation to this protocol

Where amendments/variation to this Protocol are necessary due to legislative changes, the Monitoring Officer may make such consequential changes to this Protocol as are necessary to take such changes into account.