

# General Purposes & Audit Committee Agenda



To: Dr Olu Olasode (Chair)  
Councillor Karen Jewitt (Vice-Chair)  
Councillors Chris Clark, Nina Degrad, Clive Fraser, Lynne Hale,  
Ola Kolade, Stuart Millson, Ian Parker, Joy Prince and Paul Scott

Reserve Members: Margaret Bird, Pat Clouder, Sean Fitzsimons,  
Bernadette Khan, Andrew Pelling, Kola Agboola, Jason Cummings,  
Badsha Quadir and Jeet Bains

A meeting of the **General Purposes & Audit Committee** which you are hereby summoned to attend, will be held on **Thursday, 3 March 2022 at 6.30 pm** in

KATHERINE KERSWELL  
Chief Executive and Head of Paid Service  
London Borough of Croydon  
Bernard Weatherill House  
8 Mint Walk, Croydon CR0 1EA

SARAH KEEBLE  
Democratic Services and Governance  
Officer  
[www.croydon.gov.uk/meetings](http://www.croydon.gov.uk/meetings)  
Wednesday, 23 February 2022

Members of the public are welcome to attend this meeting.

If you would like to record the meeting, we ask that you read the guidance on the recording of public meetings [here](#) before attending

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## **AGENDA – PART A**

**1. Apologies for Absence**

To receive any apologies for absence from any members of the Committee.

**2. Minutes of Previous Meetings (Pages 7 - 16)**

To approve the minutes of the previous meeting held on 16 February, and the Minutes of the meeting held on 10 June 2021 as an accurate record.

**3. Action Tracker for Minutes (Pages 17 - 18)**

To note the progress against actions agreed by Committee at previous meetings.

**4. Disclosure of Interests**

In accordance with the Council's Code of Conduct and the statutory provisions of the Localism Act, Members and co-opted Members of the Council are reminded that it is a requirement to register disclosable pecuniary interests (DPIs) and gifts and hospitality to 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. In addition, Members and co-opted Members are reminded that unless their disclosable pecuniary interest is registered on the register of interests or is the subject of a pending notification to the Monitoring Officer, they are required to disclose those disclosable pecuniary interests at the meeting. This should be done by completing the Disclosure of Interest form and handing it to the Democratic Services representative at the start of the meeting. The Chair will then invite Members to make their disclosure orally at the commencement of Agenda item 3. Completed disclosure forms will be provided to the Monitoring Officer for inclusion on the Register of Members' Interests.

**5. Urgent Business (if any)**

To receive notice of any business not on the agenda which in the opinion of the Chair, by reason of special circumstances, be considered as a matter of urgency.

**6. Council Budget 2022/23 - 2024/25**

Members of the Committee are asked to consider the following reports which are listed to follow:

- General Fund and HRA Budget 2022/23
- Treasury Management Strategy Report

The Committee's consideration of these reports will be focused on:

1. Risk Identification
2. Risk Mitigation
3. Reserve Strategy
4. MTFS Direction of Travel

**7. Fairfield Halls Report in the Public Interest Action Plan (Pages 19 - 98)**

Following the extraordinary meeting of Council held on 3 February 2022, this report provides an opportunity for Members of the General Purposes and Audit Committee to review the action plan developed in response to the recommendations made in the recent Report on the Public Interest. Any comments or feedback made by the Committee on the action plan will be reported to the Cabinet at its meeting on 21 March 2022.

**8. Changes to the Constitution (Pages 99 - 432)**

This report asks the Committee to recommend to the Council changes to the Constitution which are necessary for the implementation of the mayoral model of governance. The report also includes other constitutional changes to improve the Council's governance, which have been recommended by the Constitution Working Group. Whilst additional changes have been recommended, a complete review and update of all parts of the Constitution has not been conducted.

**9. Members' Scheme of Allowances**

(To Follow)

**10. Anti-Fraud Update Report (Pages 433 - 438)**

This report details the Anti-fraud activity of the Corporate Anti-Fraud Team for the period 1 April 2021 – 31 December 2021 and the corresponding period 1 April 2020 – 31 December 2020.

**11. Corporate Risk Register (Pages 439 - 472)**

This report notes the contents of the Corporate Risk Register as at March 2022

**12. Work Programme (Pages 473 - 478)**

The Work Programme is scheduled for consideration at every ordinary meeting of the General Purpose and Audit Committee.

**13. Exclusion of Public and Press**

The following motion is to be moved and seconded where it is proposed to exclude the press and public from the remainder of a meeting:

“That, under Section 100A(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information falling within those paragraphs indicated in Part 1 of Schedule 12A of the Local Government Act 1972, as amended.”

## **PART B**

## General Purposes & Audit Committee

Meeting of held on Wednesday, 16 February 2022 at 6.30 pm in Council Chamber, Town Hall,  
Katharine Street, Croydon CR0 1NX

### MINUTES

**Present:** Councillor Karen Jewitt (Vice-Chair in the Chair);

Councillors Chris Clark, Clive Fraser, Lynne Hale, Ola Kolade, Stuart Millson,  
Paul Scott, Margaret Bird (In place of Ian Parker), Pat Clouder (In place of  
Nina Degrad) and Sean Fitzsimons (In place of Joy Prince)

**Also Present:** Dr. Olu Olasode

**Apologies:** Councillors Nina Degrad, Ian Parker, Joy Prince

### PART A

#### 11/22 **Minutes of Previous Meetings**

The minutes of the previous meeting held on 25 January 2022, and the Minutes of the meetings held on 26 April 2021 and 8 July 2021 were agreed as an accurate record and signed by the Chair.

#### 12/22 **Disclosure of Interests**

There were none.

#### 13/22 **Urgent Business (if any)**

There were no items of urgent business.

#### 14/22 **Appointment of External Auditors**

The Committee received a report asking for its agreement to recommend to Full Council that the external auditor for the Council and for the pension fund for the audit years 2023/2024 to 2027/2028 should be appointed by Public Sector Audit Appointments Ltd.

Dave Phillips, Head of Internal Audit, introduced the report.

The following matters were raised by Members:

- a) **New External Auditor:** Members highlighted the issues the Council had faced with its current External Auditor. It was noted that the problems currently being faced would remain to be solved even if a new Auditor was appointed
- b) **Rotation:** Members highlighted the benefits of a potential rotation of External Auditors. Although it was noted that this would come with its own set of hindrances, including inconsistency of service, Members suggested it might be in the Council's best interest to implement such a recommendation. The Officer explained that by going out to tender every 5 years, whereby there is fair competition, even if the current contractor is again successful it is not the same as simply extending an existing contract. Notwithstanding, he did acknowledge members concerns regarding rotation of the external auditor
- c) **Role of PSAA:** Members asked a question around what may have happened if you were dissatisfied with service provided. The Officer explained that the PSAA were wholly responsible for the contract management of the External Auditor from the Council and would deal with any concerns had regarding its function.

Councillor Paul Scott proposed additional wording be added to the recommendation requesting for a rotation so that a new External Auditor would be appointed.

This was seconded by Councillor Stuart Millson and agreed unanimously by the Committee.

Following consideration, it was resolved that the Committee:

1. Agreed to recommend to Full Council that the external auditor for the Council and for the pension fund for the audit years 2023/2024 to 2027/2028 should be appointed by Public Sector Audit Appointments Ltd (PSAA), which was a subsidiary of the Improvement and Development Agency (IDeA) which was wholly owned by the Local Government Association, with a request for a rotation so that a new External Auditor would be appointed.

## 15/22 **Internal Audit Report**

The Committee received a report detailing the findings of the Internal Audit Report.

Dave Phillips, Interim Head of Internal Audit introduced the report.

The following matters were raised by Members:

- a) **Timeframe:** Following a question from a Member, the Officer explained that there was not a specific timeframe by which it was expected to see an improved culture. It was noted that culture change was a process that took time. There had been a lot of movement already, led by CMT actions. Another factor was with new Council staff being appointed, who brought culture in from their previous local authorities, thereby helping improve Croydon's culture.
- b) **Audit Workshops:** Members noted the recent Audit Workshops held by CMT and asked whether they could access the actions and timeframes produced within them. The s151 Officer confirmed that this could be put into place subject to the removal of any Part B sensitive information
- c) **Placement Deposits Audit:** Following a request from a Member, the Officer agreed to circulate the Placement Deposits Audit to Committee Members and ensure it was published online
- d) **FoI/SARs Audit:** The update response detailed in the report to the FoI/SAR report was discussed. Noting that the Council used Power BI to complete a number of tasks and functions, particularly in holding individual teams and services to account for accuracy and providing performance reporting, the update response was queried and clarification was requested.

Following consideration, it was resolved that the Committee:

1. Agreed to note the Internal Audit Report to 31 December 2021 (Appendix 1 of the report).

## 16/22 **Care Cubed**

The Committee received a report providing an update on the procurement, implementation and effectiveness of the CareCubed costing tool for working age adult and children's social care placements.

Richard Eyre, Head of Improvement introduced the report.

The following matters were raised by Members:

- a) **Projected Savings:** Following a question from a Member, the Officer explained that it was not possible to predict at that moment how much money may be saved overall
- b) **Staffing:** Members highlighted pressures in staffing, particularly within the disability teams. The Officer agreed to note that four critical vacancies had recently been recruited to, including a number of experienced team managers who had taken post
- c) **Report:** It was noted that it would be beneficial for colleagues in Children's Services to bring an update on their area to a future Committee, and for the responsible Cabinet Member to attend. This

would give the Committee more insight and detail on the progress of works and savings.

Following consideration, it was resolved that the Committee:

1. Agreed to note the progress of implementation; and identified for a Committee in Period 6 of 2022/23 for a further progress update

17/22 **Work Programme**

The Committee received a report detailing the Work Programme for forthcoming meetings of the Committee.

Sarah Keeble, Democratic Services and Governance Officer, introduced the report, highlighting that the report contained an Item for 3 March meeting titled 'Report in Public Interest Action Plan' which should be amended to read: Fairfield Halls: Report in the Public Interest Action Plan.

The following matters were raised by Members:

- a) **Subject of Deep Dive:** The Independent Chair highlighted that the Committee had been asked what it would like to see on the next Deep Dive. Members noted that it may be possible to make a more informed decision on what they would like the Deep Dive to report on following the next presentation of the Corporate Risk Register, which was scheduled to come to the meeting of the Committee on 3 March
- b) **Pre-Council Meeting:** Members highlighted the importance of each Group's Pre-Council Meeting. There had been a recent clash in scheduling of a Special Committee meeting which had caused issues for the Majority Group. It was requested that once the Chief Whip from each party had nominated their Pre-Council Meeting date that it be formally put in to the Council diary to avoid any clashes in the future.

Following consideration, it was resolved that the Committee:

1. Considered the agreed work programme for the Committee in 2021/22.

The meeting ended at 8.58 pm

**Signed:**

**Date:** .....



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## General Purposes & Audit Committee

Meeting of held on Thursday, 10 June 2021 at 6.30 pm in Council Chamber, Town Hall,  
Katharine Street, Croydon CR0 1NX

### MINUTES

**Present:** Councillor Karen Jewitt (Chair);  
  
Councillor Paul Scott, Chris Clark, Joy Prince, Stuart Millson and  
Jan Buttinger

**Apologies:** Councillor Steve Hollands

### PART A

83/21 **Disclosure of Interests**

There were none.

84/21 **Urgent Business (if any)**

There were no items of urgent business.

85/21 **Oracle Audit Presentation**

The Committee received a presentation to update Members on progress towards addressing the Oracle security.

Victoria Richardson, Head of HR and Finance Service Centre introduced the report.

The following matters were raised by Members:

a) Tools for large organisations: Following a question from a Member, the Officer explained that it is recommended to use a tool designed for a larger environment with complex role structures, as basic office tools were not optimal. It was important for the Council to make a decision around what was the best route forward to manage the risk

b) Timeline: Following a question from a Member, the Officer noted that the Auditor found the Oracle Audit complex, and forecast a decision date for the Autumn. There was approval in principle for the business case but it was subject to further license negotiations with Oracle regarding the cost benefit analysis

c) Reference to background papers: Members highlighted issues around knowing the context of the Oracle system, and noted that it may be helpful in future to note any background papers which could be read in advance of report consideration. It was noted that the Committee may be

made up of different Members from meeting to meeting. The Officer noted these comments.

The Committee noted the presentation and thanked Officers.

86/21

### **Terms of Reference**

The Committee received a report detailing a review of the terms of reference, membership, dates and frequency of meetings of the General Purposes and Audit Committee.

Asmat Hassain, Interim Executive Director of Resources introduced the report.

The following matters were raised by Members:

a) Whistleblowing Policy: Following a question from a Member, the Officer confirmed that the Council did have a standing Whistleblowing Policy which was considered annually by the Ethics Committee. There had been low numbers of whistleblowing concerns raised within the Council which meant the reasons behind it happening had not been investigated. This was a proposal to bring a refresh of the policy and procedure

b) Independent Chair: The Officer noted that the Committee was moving to having an Independent Chair. It was common practise to have one independent person as well as Committee Members so the Chair would follow the standard criteria in the absence of the two independent member posts

c) Training for Members: Members raised concerns regarding the turnover of Members forming makeup of the Committee, and highlighted the potential benefit of regular training to bring new Members up to speed so that they could offer positive contributions and ongoing expertise. The Officer noted that it was common practise to have Members of the Committee brought in on an annual basis, but this could be considered and brought back to Committee.

Following consideration, it was resolved that the Committee:

1.1 Considered and reviewed its Membership (including the role of the co-opted members), Terms of Reference, together with dates and frequency of future meetings as set out in Appendix 1, 2 and 3 of the report respectively;

1.2 Considered to recommend to full Council that the Terms of Reference be amended to include review of the Council's use of our policies in relation to Whistleblowing and the Regulation of Investigatory Powers Act;

1.3 Agreed no next steps were required;

1.4 Noted that any changes to the Constitution and associated requirements would need to be referred to Full Council for final consideration.

## **Update on Independent Chair for General Purposes and Audit**

Asmat Hassain, Interim Executive Director of Resources presented a verbal update, highlighting that:

- The job description had been finalised and sent to external recruitment agency, Starfish who were going to assist in the candidate search, which would be going to advert the week after the evening of the Committee meeting
- It would take a couple of months from start to finish to shortlist and undertake interviews, which would be done in accordance with the Appointments Committee process. This was a Member-Appointment with Officers acting as observers in the process
- The role of independent Chair was common within public bodies but unique to Local Authorities. It was positive that Croydon would be one of the first London Borough Council's to have an independent Chair

The following matter was raised by Members:

- a) Job profiling: Members asked whether they were able to receive a copy of the job description and person specification for the vacancy, as well as the remuneration figure. The Officer agreed to circulate all relevant paperwork to Committee Members  
The Committee noted the update and thanked Officers.

## **Report in the Public Interest Action Plan - Progress Update**

Asmat Hassain, Interim Executive Director of Resources introduced the report.

The following matters were raised by the Committee:

The Committee received a report providing the Quarter 1 update of progress made responding to the Council's Report in the Public Interest.

The following matters were raised by Members:

- a) Completed Items: Members highlighted that it may be beneficial to add the date of completion so that delivery could be compared with planned actions
- b) Children in Care: Members highlighted the section under children in care being marked as complete. Following a question from a Member, the Officer explained that this work was consistently on-going, and that 'complete' mean that it had gone through all of the relevant processes within the service
- c) Access to Budget Savings Tracker: Following a question from a Member, the Officer explained that access to the Budget Savings Tracker was not usually given to individuals. This was because it was a live

working document and varied day to day. Instead, Members could expect to be updated upon its contents regularly.

Following consideration, it was resolved that the Committee:

1.1 Noted and agreed the progress the Council had made in regard to achieving the recommendations set out by external auditor in the Report in the Public Interest (appendix 1 of the report) with 55 out of 99 actions complete;

1.2 Noted the beginning of work to properly evidence what had been achieved so far and the intention to carry out an internal audit of actions delivered to provide full assurance to members and residents on the change achieved;

1.3 Noted the Refreshed Action Plan, which incorporated recommendations made by GPAC as per 2nd December 2020 meeting. This was approved by Cabinet 12th April 2021 and reviewed by the Head of Internal Audit.

89/21

### **Update on Council Whistleblowing**

With the agreement of the Chair, this Item was deferred due to it being dependent on the Committee agreeing its Terms of Reference. It would be brought to the next Committee Agenda for consideration.

90/21

### **Anti-Fraud Update Report**

The Committee received a report providing an update on the Council's Anti-Fraud activity.

David Hogan, Head of Anti-Fraud introduced the report.

Following consideration, it was resolved that the Committee:

1.1 Noted the Anti-fraud activity of the Corporate Anti-Fraud Team for the period 1 April 2020 – 31 March 2021.

91/21

### **Corporate Risk Register**

The Committee received a report providing the updated contents of the Corporate Risk Register.

Malcom Davies, Head of Insurance, Anti-Fraud and Risk introduced the report.

Following consideration, it was resolved that the Committee:

1.1 Noted the contents of the corporate risk register as at 6 June 2021.

92/21

### **Work Programme**

Asmat Hassain, Interim Executive Director of Resources introduced the report.

Following consideration, it was resolved that the Committee:

1.1 Agreed the Work Programme 2021/22.

The meeting ended at 9.08 pm

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**GENERAL PURPOSES AND AUDIT COMMITTEE ACTION TRACKER**

<b>Committee date</b>	<b>Subject</b>	<b>Action</b>	<b>Owner</b>	<b>Update as at 23.2.22</b>
25 January 2022	Revisions to Annual Governance Statement (AGS)	Review the report to ensure a consistent approach to the use of dates throughout.  Bring an update on progress in implementing AGS action plan to Committee soon after March 2022	Governance & Improvement Adviser  Monitoring Officer	Dates revised and Statement submitted to Chief Executive and Leader for signature  To be scheduled on work programme
	Revisions to the Council's Constitution	Amend article 2.1 to simplify presentation of information relating to Members and Wards be simplified.  Provide update on progress on proposed changes in respect to Planning matters in the Constitution	Governance & Improvement Adviser  Governance & Improvement Adviser	Information revised and included in draft constitutional changes to be reviewed by GPAC 3.3.22  Report on constitutional changes to GPAC 3.3.22 to include update on planning committee constitutional changes

**KEY:**

**Committee date:** date when the action was agreed by the Committee.

**Subject:** the item title on the Committee's agenda; the subject being considered.

**Action:** the action recorded in the minutes, including any agreed deadline for completion.

**Owner:** the Member or officer responsible for implementation of the action, as recorded in the minutes.

**Update:** progress update as at the deadline for agenda dispatch.



<b>REPORT TO:</b>	<b>GENERAL PURPOSES AND AUDIT COMMITTEE</b> <b>3 March 2022</b>
<b>SUBJECT:</b>	<b>Report in the Public Interest – Action Plan</b>
<b>LEAD OFFICER:</b>	<b>Katherine Kerswell, Chief Executive</b> <b>Richard Ennis, Interim Corporate Director of Resources</b> <b>and Section 151 Officer</b> <b>John Jones, Interim Monitoring Officer</b>
<b>CABINET MEMBER:</b>	<b>Councillor Hamida Ali, Leader of the Council</b>
<b>WARDS:</b>	<b>All</b>

## 1. RECOMMENDATIONS

The Committee is recommended to:

1. Consider and review the Action Plan attached at Appendix 1B;
2. Consider any proposed amendments or feedback that it wishes to make on the action plan; and
3. Submit that feedback in a report to Cabinet at its meeting on 21 March 2022.

## 2. EXECUTIVE SUMMARY

- 2.1 Following the extraordinary meeting of Council held on 3 February 2022, this report provides an opportunity for Members of the Scrutiny & Overview Committee to review the action plan developed in response to the recommendations made in the recent Report on the Public Interest. Any comments or feedback made by the Committee on the action plan will be reported to the Cabinet at its meeting on 21 March 2022.
- 2.2 Discussion of the findings from the Report in the Public interest is in law reserved to the extraordinary meeting of the Council held on 3 February. At that meeting the Council agreed to accept the recommendations set out in the report. It is not the role of other Council committees, such as Scrutiny and Overview Committee, General Purposes and Audit Committee or Cabinet to conduct its own review of the finding in the Report in the Public. Discussion of this item at the meeting should focus on the whether the action plan will deliver the recommendations accepted by Council on 3 February

## 3. BACKGROUND

- 3.1 The extraordinary meeting of Council held on 3 February 2022 considered a Report in the Public Interest (attached at Appendix 1A) concerning the refurbishment of the Fairfield Halls and related governance issues by the

Council's external auditors, Grant Thornton. A copy of the report to Council is attached at Appendix 1, including the appendices to that report, namely the Action Plan (labelled as Appendix 1B).

- 3.2 In considering the report, Council agreed the action plan to implement the recommendations made in the report in the public interest.

#### **4. REPORT IN THE PUBLIC INTEREST ACTION PLAN**

- 4.1 In agreeing the action plan, Council also agreed that the plan be presented to the next meetings of the General Purposes and Audit Committee and the Scrutiny and Overview Committee. This is to allow the respective committees to consider and review the action plan from their differing constitutional positions.
- 4.2 Following consideration of the action plan, any comments and feedback from the Committee will be reported to the Cabinet meeting scheduled for 21 March 2022. At that meeting, Cabinet will also consider any feedback from the Scrutiny and Overview Committee as well as further detail on the recommendations, timelines and accountabilities, the delivery mechanism to support the improvement work and the costs, where possible, associated with implementing the recommendations.
- 4.3 In considering the action plan, Members of the Committee should also note that Council agreed all of the recommendations listed in Appendix 1.

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**CONTACT OFFICER:** Stephen Rowan, Head of Democratic Services and Scrutiny

#### **APPENDICES TO THIS REPORT**

- Appendix 1 - Report to Extraordinary Council – 3 February 2022  
Appendix 1A - Report in the Public Interest  
Appendix 1B - RIPI Action Plan

<b>REPORT TO:</b>	<b>EXTRAORDINARY COUNCIL</b> <b>3 February 2022</b>
<b>SUBJECT:</b>	<b>Report in the Public Interest concerning the refurbishment of Fairfield Halls and related governance arrangements</b>
<b>LEAD OFFICER:</b>	<b>Katherine Kerswell, Chief Executive</b> <b>Richard Ennis, Interim Corporate Director of Resources and Section 151 Officer</b> <b>John Jones, Interim Monitoring Officer</b>
<b>WARDS:</b>	<b>All</b>

**SUMMARY OF REPORT:**

In late December 2020, the Council held discussions with its external auditor, Grant Thornton, regarding concerns over historical governance arrangements and spending in relation to the refurbishment of Fairfield Halls and related projects over the financial years 2016/17 – 2019/20.

The external auditor initially reviewed the concerns and decided to begin a formal value for money review of the refurbishment of Fairfield Halls and the associated governance arrangements between June 2016 and early 2020.

The external auditor commenced a formal Value for Money report in the late spring / early summer of 2021. However, the external auditor then paused work on that draft and determined that the issues uncovered required further consideration and investigation, the results of which are set out in the Report in the Public Interest.

Grant Thornton has now issued its ‘Report in the Public Interest’ **concerning the refurbishment of Fairfield Halls and related governance arrangements** on 26 January 2022, which was published by Croydon Council on Wednesday 26 January 2022. The report details significant concerns regarding the decision making, value for money, behaviour and governance arrangements that were associated with this major project during the financial years 2016/17 to 2019/20.

This report details the Council’s statutory obligations in response to the publication of the report, which have to date been met in full. The report outlines the further statutory requirements that the Council is required to take following this Extraordinary Council Meeting.

The report further details the range of corrective actions that have been taken to date and proposes an action plan in response to the recommendations made by the external auditor. It is also proposed that this new action plan be included in the Croydon Renewal and Improvement Plan, currently being refreshed for 2022/23 and beyond.

This Report in the Public Interest is an entirely separate report from the previous Report in the Public Interest received by the Council on 23 October 2020.

Whilst it touches on some of the same subject matter as that first report, its production by the external auditor does not infer in any sense that the Council has failed to respond to the requirements and recommendations of the first report. In fact, the external auditor comments “the Council has made considerable improvements [since] and is continuing to respond to matters contained in that report [October 2020 RIPI]”.

As has been very recently reported and independently audited, delivery of the actions agreed by full Council for the November 2020 Report in the Public Interest stands at 62% and was most recently noted by Cabinet on 24 January 2022 as standing at 65%.

**FINANCIAL IMPACT:**

There will be costs associated with the implementation of the recommendations detailed within the report and for the production of the external auditor’s report.

The costs of this report are yet to be finalised and an update regarding the associated costs will be presented to a future meeting of Cabinet for consideration and approval.

The approved budget for the refurbishment project was £30m. The total expenditure in relation to this total project was £67.5m as set out in section 2 below and in the Report in the Public Interest.

In relation to the financial impact on the Council accounts, detailed by the RIPI report, the Council proactively corrected and provided for the associated costs within 2019/20 and 2020/21 accounts and therefore will not affect the general fund in this financial year nor going forward.

Section 2 of the report details the accounting corrections the Council has made in agreement with the external auditors.

**1. RECOMMENDATIONS:**

Council is recommended to:

- 1.1 Fully accept the findings of the Report in the Public Interest and the external auditor’s recommendations;
- 1.2 Note that recommendations 1, 2, 3, 4, 7, 9 and 11 have been identified by the external auditor as S24 statutory recommendations as detailed in appendix 1 to the report;
- 1.3 Note the range of corrective actions that have already been taken to date as detailed in paragraph 2 of the report;
- 1.4 Note that the financial issues detailed in the report have already been fully taken into account in the Council’s Medium Term Financial Strategy as agreed by Council in March 2021 and that the report does not create any

significant additional financial pressures that have not already been dealt with by the Council.

- 1.5 Consider and agree with the opinion contained in the Council's Chief Finance Officer's (Section 151 Officer) report set out in paragraph 4 of this report;
- 1.6 Consider and agree with the opinion contained in the Council's Monitoring Officer's report set out in paragraph 5 of this report;
- 1.7 Consider and agree the action plan detailed at appendix 2 to this report, that includes a response to each of the external auditor's recommendations, and the indicative timeline for actions and accountabilities;
- 1.8 Agree that the action plan be presented to both the General Purposes & Audit Committee and the Scrutiny & Overview Committee at their next meetings to consider and review the plan from their differing constitutional positions and report any feedback to Cabinet.
- 1.9 Request that Cabinet receives a report that includes any feedback on the action plan from the Scrutiny & Overview Committee and the General Purposes & Audit Committee and provides further detail on the delivery of the Action Plan, including the anticipated costs of implementing the recommendations;
- 1.10 Agree that the action plan be incorporated into the Croydon Renewal and Improvement Plan as part of the refresh currently underway;
- 1.11 That progress on implementing the external auditor's recommendations be included in the existing Croydon Renewal Improvement Plan update reports that are presented to Cabinet, the Scrutiny & Overview Committee, General Purposes and Audit Committee and Council;
- 1.12 Note that a report detailing proposals to finalise any further refurbishment of the Fairfield Halls will be presented to Cabinet in March 2022.
- 1.13 Note that the Chief Executive has written to the Directors of Brick by Brick to request that they review and explain the charge made to the Council in relation to the project management of the refurbishment of the Fairfield Halls and the variations.
- 1.14 Note that the Council will continue to maintain an open dialogue with the external auditor, Independent Chair of the General Purposes and Audit Committee, Department for Levelling Up, Housing and Communities and the Improvement and Assurance Panel to keep them apprised of the progress in implementing the Action Plan.

## 1. BACKGROUND

- 1.1 As part of the Council's work following the original Report in the Public Interest received in October 2020, it formally raised concerns about historical arrangements, behaviour and spending regarding the refurbishment of Fairfield Halls with its external auditor, Grant Thornton. At that point, the Council and the external auditor jointly discussed whether consideration should be given to undertaking a formal Value for Money review of the major project. Following their own assessment, the external auditor decided to progress on this basis.
- 1.2 During this work however, the external auditor determined the issues uncovered required further consideration and so the Value for Money review approach was paused and their work focused on investigating those issues, the results of which are set out in the Report in the Public Interest.
- 1.3 Having completed that additional work, the external auditor has determined to issue a Report in the Public Interest (the report) concerning the refurbishment of the Fairfield Halls and the related governance arrangements. The full report is attached at Appendix 1.
- 1.4 The conclusions of the external auditor's review are detailed in full in Appendix 1. They include that the Council "failed to ensure the legality of the arrangements for the project", that the Council "failed to ensure it was acting lawfully", and "the lack of formal consideration of the external legal advice, the lack of completed legal land transfer documentation and the lack of properly executed written legal arrangements covering the provision of funding to Brick by Brick is in our view a very serious matter and demonstrates fundamental failings by the Council". These are significant findings.
- 1.5 For clarity, Members should note that *unlawful* expenditure should not be confused with *illegal* expenditure. The external auditor has not made any suggestion that any act has taken place that is prohibited by law.
- 1.6 In summary, the external auditor is of the opinion that the failures were:
- i) to ensure that statutory duties were fulfilled;
  - ii) that legal advice was not followed;
  - iii) that the requirements of the constitution were not followed; and
  - iv) therefore the governance practices including the approach to decision making and financial control
- likely led to significant expenditure being incurred without the legal authority to do so.
- 1.7 In considering what action to take as a result of the findings of its review, the external auditor has noted that the Council has fully accepted the concerns in regard to the governance and financial arrangements for the project, had already correctly rectified its treatment of the expenditure on the Fairfield Halls

refurbishment project and as such, is of the view that seeking a declaration of unlawful expenditure from the court would not materially remedy the situation.

- 1.8 On that basis, the external auditor has issued a Report in the Public Interest fulfilling their statutory duty in accordance with Section 24 and Schedule 7 of the Local Audit and Accountability Act 2014.
- 1.9 The report stated in its conclusions that the external auditor is of the opinion that:
  - i) The Fairfield Halls refurbishment was a complex project that was delivered later and at a higher cost than authorised by the original Cabinet approval in June 2016.
  - ii) That the Council failed to ensure the legality of the arrangements for the project;
  - iii) That gaps in the Council's governance at that time restricted wider scrutiny and challenge that may have allowed corrective action to be taken; and
  - iv) That throughout the project there have been examples of a failure to discharge duties from a small group of senior officers (the then Senior Statutory Officers and the then Executive Director of Place). These senior officers were responsible for reporting to the then Portfolio holders (the Portfolio Holder for Homes and Gateway Services, for Finance and Resources and the Leader) who were either not briefed by officers and failed to request briefings on the project or did not take effective action in response to concerns raised by the senior officers.
- 1.10 In reaching these conclusions, the external auditor highlighted 19 areas where it had concerns regarding the refurbishment project. These 19 areas are:
  - i) The legal arrangements for engaging Brick by Brick to refurbish the Halls
  - ii) The legal arrangements for funding Brick by Brick to refurbish the Halls
  - iii) Not fully considering or implementing legal advice received
  - iv) The statutory powers on which the council relied in order to lend money to Brick by Brick
  - v) Compliance with State Aid rules (now known as UK obligations on subsidy control)
  - vi) How challenge and concerns raised by another Local Authority, working as the accountable body for the Coast to Capital Local Enterprise Partnership, were considered
  - vii) How the loans to Brick by Brick were treated in the Council's Minimum Revenue Provision policy
  - viii) Signing of contracts and record keeping of formal documents
  - ix) Governance arrangements for Brick by Brick

- x) Governance over the Fairfield Halls Refurbishment Project
- xi) Reporting to the Scrutiny & Overview Committee
- xii) The financial position of the project
- xiii) The original budget setting process for the project
- xiv) The final cost of the project
- xv) The impact on the Council's overall financial position
- xvi) The project management of the refurbishment and the co-ordination of contractors
- xvii) The value for money achieved by the project
- xviii) The inherent conflicts of interest
- xix) Issues regarding delegated decision making

- 1.11 The report contains 12 recommendations, of which 7 are identified as statutory recommendations. Statutory recommendations are written recommendations to the Council made by the Auditor under section 24 (Schedule 7) of the Local Audit and Accountability Act 2014. A recommendation under Schedule 7 requires the Council to discuss and respond publicly to the report. This discussion and response is taking place at this Extraordinary Meeting, which is being held within one month of receiving the report and statutory recommendations as required by the Act. Council must decide (i) if the recommendations are accepted and (ii) what, if any actions will be taken in response to them. The Action Plan at appendix 2 sets out the actions that the Council proposes to take in response to all of the recommendations made in the report, including the 7 statutory recommendations.
- 1.12 The Council fully accepts the findings of the report and the concerns raised by the auditor.
- 1.13 Both the new administration, the current statutory officers and the chief officers share the serious and significant concerns at the findings in the report, and particularly that those responsible for the failures of the refurbishment project did not provide formal, regular information to members that would be expected in running a project of this scale.
- 1.14 In the time that has passed since the events described in the report, the Council's new political and chief officer leadership has been clear that the Council needs to learn from its past failings and put in place more rigorous governance and higher expectations on accountability and transparency for both officers and Members. The work to date on this has been positively commented upon by the external auditor in the report.
- 1.15 The events, decisions and actions described in the Report in the Public Interest are an important part of understanding what went wrong in the past so that the Council can ensure it never happens again. The recommendations made by the external auditor reinforce the importance of



the work that is underway to strengthen not only the Council's governance processes, but also the culture and values of the Council.

## **2. ACTIONS ALREADY TAKEN SINCE THE EVENTS DESCRIBED IN THE REPORT**

- 2.1 Members will be aware that this Report in the Public Interest reflects decisions and events relating to the four year period 2016 to early 2020. Over the past fifteen months, the Council has begun to deliver a wide-ranging transformation programme with new political and chief officer leadership and a strong focus on embedding a new culture of more rigorous governance, openness and accountability. The Improvement and Assurance Panel appointed by the Secretary of State for Department for Levelling Up, Communities and Housing has assessed the Council's progress over that period and provided routine updates to the Government. In her letter in response to the latest update from the Panel on 2 November 2021, the Minister of State for Equalities and Levelling Up Communities, Kemi Badenoch MP noted the "significant progress" made by the Council.
- 2.2 At its meeting on 6 December 2021, Cabinet received a report that provided a one year on update from lead members of the non-statutory rapid review team that was appointed by the then Secretary of State for Housing, Communities and Local Government in October 2020. The update report reviewed the Council's progress against the recommendations the review team had made in its original report, along with reviewing the Council's progress in improving its financial performance.
- 2.3 The report of the follow up review concludes "significant progress has been made against the Non-Statutory Review recommendations, and the recovery effort is well underway. Where the recommendations have not be completed in full, there is progress". The report can be read in full at <https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=183&MId=2512&Ver=4>.
- 2.4 At its meeting on 13 December 2021, Council also noted the latest update report on the progress made to implement the recommendations made in the previous Report in the Public Interest that was published in October 2020. This report detailed that 62% of recommendations had been implemented and can be read in full at <https://democracy.croydon.gov.uk/mgAi.aspx?ID=13763#mgDocuments>.
- 2.5 As a result of the progress in delivering the significant change programme across the council since September 2020, there are many areas identified in this Report in the Public Interest where the Council has already learned from its previous failings and has implemented improvement measures. A number of these steps that relate to the findings described in the external auditor's report are summarised below.

Ensuring that expenditure on refurbishing Fairfield Halls has now been accounted for correctly

- 2.6 The external auditor's concerns regarding the expenditure on Fairfield Halls flowed out of the previous report in the public interest issued in October 2020. As part of the Council's response to the issues contained in that report, and to issues that the Council had identified itself, concerns regarding the historical decision making and governance relating to the refurbishment project were raised with the external auditor in December 2020.
- 2.7 The Council previously reported to Cabinet in February 2021 progress being made on resolving legacy spend issues on Fairfield Halls and associated projects. The Council reported that the total spend on Fairfield Halls and associate projects was £69.16m. During 2021/22 Brick by Brick presented updated figures to the Council after a further detailed internal review within the Company. This has resulted in a revision downwards from the figures presented in February 2021 and the total spend on the Halls and associated projects is £67.5m. The main reasons for the change related to VAT and duplicate ledger entries and reduction in accrual following further detailed analysis.

As at the end of March 2020, a total of £67.5m had been spent on the Fairfield Halls. Brick by Brick had additionally incurred a total interest charge of £9.10m. Of the £67.5m spend the Council had loaned Brick by Brick £61.0m and the balance of £6.5m had been funded from the Local Enterprise Partnership "Coast 2 Capital" grant funding. In addition, the £0.3m of further works were expensed on the adjacent car park and public realm sites, which were all funded from using Council loans.

- 2.8 The Council's accounting follows the accounting principle under International Financial Reporting Standards that require accountants to ensure transactions are accounted for based on the substance of the transaction rather than their legal form. Substance over form means that when accounting for financial transactions, the measurement and reporting is of the actual impact of the event and not its legal description.
- 2.9 In other words, if your actions are different to what is required by definition in law, to make something lawful, the substance (your actual actions and deeds) of what you have done takes precedence in determining the lawfulness of the actions and not what you have defined them or described them to be.
- 2.10 The Council accounted for the transactions in the manner they were designed to occur. This meant that the Council's loan to Brick by Brick Croydon Limited was accounted for as such and the Council accrued the interest on that loan at a rate of 6.25%.
- 2.11 The Fairfield Halls building as well as the land it sits on were also accounted for within the Council's balance sheet as no transfer had taken place and the Council continued to own the asset.

- 2.12 The review by the external auditor identified that the works done by Brick by Brick Croydon Limited were on a Council asset and therefore should have been classified as capital expenditure from the Council's perspective. As mentioned within 2.8, it is important that transactions are accounted for based on substance of the transaction rather than legal form. The Council and Brick by Brick, whilst not formally documented via a legal agreement, had always intended to transact in a way where the Council would lend monies to the company to develop the Halls and the College Green site. The Council and Brick by Brick both accounted for the monies loaned, in line with the June 2016 Cabinet report.

As indicated within 2.7 and 2.8 the total spend position has changed since figures previously reported to Cabinet in February 2021. As a result of this change the Council will need to work with Grant Thornton to ensure all accounting entries are correctly implemented. The Council had initially calculated an interest write off of £9.15m based on a total spend of £69.16m, however revision to the numbers will result in a positive interest adjustment by £0.050m, therefore reducing the amount initially written off. Overall, the change in figures is not expected to impact the Council's financial position adversely.

- 2.13 The Council has agreed with the external auditor's assessment and subsequently made corrections to its 2019/20 and 202/21 accounts. The loan was corrected from the Council's balance sheet and the Council accounted for the costs incurred by Brick by Brick as capital expenditure which was capitalised to the asset. The accrued loan interest charge of £9.15m was written off to the Income & Expenditure statement as a prudent measure. Whilst the accounting entries and corrections have been agreed with Grant Thornton in principle, further review and tests are ongoing to ensure all key accounting requirements are fulfilled.
- 2.14 The approach to correcting the Council's accounts and the accounting treatment had been discussed and agreed with the external auditor prior to being implemented by the Council in the budget report of March 2021.
- 2.15 It needs to be explicitly understood that the financial issues identified in this Report in the Public Interest 2021 report have been already fully taken into account in the Council's MTFs as agreed by Council in March 2021. This report does not create any significant additional financial matters that need to be dealt with.

#### The Future of Brick by Brick Croydon Limited

- 2.16 At its meeting on 21 September 2020, Cabinet resolved to commission an independent review of all companies and entities that it owned to fully document their relationship with the Council, to ensure that they were fit for purpose and to ensure that the risk profile they presented for the Council was fully understood. The report and minute can be viewed here: <https://democracy.croydon.gov.uk/mgAi.aspx?ID=9341>.

2.17 The findings of that independent review were reported to Cabinet on 25 November 2020 and predominantly focused on Brick by Brick due to the high value of loans that the Council had made to the company and the higher public profile of that investment. The full report and minute can be viewed here: <https://democracy.croydon.gov.uk/mgAi.aspx?ID=10047>.

2.18 As an immediate consequence of that review, the Council:

- i) Removed the existing Directors of Brick by Brick and appointed two new Non-Executive Directors with strong financial backgrounds (Council should note the appointment of 2 additional further Directors to ensure that the Board has strong industry experience to supplement the strong financial experience of the current directors);
- ii) Passed a resolution to formally allow the Council to have sight of all minutes of Company Directors' meetings and records of all decisions made by the Company Directors.
- iii) Passed a resolution to formally allow the Council to inspect all Company accounting or other records or documents at any time.
- iv) Commissioned a further review to assess the different options identified in the independent review regarding the Council's interests in Brick by Brick.

2.19 Cabinet has considered a number of papers on the future of Brick by Brick during 2021.

At its meeting on 18 February 2021, Cabinet agreed to pursue an option that included Brick by Brick building out a number of sites in its portfolio, the sale of a number of other sites and keeping the option of a sale of the business under consideration.

On 17 May 2021, Cabinet received a further report that included details of a single bidder to purchase Brick by Brick and that a best and final offer had been received.

At its meeting on 12 July 2021, Cabinet resolved to reject the offer to purchase Brick by Brick, and instead to build out 23 sites and for six remaining sites to be returned to the Council and marketed for sale. This was because it considered that this provided the best means for the Council and local taxpayers to maximise the return on previous expenditure on Brick by Brick.

2.20 Having resolved to pursue this partial build out option, it is estimated that those sites being built out will be completed in the 2023/24 financial year and Cabinet will be presented with a report at that time to determine the next steps for Brick by Brick following the conclusion of the partial build out.

### Governance Arrangements for Brick by Brick Croydon Limited

- 2.21 As the Report in the Public Interest makes clear, the Council has had a number of governance bodies for its growth activity and major projects, including Brick by Brick. Learning from these models, a new approach to governance is being introduced with clarity on Member and officer roles clearly established.
- 2.22 In January 2021, the Council established a Brick by Brick Shareholder and Investment Board which was designed to oversee performance and delivery matters within Brick by Brick. The Board monitored and reviewed the delivery of the revised business plan for Brick by Brick and replaced the previous "Shareholder Investment Board". That previous Board was comprised of a combination of Members and Officers.
- 2.23 Cabinet considered a further paper at its meeting in November 2021 that set out the future governance arrangements for Brick by Brick. This report established the Brick by Brick Shareholder Cabinet Advisory Board which replaced the Shareholder & Investment Board. The new Board is comprised exclusively of Cabinet Members with officers participating in an advisory capacity only.
- 2.24 Full details of the new Board can be found in the Cabinet paper here: <https://democracy.croydon.gov.uk/documents/s33733/06%20Report%20-%20BBB%20Governance.pdf>.

### Governance Arrangements for Other Council Owned Companies

- 2.25 In addition to strengthening the governance arrangements for the Council's ownership of Brick by Brick, Cabinet also agreed new arrangements for all other Council owned companies at its meeting on 26 July 2021 where it was agreed to establish the Croydon Companies' Supervision and Monitoring Panel. This is an officer only panel that will formally report and, if appropriate, make recommendations to Cabinet on a biannual basis and brief relevant Cabinet Members frequently between formal reporting to Cabinet.
- 2.26 Full details of this Panel can be found at <https://democracy.croydon.gov.uk/documents/s31451/Governance%20of%20Companies.pdf>.
- 2.27 Both the Croydon Companies Supervision and Monitoring Panel and the Brick by Brick Shareholder Cabinet Advisory Board are operating to a set of principles of good governance, which are detailed in Section B of the appendix to the Cabinet report and can be seen here <https://democracy.croydon.gov.uk/documents/s31453/Appendix%202%20-%20Terms%20of%20reference.pdf>.

### Other Actions to Strengthen the Council's internal governance

- 2.28 In addition to the specific measures mentioned above, the Council has undertaken a range of further activities to improve areas of governance that have been covered in this and the previous Report in the Public Interest.
- 2.29 This includes clarifying member roles and responsibilities through the production of a range of member role profiles which were noted by Ethics Committee at its meeting on 30 September 2021, copies of which can be seen here  
<https://democracy.croydon.gov.uk/documents/s32629/MD%20Panel%20Member%20development%20update%20121021.pdf>.
- All corporate director and director role profiles have also been rewritten as part of the reorganisation of the council, incorporating the Nolan principles, and agreed by Full Council in July 2021. Together, this has helped to clarify the respective roles and responsibilities of members and chief officers.
- 2.30 This has been reinforced through the adoption of the new model code of conduct for members by Council at its meeting in October 2021. A new code of conduct for all officers has now been adopted and rolled out to all staff. These new governance arrangements will be supplemented by the production of a new Member and Officer working protocol which is due to be presented to Council in March 2022.
- 2.31 In July 2021, full Council agreed the Organisation Redesign report which introduced the new approach to internal control in terms of officer and member boards and activity. The actions outlined ranged from agreeing a new vocabulary, a set of new job descriptions and accountabilities as mentioned above and a set of new internal control officer boards and a reporting framework into Cabinet.
- 2.32 Officers already operate within a system of briefing Cabinet members and opposition leads and working with Scrutiny. However, the internal control system requires a more co-ordinated and coherent range of management activity across the Council that will then report into the relevant Cabinet and opposition lead Member briefing meetings, Cabinet Advisory Boards and Scrutiny Chairs.
- 2.33 As the July 2021 Council report mentions, the Council did have a set of internal controls and bodies that had fallen into abeyance and many documents are still available on the council's intranet for managers and staff.
- 2.34 There is a great deal in those resources online that is of value and is still of relevance today. For example, there is a corporate code of governance that incorporates the CIPFA "Delivering good governance" code and each directorate used to have their own scheme of management and internal controls and delegations defined and published.
- 2.35 A system of internal control inside a local authority consists of a range of processes and activities that must be complied with by managers and staff to

ensure effective governance and that stewardship of public money can be assured. But it is not solely about the correct implementation of policies, processes and forms. For it to be truly effective it needs to be part of the day to day management behaviours and dialogue of the Council.

2.36 Another very important element of an internal control system is the need for it to be effectively organised so it can form part of the business of the Council in a smooth and efficient way. It also needs to involve managers and senior managers across the Council in order for it to be a truly lived culture.

2.37 As part of the proposed changes to the senior management structure, it was proposed to introduce a new series of internal control officer boards. These have been established or are in the process of being established, and will be captured in the updated Code of Governance and other associated codes, regulations and references in the Council’s constitution.

2.38 The proposed new officer boards will be:

Equality, Diversity & Inclusion	Information Management & Transparency
Finance, Risk and Assurance	Performance, Transformation & Productivity
Health & Safety	Resident Voices
Capital Board	Digital Board

2.39 Each officer board has / will have its own terms of reference (following a corporate template), membership from each directorate management team and other officers and will also be allocated corporate strategies to own on behalf of the Council. The minutes of these meetings will be shared with the corporate management team and the 6 departmental management teams. Participation in these boards will also be open to staff across the council as part of a development opportunity.

2.40 The first of these new officer boards outlined in the July Council Report which are in operation are the Equality, Diversity and Inclusion Board and the refreshed Health and Safety Committee. The next two to be launched will be the Finance, Risk and Assurance Board and the Performance, Transformation and Productivity Board.

2.41 A new Capital Board has also been set up and is in operation.

2.42 As mentioned earlier in this report, in January 2021, the Council established a Brick by Brick Shareholder and Investment Board which was designed to oversee performance and delivery matters within Brick by Brick. This new Board is comprised exclusively of Members with officers participating in an advisory capacity only.

2.43 Cabinet also agreed new arrangements for all other Council owned companies at its meeting on 26 July 2021 and established the officer Croydon

Companies' Supervision and Monitoring Panel which reports into Cabinet via the normal Cabinet member briefing process.

- 2.44 All of these new bodies will be brought together in a new internal control system and mapped visually to aid understanding for members, managers and staff.

#### Improving the Council's Procurement Systems and Processes

- 2.45 Members may be aware that the Council has been implementing a procurement transformation plan since the summer of 2021. This plan has been developed by and is being implemented with support from an LGA Procurement Improvement Advisor.
- 2.46 In addition to actions to deliver contract savings, the plan also contains a range of actions to improve other aspects of procurement, including governance and strategy; people and skills; and systems and processes.
- 2.47 Initial improvement actions have included a reshaping of the commissioning and procurement function, with commissioning roles now embedded within service departments and a new Strategic Procurement and Governance team established.
- 2.48 Proposed revisions to the Council's Tender & Contract Regulations have been drafted and it is anticipated that initial revisions will be presented to Members for consideration in March 2022 with further revisions to be considered in the next municipal year. These proposals are designed to ensure that Member engagement in commissioning and procurement is routinely more strategic, meaningful, and much earlier in the cycle to ensure that Members have greater ability to influence the outcomes.
- 2.49 A new remit for the officer 'Strategic Commissioning and Contracts Board' has been implemented to provide senior management involvement in contracting and the drive for improvements across the function.
- 2.50 A review of all the Council's Procurement processes, documents and policies will commence shortly and the outcome will inform a new procurement strategy for the Council.

#### Holding those responsible to account

- 2.46 Given the nature of the failures described in this Report in the Public Interest, it is natural that Members, officers and residents will seek reassurance that measures have been taken to hold those persons responsible for the issues raised in the report to account.
- 2.47 As Members will be aware, the Council has to balance the giving of that assurance against its duty to comply with the formal processes in relation to



any action against members or officers, including where those individuals have contractual or other rights for action being taken against them to be considered privately.

- 2.48 This situation is heightened by the fact that this report must be considered entirely in public and therefore cannot be supplemented by an accompanying confidential section.
- 2.49 However, the Council can confirm that following the publication of the previous Report in the Public Interest in October 2020, the two subsequent section 114 reports and other reports, formal council processes were initiated in order to establish any personal accountability of lead members and officers.
- 2.50 These formal processes were initiated to enable a full, fair and proper accountability process to be undertaken in line with the council's constitution and the terms and conditions of officers' employment.
- 2.51 These processes were overseen by the Ethics Committee, the Appointments Committee and the Investigating and Disciplinary Sub-Committee. There is one element of this process still underway. All others were halted due to the decision of the individual to exit their relationship with the council.
- 2.52 Council may wish to note that since January 2021, where officers exited their relationship with the council following the initiation of these formal processes, there have been no additional or supernumerary payments to any individual.

### **3. STATUTORY RESPONSE TO THE REPORT IN THE PUBLIC INTEREST**

- 3.1 Reports in the Public Interest are issued under the provisions of the Local Audit and Accountability Act 2014. The Act sets out a number of statutory requirements that a Local Authority must comply with following the publication of the Report.
- 3.2 The Council is required under the Act to consider the recommendations of the Report and decide what action to take in response in public at a dedicated Council meeting held within one month from publication. It is also essential that all decisions made by the Council with regard to its governance and other improvements are taken in full cognisance of the report's findings and recommendations.

#### Publicising the Report

- 3.3 Following receipt of the Report, the Council is required to ensure that it is brought to the attention of public, elected members, its partner organisations and stakeholders.
- 3.4 At 2.00pm on 26 January 2022, a dedicated page was published on the Council's website that included the full Report, the formal public notice, further

information about the Report and details on how to inspect a copy of the report at the Council's offices. The webpage can be found here - <https://www.croydon.gov.uk/publicinterestfairfield>. The report is also being publicised on the homepage of the Council's website, which provides a direct link to the detailed dedicated webpage. The Council will also include details of the report in the Your Croydon e-bulletin, which will be delivered to over 80,000 registered email addresses, on Friday 28 January 2022.

- 3.5 An update will be provided to Members at the Extraordinary Council Meeting on:
- How many persons have visited the webpage
  - How many times the report has been downloaded from the Council web site
  - Coverage of the report in the media
- 3.6 A formal public notice will also be published in the Croydon Guardian on 3 February 2022, which is the first available edition of the paper in which the notice could be included.
- 3.7 The Council has also proactively contacted partner organisations to share the report such as the Local Enterprise Partnership and the Council's regulators, such as Ofsted, the Regulator of Social Housing and the Improvement and Assurance Panel.
- 3.8 On 26 January 2022, full copies of the report were also sent to all elected Members, the Borough's three Members of Parliament and the GLA Assembly Member for Croydon and Sutton.
- 3.9 The report was also sent to all members of the Council's General Purposes and Audit Committee, including independent Members.
- 3.10 All Council staff were contacted via email with a link to the report and extensive staff briefings have been given.
- 3.11 The report has also been shared with all of the Council's subsidiary companies and Local Strategic Partnership.
- 3.12 The external auditor has issued the Secretary of State for Levelling Up, Housing and Communities and the members of the Improvement and Assurance Panel with a copy of the report.

#### Responding to the Report

- 3.13 Within a period of one month beginning with the day upon which the Council received the report, the Council is required to hold an Extraordinary Council Meeting (this meeting) to consider the report.

- 3.14 In considering this report, Members of the Council are asked to vote on the recommendations, response and action plan or amend these as they see fit.
- 3.15 The notice described in paragraphs 3.4 and 3.6 above includes all relevant details of this meeting to comply with the Local Audit and Accountability Act 2014 requirements. In addition, the agenda and supporting papers for this meeting have been published to comply with the Local Government Act 1972 requirements.
- 3.16 Following the Extraordinary Council Meeting, the Council is required to publish a public notice, approved by the external auditor, that summarises the outcome of the meeting. That notice will be published in both the local press and on the Council's dedicated webpage following this meeting.

### Other Considerations

- 3.17 In considering the Report and the proposed action plan, Members may also wish to reflect upon their personal responsibilities and the Council's constitutional and legal responsibilities, under two further areas. These are the Seven Principles of Public Life, better known as the Nolan Principles, and the Council's "best value" duty under the Local Government Act 1999 – details of which can be read here <https://www.gov.uk/government/publications/revised-best-value-statutory-guidance>.
- 3.18 Croydon has fully adopted the Nolan Principles as part of its constitution. They establish the ethical standards and framework for conduct for all those working and governing in the public sector. These standards are mandatory and lay the foundations to the Council's constitution.
- 3.19 The Nolan Principles are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Croydon has expanded the honesty principle to also include truthfulness. These principles apply equally to elected Members as well as to officers.

The principles have been included in full in all the job description for the new Corporate Directors, Directors and Heads of Service following the council restructure. They frame the code of conduct that guides behaviour and governance practice in the Council's constitution for both Members and officers. They form the backbone of the new Member Code of Conduct agreed by Council at its meeting on 11 October 2021 which can be read in full here -

<https://democracy.croydon.gov.uk/documents/s33161/30%20Part%2051%20-%20Members%20Code%20of%20Conduct%20as%20amended%20Jan%202020%2015.10.21.pdf>.

- 3.20 The Local Government Act 1999 introduced the duty of "best value" for all local authorities. This duty requires Councils to "make arrangements to secure

continuous improvement in the way in which its functions are exercised having a regard to a combination of economy, efficiency and effectiveness”.

- 3.21 In fulfilling that duty, the Council needs to be a learning organisation that focuses on improvement and development; a Council that is open to challenge and which is fully accountable to the people of Croydon.
- 3.22 To that end, both of these duties and the lessons learned from the Report in the Public Interest will form part of the learning and induction programme for all councillors elected and re-elected at the forthcoming local elections in May 2022 and the corporate change programme for all officers.
- 3.23 The Council will also continue its focus on learning and seeking support, advice, guidance and challenge from partners across the sector to ensure that the improvements it delivers reflect best practice nationally.

#### **4. REPORT OF THE CHIEF FINANCE OFFICER**

- 4.1 Members of Croydon Council must consider this report from the Corporate Director of Resources, Section 151 Officer, (the Chief Financial Officer – CFO) under the Local Government Finance Act 1988.
- 4.2 The Local Government Finance Act 1988, places certain responsibilities on the CFO.
- 4.3 Section 114 (2a) requires that the chief finance officer (S151 officer) to “make a report under this section if it appears to him that the authority, a committee of the authority, a person holding any office or employment under the authority... :
  - (a) has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful,
  - (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority, or
  - (c) is about to enter an item of account the entry of which is unlawful”.
- 4.4 Section 114 (2a) requires consultation with the Head of Paid Service and the Monitoring Officer (MO) which has been undertaken.
- 4.5 Section 114 (2a) also obliges the S151 officer to send a copy of the report to the council’s auditors and to every member of the authority.
- 4.6 The Monitoring Officer has received legal advice and has confirmed that containing the Section 114 (2a) report within this report meets that reporting requirement.

- 4.7 This report is in respect of S114 (2a) subsection (a) above as the RIPI report refers to a public procurement process that should have been carried out and entry into licence without a procurement process did not reflect the underlying reality and in their view is likely to have been found in breach of public procurement law had it been challenged in court.
- 4.8 It is important to note that this report is not in respect of the matters covered by the Report being under Section 114 (3), i.e. it is not in relation to the council being unable to meet its expenditure commitments.
- 4.9 The actions to be taken in response to this Section 114 (2a) report are those contained in this report (and the action Plan), and are considered by the Section 151 officer to be those that are necessary as a consequence.

## **5. REPORT OF THE MONITORING OFFICER**

- 5.1 Section 5 of the Local Government and Housing Act 1989 provides that it is the responsibility of the Monitoring Officer to report formally to the Council on any proposal, decision or omission by the Council which has given rise to, or is likely to, or would, give rise to, the contravention of any enactment, rule of law or statutory code of practice.
- 5.2 In doing so the Monitoring Officer must consult with the Chief Executive, as Head of the Paid Service and the Section 151 Officer and must also advise all Members of the Council.
- 5.3 The report of the external auditor has referred to the fact that the Council failed to comply with its statutory duty to achieve best value and carried out other unlawful actions. On the basis that I concur with those findings, I am required under Section 5(2) of the Local Government and Housing Act 1989 to ensure by way of report that the Council is aware of this fact and what actions are or have been implemented since this fact has come to light. As Monitoring Officer I have received legal advice to confirm that containing the Section 5 report within this report meets that reporting requirement.
- 5.4 The report of the external auditor explains why she feels there has been a breach of the law and this report, now before Council, details the action taken and what is planned to be taken in response to the findings, which complies with the duty placed on me, as Monitoring Officer, under the above mentioned legislation.
- 5.5 The purpose of this Section 5 report is to inform Council of the following matters of likely unlawfulness:
- i) The failure to properly follow procurement law as described on page 3 of the Report in the Public Interest;

- ii) The failure to properly document lending to Brick by Brick, or structure arrangements in compliance with the lending powers relied on as described on page 3;
  - iii) The failure to be able to demonstrate that the Section 123 duty of best consideration of the Local Government Act 1972 had been met on the land disposal to Brick by Brick as described in section on page 20; and
  - iv) The general failings of corporate governance of a serious nature that indicate unlawfulness in public law terms as described on page 30.
- 5.6 The actions to be taken in response to this Section 5 report are those contained in this report (and the Action Plan), and are considered by me (as Monitoring Officer) to be those that are necessary as a consequence.

## **6. ACTION PLAN IN RESPONSE TO THE RECOMMENDATIONS**

- 6.1 The recommendations in the Report will be responded to by way of a detailed Action Plan as outlined in Appendix 2 to this report. Members are asked to consider and agree the Action Plan which includes a response to each of the external auditor's recommendations, the Chief Finance Officer's recommendations and the Monitoring Officer's recommendations together with indicative timelines for actions and accountabilities.
- 6.2 The Action Plan has been developed with support from colleagues drawn from across the Council, ensuring that it has benefitted from a blend of knowledge and expertise.
- 6.3 Overall accountability for the delivery of the Action Plan will jointly rest with the Leader of the Council, Councillor Hamida Ali and the Chief Executive, Katherine Kerswell.
- 6.4 Accountability for individual actions in the Action Plan are clearly identified by chief officer.
- 6.5 Following this Extraordinary Council Meeting, the Action Plan will be submitted to both the Scrutiny and Overview Committee on 15 February 2022 and the General Purposes and Audit Committee on 3 March 2022 to consider and review it from their different constitutional positions.
- 6.6 Those Committees will submit their feedback in the form of a report to Cabinet at a subsequent meeting. The report to Cabinet will also provide further detail on the recommendations, timelines and accountabilities, the delivery mechanism to support the improvement work and if possible the costs associated with implementing the recommendations and the production of the report.
- 6.7 That meeting of Cabinet will also be asked to agree that the Action Plan be incorporated into the Council's overarching Croydon Renewal and

Improvement Plan. This will ensure that delivery of the action plan is overseen by the Council's project management office and that progress is routinely reported to Cabinet, Scrutiny and Overview Committee, General Purposes and Audit Committee and Council.

## **7. WHAT HAPPENS NEXT AT FAIRFIELD HALLS REFURBISHMENT PROJECT**

- 7.1 At its meeting on 26 July 2021, Cabinet agreed to novate the Fairfield Halls refurbishment contracts and associated contracts from Brick by Brick to the Council.

### Completing the refurbishment works

- 7.2 Not all contracts have yet been novated to the Council as specific warranties for work have not yet been put in place, however the Council has begun work to ensure that the refurbishment works are completed to a good standard and that best value for money can be achieved.
- 7.3 This has included non-intrusive survey works and an external quantity surveyor is due to be appointed to identify any aspects of the refurbishment contract that have not been adequately undertaken. This will take place in tandem with the normal snagging and defects process that is being undertaken while the primary contractor completes its works.
- 7.4 In addition to identifying any works not satisfactorily completed by the contractors, the quantity surveyor will also be tasked with identifying any other works that are required but were not included in the refurbishment contracts.
- 7.5 It is anticipated that the Council will have a full understanding of all works required to be undertaken by March 2022 following closure of the final Vinci contract. This work is being supplemented by the development of a cyclical planned maintenance programme for the Halls.
- 7.6 Once the Council has a full understanding of the remaining works required, a paper will be presented to Cabinet detailing options and recommendations for the completion of the refurbishment works.

### Achieving Best Value for Money

- 7.7 The Council has undertaken an initial analysis of the expenditure by Brick by Brick on the refurbishment work. While it is important to stress that this analysis has not identified any suggestion of fraudulent activity, it has identified an issue that is being more thoroughly reviewed.
- 7.8 The issue relates to charges of £600k made by Brick by Brick to the Council in relation to project management fees and charges. This has been highlighted

due to the significant issues regarding the project management of the works raised in the auditor's report and that these fees are approximately double the normal market level of fees.

- 7.9 The Chief Executive has written to the Directors of Brick by Brick seeking an explanation and to understand further this expenditure.
- 7.10 The Council is continuing to review all of the refurbishment contracts that have been novated to it in order to identify any other areas where expenditure, costs or value for money need to be challenged.

## **8. CONSULTATION**

- 8.1 In addition to the publicity and communications detailed in earlier paragraphs above, a briefing was held for all Members of the Council on the Report in the Public Interest on Wednesday 26 January 2022. This briefing was immediately followed by question and answer sessions with Members within their political groups.
- 8.2 Statutory consultation has been undertaken by both the Chief Finance Officer and the Monitoring Officer in relation to sections 4 and 5 above.

## **9. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

- 9.1 The Report in Public Interest highlights some key internal control breakdowns suffered by the Council and clearly details the financial and non-financial consequences as a result. Delivering the action plan as a result of the recommendations in this report will help to ensure that the Council operates to best practice standards with regard to its financial and decision making governance.
- 9.2 There will be costs associated with the implementation of the recommendations detailed within the report. These costs are currently unknown and should the implementation result in an increase in costs that cannot be contained within the budgets available, these will be updated to Cabinet via the monthly Financial Performance Reports and subsequent approvals sought before such costs are incurred.
- 9.3 Section 2 of this report provides for further financial adjustments the Council has made with consultation with the external auditors. The 2019/20 Statement of Accounts have yet to be finalised and therefore no final report on the 2019/20 Accounts has been issued by the Council or the external auditors. The Council's Finance team will continue to work with the Auditors to ensure the financial impacts of this RIPI are robustly factored into the 2019/20 accounts.

Approved by: Richard Ennis, Interim Corporate Director of Resources (S151 Officer)



## **10. LEGAL CONSIDERATIONS**

10.1 This report to Council sets out the statutory background to the auditors report and the obligations falling on the Council as a consequence. In particular, the Council is reminded that it has a duty to consider and respond to the report as detailed in section 3 of this report. In addition, the Council is to consider both the Section 114 report of the Section 151 officer and the Section 5 report of the Monitoring Officer and decided whether they agree with the opinions expressed in those reports. The following paragraphs provide further detail.

10.1 The Report in the Public Interest (“the report”) is issued under the provisions of the Local Audit and Accountability Act 2014 (“the Act”). The Council must comply with the requirements of the Act in responding to the report.

10.2 In particular Schedule 7 paragraph 4 on the Act provides that as soon as reasonable practicable after receiving the report the Council must:

- publish the report and a notice identifying the subject matter of the report on the Council’s website;
- permit the public to inspect the report at all reasonable times without payment, make a copy of it, or any part of it, and be supplied with a copy of it, or any part of it, on payment of a reasonable sum;
- supply a copy of the report to each of its Members and its auditor panel (if it has one).

10.3 Paragraph 5 of Schedule 7 further requires the Council to consider the report or recommendation(s) at a meeting held before the end of the period of one month beginning with the day on which it was sent to the Council. At that meeting the Council must decide:

- whether the report requires the Council to take any action; or
- whether the recommendation(s) is/are to be accepted; and
- what if any action to take in response to the report or recommendation(s).

The recommendations and proposed actions by the Council are set out in the body of this report and accompanying Action Plan.

10.4 Paragraph 9 of Schedule 7 goes on to provide that information contained in the Report is not to be treated as exempt information under the Local Government Act 1972.

10.5 After considering the Report and its response to it, the Council must notify the external auditor of its decisions, and publish a notice containing a summary of those decisions which has been approved by the external auditor.

10.6 The powers set out in the Act are without prejudice to the duties and responsibilities contained in sections 114 – 116 of the Local Government

Finance Act 1988 and section 5 of the Local Government and Housing Act 1989 as regards reports which may be issued by the Council's Chief Finance Officer (CFO) or its Monitoring Officer (MO).

- 10.7 Section 114(2) of the Local Government Finance 1988 (LGFA) requires the Council's CFO to issue a report if it appears to him that the Council (a) has made or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful; (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority or (c) is about to enter an item of account the entry of which is unlawful.
- 10.8 The external auditor identifies in the report expenditure which is considered to be 'unlawful' as a result of a failure to comply with procurement law (the Public Contracts Regulations 2015) and a failure to properly document the lending to Brick by Brick or structure arrangements in compliance with the lending powers relied upon by the Council. This triggers a duty upon the CFO to issue a report under section 114(2) on the basis that the CO concurs. His report is set out in paragraph 4. There are also responsibilities upon the CFO to consult with the Head of Paid Service and the Monitoring Officer. Copies of his report shall also be sent to the Council's auditors and all Members. These obligations have been discharged. The Council is then required to consider the report and decide whether it agrees or disagrees with the views contained in the CFO's report and what action (if any) it proposes to take in consequence of it. The LGFA also imposes a prohibition period during which the unlawful conduct which led to the report being made by the CFO shall not be pursued. The prohibition period runs from the date copies of the CFO's report are sent to Members ending on the first business day to fall after the day the Council considers the report. In the context of the External Auditors report and its subject matter, no such prohibition is applicable (i.e. the subject matter involves historic activity).
- 10.9 Similarly section 5 of the Local Government and Housing Act 1989 places a duty upon the Council's MO to issue a report if at any time it appears to him that any proposal decision or omission by the Council has given rise to or is likely to or would give rise to (a) a contravention by the Council of any enactment or rule of law. The 'unlawfulness' set out in the report by the external auditor in relation to the breach of procurement law and the failure to properly document the lending to Brick by Brick or structure arrangements in compliance with the lending powers relied upon by the Council triggers a similar requirement upon the MO to issue a report under section 5. His report is embedded in this covering report in paragraph 5. The issue of such a report by the Monitoring Officer, as with a report by the CFO, places a duty on the Council to consider the MO's report at a meeting of the Council not more than twenty-one days after copies of the MO's report are first sent to Members. Similarly the MO is required to consult with the Head of Paid Service and also the CFO and likewise arrange for a copy to be sent to each Member of the Council. These obligations have been discharged.

- 10.11 The powers set out above are without prejudice to the duties and responsibilities set out in Part I of the Local Government Act 1999 regarding Secretary of State intervention in a local authority.
- 10.12 The recommendations seek to comply with statutory requirements following the issue of a report in the public interest by the Council's external auditors and reports both by the CFO and also the Council's Monitoring Officer. The actions recommended also seek to improve the governance of the Council in line with the Council's Constitution and promote the Council's statutory duty of best value and continuous improvement.

Doutimi Aseh, Interim Director of Legal Services & Interim Deputy Monitoring Officer

## **11. HUMAN RESOURCES IMPACT**

- 11.1 The improvement plan is part of a range of measures relating to improving the Council's financial position and it is possible that this will ultimately impact on the Council's workforce, when the Council's agreed Human Resources policies and procedures will be followed.
- 11.2 The council's officer code of conduct has been reviewed, and strengthened to seek to ensure improved governance and conduct across the Council, implemented in January 2022. The revised code of conduct has been consulted upon and agreed with the trade unions. The revised code of conduct includes the Nolan Principles set out in paragraph 3.19 of this report.
- 11.3 The failure to adhere to the Council's code of conduct for officers and financial regulations is evident from the external auditor's report. The additional work underway in the Council to strengthen compliance with these has been referenced in the report and forms part of the whole council change programme, which has been initiated.

Dean Shoesmith, Interim Chief People Officer

## **12. EQUALITIES IMPACT**

- 12.1 The matters raised within the report in the public interest have not highlighted any equality implications, or any suggestion that the actions of the Council have impacted on any group that share protected characteristics under the Equality Act 2010.
- 12.2 The actions proposed in response to the report in the public interest are intended to strengthen the council's governance and culture. A key element of this new culture is equality and inclusion, and creating a culture where staff can speak out and raise issues. This is incorporated in to the new internal control structures.

12.3 Approved by: Gavin Handford Director of Policy, Programmes & Performance

### **13. DATA PROTECTION IMPLICATIONS**

13.1 The Head of Democratic Services and Scrutiny comments that the recommendations of this report do not involve the processing of personal data and as such, there are no data protection implications arising from this report.

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**CONTACT OFFICER:** Stephen Rowan, Head of Democratic Services and Scrutiny

#### **APPENDICES TO THIS REPORT**

Appendix 1 - Report in the Public Interest

Appendix 2 - Action Plan

**BACKGROUND DOCUMENTS:** There are no previously unpublished documents on which this report is based.

#### **OTHER SUPPORTING DOCUMENTS REFERENCED IN THIS REPORT:**

2 November 2021 letter to the Improvement and Assurance Panel from the Minister of State for Equalities and Levelling Up Communities, Kemi Badenoch MP - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1030160/Ministerial response to Croydon third report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1030160/Ministerial_response_to_Croydon_third_report.pdf).

Cabinet 6 December 2021: Independent Non-statutory Review: Follow Up Report - <https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=183&MId=2512&Ver=4>.

Council 13 December 2021: Report in the Public Interest – Quarter 2 Update - <https://democracy.croydon.gov.uk/mgAi.aspx?ID=13763#mgDocuments>.

Cabinet 21 September 2020: Croydon Renewal Plan and amendments to the 2020/21 General Fund Budget - <https://democracy.croydon.gov.uk/mgAi.aspx?ID=9341>.

Cabinet 25 November 2020: Strategic Review of Companies and other investment arrangements – <https://democracy.croydon.gov.uk/mgAi.aspx?ID=10047>.

Cabinet 18 February 2021: Review of Croydon Brick by Brick Ltd - <https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=183&MId=2485>.

Cabinet 17 May 2021: Ongoing Review of Brick by Brick Croydon Ltd and associated matters relating to the company - <https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=183&MId=2174>

Cabinet 12 July 2021: Ongoing Review of Brick by Brick Croydon Ltd and the future of the company -

<https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=183&MIId=2508>.

Cabinet 15 November 2021: Governance of Brick By Brick Croydon Ltd. -

<https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=183&MIId=2511>.

Cabinet 26 July 2021: Governance of Croydon Council Companies -

<https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=183&MIId=2751>.

Council 11 October 2021: Member Code of Conduct -

<https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=134&MIId=2535>.

Ethics Committee 30 September 2021: Members Development Plan Update -

<https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=171&MIId=2818&Ver=4>

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## London Borough of Croydon

Report in the Public Interest concerning the refurbishment of Fairfield Halls and related governance arrangements

# London Borough of Croydon

## Report in the Public Interest concerning the Council's refurbishment of the Fairfield Halls and related governance arrangements

### Executive Summary

#### Background

Grant Thornton are the external auditors to the London Borough of Croydon (the Council). We are issuing this Report in the Public Interest under section 24 and Schedule 7 of the Local Audit and Accountability Act 2014.

The Council owns Fairfield Halls, an arts, entertainment and conference centre in Croydon which originally opened in 1962. By 2010, the Council had identified a need to update and develop Fairfield Halls and place it on a more sustainable footing. By 2014 the Fairfield Halls became part of the development of a new Cultural Quarter. By 2016 the need to refurbish Fairfield Halls had become urgent and the venue closed in July 2016 for refurbishment, with a planned re-opening date of June 2018 and an initial Cabinet approved investment of £30 million for the refurbishment project (the project).

The project was delivered in September 2019 (over a year late) with a final cost of £67.5 million incurred up to that date (more than double the initial budget).

Our review leading to this report arose after we issued a report in the public interest on 23 October 2020 concerning the Council's financial position and related governance arrangements. The Council has reported considerable improvements since then and is continuing to respond to the matters in that report (as detailed below) and other areas of concern the Council has itself identified. One such matter related to the historical decision making and governance relating to the refurbishment of Fairfield Halls. The Council raised their concerns with us (Grant Thornton UK LLP), as the Council's external auditor, in late December 2020. We considered the concerns raised to represent a significant risk to the value for money conclusion and commenced an initial review in January 2021. Our initial findings required further investigation, the results of which are set out here.

Following the closure of Fairfield Halls during the pandemic in 2020, the Council sought to reopen Fairfield Halls [Although the refurbishment was awarded the RIBA London Award 2021, and the Highly Commended Civic Trust Award 2021] issues relating to the building were reported to the Council. Initial surveys commissioned by the Council indicate the need for additional expenditure to rectify the reported issues. The Council considers that the additional works should have been addressed during the refurbishment and this is disputed by Brick by Brick. The Council raised concerns on the historic governance of the project and, in discussion with current officers, we identified a significant risk to the value for money conclusion.

Our initial work in 2021 identified areas for further investigation, the results of which are set out here.

This report covers the Council's decision making and governance processes in the period from June 2016 - when the decision was made to bring forward a wider regeneration scheme - up to the reopening in September 2019, and references to the Council or to individuals in particular roles during that period should be read accordingly.

#### Legal arrangements

##### *Engaging Brick by Brick to refurbish Fairfield Halls*

In June 2016, the Cabinet approved a proposal to use Brick by Brick (Croydon) Limited (Brick by Brick), its wholly owned housing development company, to bring forward elements of the College Green scheme, which encompassed a house building scheme, public realm improvements and the regeneration of Fairfield Halls. The proposal involved the transfer of land interests (not including Fairfield Halls) to Brick by Brick in order for Brick by Brick to develop residential property on them and to carry out a refurbishment of Fairfield Halls "under licence", with the financing of the works to Fairfield Halls being an estimated £30 million. It was decided that Brick by Brick would be loaned money to fund part of the refurbishment by the Council, which Brick by Brick would need to repay but would be compensated for through the profits made from the sale of 2,000 houses (built by Brick by Brick) on the College Green land transferred.



It is not uncommon to use a land transfer option for development of public land for residential housing: this route allows a public body to transfer land to a developer on terms which permit, but do not require, the developer to develop the land, with the public body instead being able to achieve its objectives by retaining a right to re-acquire the land should the development not occur. Such an arrangement may not, depending on how it is executed, engage rules around public procurement (broadly in place with a view to ensuring fair and equitable awarding of contracts, and securing value for money) because it may not involve the public body imposing enforceable obligations on the developer. This type of arrangement can be appropriate where houses are being built as there is less need for detailed specification and timing of delivery of housing, as compared to a public amenity which the public body requires to be built.

However, a decision to include the Fairfield Halls refurbishment in such a land transfer added complexity to the College Green scheme. The challenges and expertise needed to manage a complex refurbishment were very different to the challenges of managing a house building scheme and there was a lack of recognition in the Cabinet paper and minuted discussion of these differences, the risks and how these would be mitigated. While the June 2016 meeting did not explicitly use the land transfer option for Fairfield Halls, it has been suggested by the Council in contemporaneous submissions that this was the intention; this is supported by the fact that later the Council produced a draft conditional sale agreement which would (if properly executed) effect a land transfer in respect of Fairfield Halls.

Some months after the decision, in November 2016, the Council took legal advice which suggested that a land transfer arrangement as described above could work by selling the relevant land to Brick by Brick, with the Council providing lending to Brick by Brick secured with a charge over the land; prior to the land transfer, a licence would be required to enable Brick by Brick to carry out initial works, and such a licence was issued on 1 August 2016.

The legal advice showed that if the land transfer option was properly implemented, it was possible to avoid any public procurement process, although it highlighted risks. In our view these risks were significant. The key to avoiding a public procurement process, it was said was that there was no positive obligation on Brick by Brick to do the works (as the arrangement would rely on the Council's ability to take back the land if the refurbishment were not to occur), but conversely flagged that there was nonetheless a risk of challenge from other potential bidders if the Council set out a detailed specification of works which might amount to giving rise to enforceable legal obligations. It was explained that so doing might require a public procurement process; in the event, one was not carried out on the basis that there were no such enforceable obligations. The legal advice also flagged that Brick by Brick would need to act as an independent company on a commercial basis and avoid acting as if it were a department of the Council, in order for this land transfer option without a public procurement process to be workable and in line with public procurement and state aid law.

The licence issued by the Council to Brick by Brick on 1 August 2016 enabled, but did not require, Brick by Brick to carry out the refurbishment of Fairfield Halls in line with a detailed specification (the licence). The Council also made payments to Brick by Brick for the costs of the refurbishment and treated these payments as lending.

Neither the Council nor Brick by Brick have been able to provide a properly executed written conditional sale agreement (which would have been in place had Fairfield Halls been transferred to Brick by Brick in line with the land transfer option) or properly executed loan agreements covering the funds provided by the Council. Without properly executed written agreements key elements of the legal advice were not met. Further, it is our view that the Council's arrangement was at risk of challenge under procurement law as Brick by Brick was given a detailed specification of works (effectively amounting to a positive obligation to carry out the refurbishment) and the Council did not assess whether Brick by Brick was not acting as an independent company, in line with the legal advice.

In obtaining external legal advice and not fully considering or implementing that advice, it is our view that the Council failed to ensure it was acting lawfully. We have not been provided with evidence of senior statutory officers updating Cabinet formally on the legal risks emerging, considering how the emerging risks could be effectively mitigated or of the anticipated shortfall in funding (covered below) and the foreseeable implications.

In our view, it is likely that the licence did not reflect the underlying reality of the arrangements. Rather it is our view that the licence was (at least in part) intended to circumvent procurement law and competitive tendering, albeit in a way that was believed to be lawful; the licence provided that Brick by Brick was allowed, but not obliged, to carry out the works, but in our view the reality was Brick by Brick was committing itself to carrying out the refurbishment works which the Council wished to see carried out and was doing so in return for economic compensation which had been informally agreed albeit not recorded in binding properly executed contracts. As the Council was specifying the works it wished to see carried out, and the true objective of the licence was to oblige Brick by Brick to carry out those works, for the benefit of the Council, a public procurement process should have been carried out, and the entry into a licence without one did not reflect this underlying

reality and in our view is therefore likely to have been found to have been a breach of public procurement law had it been challenged in court.

Regardless of whether the arrangements were a breach of procurement law, the arrangements clearly did not allow the Council to protect its interests and secure economy, efficiency and effectiveness in its use of resources in relation to the project. In our view the eventual outcome was that the Council could not properly exercise control or oversight of the refurbishment, because Brick by Brick was not obliged to carry out the refurbishment to any particular specification and did not have assurance that it had engaged the most appropriate developer for the complex refurbishment in terms of capacity, costs or other factors (as it would have done had it carried out a public procurement process).

#### *Funding Brick by Brick to refurbish Fairfield Halls*

While it is our understanding that the project was intended to be cost neutral, the Council intended to fund the project in the short term through a loan drawdown agreement with Brick by Brick. The legal powers the Council intended to rely on would have required Brick by Brick to own the land on which it was carrying out the work, and the loans either to be secured by mortgages or subject to an agreement to oblige Brick by Brick to construct residential units on the land. While draft conditional agreement of sale and draft loan agreements are available, neither the Council nor Brick by Brick can provide properly executed written versions of these documents.

There therefore appears to be no clear contractual basis at all for the project (and we note that while it is technically possible for unsigned written contracts to give rise to enforceable legal obligations, where the parties are acting in accordance with their terms, this will not always be the case, so even in a best case scenario, with absent properly executed written contracts the Council was subject to a material risk that in the event of an action to enforce the loans, a court could find that there was no enforceable contract).

We therefore do not consider that the Council properly exercised its powers to make payments to Brick by Brick. This is a serious concern as to the Council's financial and corporate management and also calls into question the lawfulness of the Fairfield Halls payments and suggests that the Council has not made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. Without properly executed written contracts, there was a material risk that the Council did not have any right (save perhaps under the law of restitution) to obtain reimbursement of the monies paid or to control its use (appreciating that, had the Council been able to control the expenditure, its approach to the application of the public procurement and state aid rules would have differed).

#### *State aid*

Without properly executed written contracts for the loan payments, and in light of the circumstances, the payments to Brick by Brick also give rise to a significant state aid risk (state aid being where the public sector gives aid which distorts cross border competition). The legal advice to the Council flagged the risk of unlawful state aid, and it is not clear that this risk was appropriately considered or managed as current officers responding on behalf of the Council have been unable to provide this consideration by their predecessors.

#### *Challenge from another local authority*

As part of the project the Council sought to apply for grant funding from the Local Enterprise Partnership, Coast to Capital, where the accountable body was another local authority. Correspondence seen indicates the other local authority raised serious concerns on how the arrangement complied with procurement rules with the Council's then senior statutory officers and the then Executive Director of Place. We do not consider that these officers properly reflected on the challenge presented by peers from another local authority and considered whether the Council's approach was reasonable.

#### *Other legal considerations – record keeping*

The absence of records documenting the rationale for decisions in relation to a significant project is a failure to keep the records required and creates legal uncertainty and risk. Throughout the project there are elements where record keeping has been insufficient:

- Documentation setting out the implementation of decisions delegated to officers was not systematically retained or stored to allow retrieval
- Financial analysis supporting decisions taken by the Cabinet is not available

The lack of formal consideration of the external legal advice, the lack of completed legal land transfer documentation and the lack of properly executed written legal arrangements covering the provision of funding to Brick by Brick is in our view a very serious matter and demonstrates fundamental failings by the Council.

## Governance

We have already raised significant concerns over the governance culture and reporting mechanisms between the Council and Brick by Brick (in the Public Interest Report published on 23 October 2020) and the PwC review of companies dated 13 November 2020 also raised concerns. The issues in respect of the oversight of the Fairfield Halls Refurbishment reflect many of these concerns.

### *Governance arrangements for Brick by Brick*

The Cabinet paper approving the establishment of Brick by Brick in March 2015, delegated governance arrangements to the then Executive Director of Place (with the holder of that post in March 2012 later becoming the Chief Executive in 2016) in consultation with the then Portfolio Holder for Homes and Gateway Services, the then Section 151 Officer and the then Monitoring Officer. The June 2016 Cabinet paper sets out the governance arrangements in place between the Council and Brick by Brick including presenting the Brick by Brick Business Plan to Cabinet and the appointment of Council nominated Board members and observers. The Brick by Brick Business Plan has been presented each February since 2017. However, there was no formal documented mechanism through which Council nominated Board members or observers reported back to the Council and therefore it is unclear how the Council sought to exercise governance over Brick by Brick through the nominated Board members or observers.

In October 2018 the then Section 151 Officer provided the then Chief Executive with proposed improved governance arrangements for Brick by Brick. A draft terms of reference for a Brick by Brick monitoring group was proposed at the first meeting in April 2019 with final terms of reference being agreed at the September 2019 meeting some four years after the original decision to establish Brick by Brick. This timeline demonstrates a lack of urgency to implement appropriate governance arrangements over Brick by Brick which was in our view ultimately the responsibility of the then Chief Executive as Head of Paid Service with responsibility for establishing proper arrangements.

### *Governance arrangements for the Fairfield Halls refurbishment project*

Initially project oversight was through the Council's Growth Board from 2015 when this was a Council run project. After the project was transferred to Brick by Brick in June 2016 reporting continued to the Growth Board until May 2017. In May 2017, the Fairfield Programme Board (the Board) was set up to provide oversight of the project. In structure, the terms of reference should have been sufficient to manage the project with an escalation route to the Growth Board which itself had escalation to the Corporate Leadership Team or other Council process as it 'sees fit'.

From a wider Council perspective, the governance of the project was not in our view effective (as demonstrated by financial position of the project, set out below) as the only formal reporting to Members was through the Brick by Brick Business Plan which only included high level details on the project, there were no documented mechanism for Council appointees/observers to report back and the Member steering group was not set up until after the Fairfield Halls reopened.

The Scrutiny and Overview Committee (the Committee) was active in attempting to scrutinize the project, its progress and related costs. Reports presented to the Committee, in our view, did not highlight the known increase in costs.

### **Financial position of the project**

The June 2016 Cabinet decision referred to a £30 million investment in the project; we have found that the final expenditure on the project was £67.5 million. Despite the June 2016 Cabinet report referring to a financial appraisal, the Council has been unable to provide any such financial appraisal without which we are unable to conclude whether the project additional spend in excess of the budget was caused by inadequacies in the original budget setting or in controlling costs or in changes in the scope of the work during the project. With no subsequent Cabinet decision recorded on the project budget we consider the original Cabinet-approved budget to be £30 million. During the project there were variations agreed (although not at Cabinet level), which is not unusual for a complex capital project. The variations and expected additional expenditure were reported through the Fairfield Programme Board and the project additional spend was reported to the Growth Board. We have not been able to identify explicit formal reporting to the Cabinet of the project additional spend. Allowing the project costs to more than double from the original budget without explicit formal reporting to the Cabinet represents a fundamental failing by the Council.

[The idea that variations to the project were agreed by the Council also adds to the likelihood that Brick by Brick was obliged to carry out the project, at odds with the Council's approach to the application of the public procurement rules.]

In the absence of the original financial appraisal our understanding is that the project was intended to be cost-neutral to the Council with Brick by Brick using expected profits from the College Green scheme to cover the costs of the project. Under section 123 of the Local Government Act 1972 the Council has a duty to achieve best value in land disposals. We have not

been able to obtain the Council's assessment of whether £30 million for the land provided to the College Green projects represent best value and therefore we cannot conclude on whether the Council achieved this duty.

The Council funding (itself borrowed from the Public Works Loans Board) provided to Brick by Brick was intended to be loan funding, repayable to the Council. The Council did not charge Minimum Revenue Provision (MRP) on this borrowing as Brick by Brick was charged a higher interest rate than the Council was paying for the borrowing with the difference being intended to offset the statutory MRP charge. As there are no properly executed written loan agreements it is not definitive that the Council would have been able to enforce any right to recover the loan or its related interest and there is no off set for the MRP charge.

Regardless, the Council has written off the loans receivable of £61.3 million and the accrued interest of £9.1 million (noting that in the group accounts the entries would be subject to consolidated processes) and will need to charge MRP, which we estimate to be an average of £1.5 million per annum adding to the financial pressures already faced by the Council.

### **Council action since September 2019**

Fairfield Halls reopened in September 2019 and was closed during the pandemic in 2020. As the Council sought to reopen Fairfield Halls issues relating to the building were reported. Initial surveys commissioned by the Council indicate there is a need to spend further public monies to rectify the issues identified. The Council considers that the additional works needed should have been addressed during the refurbishment and this is disputed by Brick by Brick. A properly executed written agreement obliging Brick by Brick to carry out the work would have clarified responsibilities in this dispute and the absence of such a properly executed written agreement (as noted above) makes a resolution more challenging. The Council is left with the need to spend further public monies on the Fairfield Halls.

The Council has responded to the previous reports (in the public interest published on 23 October 2020 and the PwC review of companies dated 13 November 2020) including reporting to Cabinet in November 2020, February, July and November 2021 on the actions taken to address governance concerns relating to Brick by Brick and other Council companies. The latest report to Full Council on 13 December 2021, the Council reported that it had implemented 62 of the 99 actions planned in response to the first report in the public interest. The actions taken by the Council includes addressing the governance arrangements in relation to Brick by Brick and the processes for loan agreements. The commentary in this report reflects the arrangements that were in place up to September 2019. There has however been significant turnover in the Council's senior officers and Portfolio Holders since the period this report covers.

In reaching our view on the legality of the arrangement we discussed with and challenged the current Senior Statutory Officers who reviewed the position.

The Council has, in light of the matters reported upon here and their views as set out in this report, decided to account for the expenditure on the project as if it had been direct capital expenditure and has proposed amendments to the draft 2019/20 financial statements which in their view correct the accounting for this arrangement. We understand that the Council is now also in the process of considering future options for Brick by Brick, while in the meantime making other changes to the related governance arrangements.

### **Conclusion**

The Fairfield Halls refurbishment project was a complex project which was delivered late and with significant additional spend beyond the amount approved by Members; the entirety of the project spend has now been accounted for as capital expenditure. The Council's historical arrangements failed to ensure the legality of the arrangements for the project and allowed governance gaps which prevented monitoring of the project, oversight, and wider scrutiny and challenge that may have allowed corrective action to have been taken. Throughout the project there were individuals with both the knowledge of the many issues with the project and who had duties and responsibilities which we would expect to require action to address the known issues. The lack of appropriate action, in our view, represents a failure to discharge the duties expected from a small group of senior officers (the then three Senior Statutory Officers and the then Executive Director of Place). This group reported to the then Portfolio Holders (the then Portfolio Holders for Homes and Gateway Services, for Finance and Resources and the Leader) who were either not briefed by officers and should have requested briefings on the project given what they appeared to know or did not take effective action in response to concerns raised by the officers.

## Recommendations

This report makes a number of recommendations for the Council to address, with the statutory recommendations highlighted in bold.

- R1 The Chief Executive supported by the Monitoring Officer and the Section 151 Officer should ensure that Cabinet papers for major projects set out clearly**
- R1.1 the legal powers to enter into a particular arrangement and attendant risk**
  - R1.2 how the Council can protect its interests and secure economy, efficiency and effectiveness.**
- R2 The Monitoring Officer should ensure that**
- R2.1 contracts are properly executed before entering into arrangements with third parties**
  - R2.2 the properly executed documents are stored robustly to allow future scrutiny.**
  - R2.3 key requirements underpinning the legal advice are in place before progressing with the arrangement**
- R3 The Monitoring Officer should ensure that where legal advice changes after a Cabinet decision that the consideration of the implications of the changes is documented and where the Monitoring Officer considers additional legal risks are identified that the Cabinet is updated on the impact on the original decision made.**
- R4 The Section 151 Officer should ensure that prior to making payments to third parties that appropriate legal documentation is in place such as a properly executed contract or a properly executed loan agreement**
- R5 The Monitoring Officer and Section 151 Officer should ensure that arrangements are in place to properly consider public procurement rules and UK obligations on subsidy control rules before entering into arrangements.
- R6 The Chief Executive, Monitoring Officer and Section 151 Officer need to consider how to respond appropriately to challenge on decisions and be prepared to take corrective action where necessary.
- R7 The Chief Executive should improve record keeping arrangements so that**
- R7.1 the records supporting key decisions including financial analysis are maintained**
  - R7.2 a standard approach to record keeping with monitoring of which decisions have been implemented**
  - R7.2 tolerances are established for reporting back changes to Cabinet**
- R8 The Chief Executive, as Head of Paid Service, should ensure appropriate governance arrangements are implemented in a timely manner particularly for strategic developments such as Brick by Brick including where appropriate that there is clear guidance for nominated representatives on the expectations of the role including reporting back to the Council
- R9 The Chief Executive should work with the Leader to continue to embed**
- R9.1 a clearly understood distinction between the different roles and responsibilities of Members, officers and representatives of entities akin to Brick by Brick.**
  - R9.2 clear responsibilities for officers and Portfolio Holders in challenging reports presented to Cabinet and other committees for balance, accuracy and consistency in terms of knowledge**
- R10 The Chief Executive should review the terms of reference for officer and member/officer boards that oversee significant projects and capital/revenue expenditure and clarify the escalation routes for significant additional expenditure in excess of the budget
- R11 The Section 151 Officer should ensure financial reporting on significant capital projects is enhanced so that**
- R11.1 a clear agreed budget for the project is identified and the underlying financial analysis is maintained**
  - R11.2 a clear agreed project expenditure amount can be reported through appropriate governance processes**
  - R11.3 where there are changes in the original financial assumptions that there is an assessment on the project's financial viability with appropriate reporting**
  - R11.4 the revenue impact of any changes in the capital project are addressed in future budget setting**
- R12 The Chief Executive should put in place arrangements to consider inherent conflicts of interest for executive officers.

## Full Report

### Introduction

Grant Thornton are the external auditors to the London Borough of Croydon (the Council). We are issuing this Report in the Public Interest under section 24 and Schedule 7 of the Local Audit and Accountability Act 2014.

We issued a report in the public interest on 23 October 2020 concerning the Council's financial position and related governance arrangements. The Council has continued to respond to the matters in that report (and the PwC review of companies dated 13 November 2020). The Council has reported progress in implementing agreed actions to Cabinet in November 2020, February, July and November 2021. The December 2021 report to Full Council set out that the Council has implemented 62 of the 99 actions planned. The actions taken by the Council includes addressing the governance arrangements in relation to Brick by Brick and the processes for loan agreements.

Fairfield Halls closed in 2020 during the pandemic, when the Council sought to reopen Fairfield Halls issues related to the building were reported. Initial surveys commissioned by the Council indicate there is a need to spend further public monies to rectify the issues identified as well as matters related to the historical decision making and governance relating to the refurbishment of Fairfield Halls. The Council discussed their concerns with Grant Thornton, as the Council's external auditor, in late December 2020. We considered the matters raised represented a significant risk to the value for money conclusion and commenced an initial review in January 2021. Our initial findings required further investigation, the results of which are set out here.

### Background and chronology

The Council owns Fairfield Halls, an arts, entertainment and conference centre in Croydon which originally opened in 1962. In March 2013 the Council adopted the Fair Field masterplan as interim planning guidance with the aim of creating a phased long term framework for delivering the transformation of the area to be:

'Croydon's cultural and learning centre; an innovative and inspiring area with a lively and sustainable mix of residential, cultural, educational, commercial uses and a well-connected and high quality public realm.'

The masterplan included improvements to the setting of the Fairfield Halls and its immediate environment and referred to a £27 million refurbishment to be done by 2016. Initial preparatory work on the design was undertaken by the Council including an asbestos survey. In September 2014, the Council's Cabinet approved the development of a Cultural Quarter, including the integrated College Green which encompassed a house building scheme, public realm improvements and the regeneration of Fairfield Hall which by then had a projected capital budget of £33.75 million.

In January 2015, the officer led Growth Board was set up to oversee the monitoring and delivery of capital projects linked to regeneration which at that time included the Fairfield Hall refurbishment. The Council ran a competitive process and appointed a contractor to undertake the Fairfield scheme development and design which included the development and design of, but not physical construction and completion of, the Fairfield Halls refurbishment.

The need to refurbish the Fairfield Halls became urgent and in June 2016, the Council approved a proposal for the Council's wholly owned company, Brick by Brick (Croydon) Limited, to bring forward elements of the integrated College Green scheme which included:

'a £30 million package of improvement works to Fairfield Halls, a c200,000sqft new college/university building and approximately 2,000 new residential units alongside new public realm, retail and leisure space'.

The proposals involved a transfer of land interests (not including Fairfield Halls) to Brick by Brick for development as residential property, with Brick by Brick to complete the £30 million package of improvement works to Fairfield Halls under a licence. In Brick by Brick's view, the exact costs were intended to be confirmed at a later stage however this was not documented in the Cabinet paper and there were no further documented Cabinet decisions on the approval of the budget for the refurbishment of Fairfield Halls. We therefore consider the Council's properly approved budget to have been set at £30 million.

In July 2016, the venue closed for refurbishment with an original completion date of June 2018. The decision to close and deliver the refurbishment quickly rather than a phased closure over a longer time period was subject to political debate. A licence was issued on 1 August 2016, enabling Brick by Brick to enter the property in order to carry out the works. This arrangement amounted to commissioning by the Council was not subject to a public procurement process. We do not consider that this structure, analysed below under 'Legal arrangements', was satisfactory.

By May 2017, issues had emerged that presented a risk to the successful delivery of the project for example the discovery of additional asbestos and Croydon College no longer being in a position to sell a portion of land to the Council. The reduction in land impacted the number of residential units Brick by Brick had planned which impacted the financial viability of the wider College Green scheme.

Brick by Brick commissioned the main works contractor for the refurbishment with works commencing in September 2017. This commissioning was also not subject to a public procurement process, as Brick by Brick was not deemed to be subject to the public procurement rules.

From 1993, a charity had operated the venue with a grant from the Council. In July 2016, the charity went into administration and the Council needed to secure a new operator. A separate exercise was undertaken by the Council, as a public procurement, and a new operator for the Fairfield Halls was appointed in June 2017. By November 2017 the new operator expressed concerns about the delays would impact on the operator's ability to deliver its services and generate the necessary commercial revenues previously agreed with the Council. In addition, the operator had a number of requirements that needed to be factored into the refurbishment. The delays impacted the operator with the Council making a payment of £1.7 million to the operator in respect of the delays.

By the end of 2017 the project had run into a number of major problems that changed the risk profile of the project. The original engineering consultant appointed by the Council left the project and was in dispute with Brick by Brick, Croydon College were no longer part of the scheme with a significant impact on the housebuilding element of the wider College Green scheme (which had initially factored in a purchase of land from Croydon College which would be used to build residential property for sale, being one of the key sources of projected profit for Brick by Brick), costs were escalating due to additional changes in the work required and a new engineering consultant had to be procured. At this point delivery of the project was delayed to November 2018.

Letters between Brick by Brick and the Council in October 2018 outlined that the College Green expenditure projections exceeded income by £28.8 million with the Fairfield Halls expenditure figure being £51.6 million and a revised deadline of June 2019 was agreed. This deadline was again revised to September 2019 which was met after further additional costs were incurred to accelerate the works. We do not consider that these increases in costs were appropriately escalated or approved within the Council, and this is covered in the 'Financial governance' section below.

The venue re-opened in September 2019 and was closed during the pandemic in 2020. Although the refurbishment was awarded the RIBA London Award 2021, and the Highly Commended Civic Trust Award 2021,] as the Council sought to reopen Fairfield Halls later in 2020, issues relating to the building were reported. Initial surveys commissioned by the Council indicate there is a need to spend further public monies to rectify the issues identified. The Council considers that the additional works needed should have been addressed during the refurbishment and this is disputed by Brick by Brick,

### **Background context**

The matters within this report in the public interest date back a number of years and key people are no longer in role at the Council and have therefore not been able to access their files from the time. We have relied on records the Council has retained but recognize the limitations in this.

During the project's time frame there were a number of significant matters that the Council was responding to including the September 2017 report from Ofsted assessing children's services as inadequate, other complex programmes and the wider financial pressures experienced by the Council (covered in the Public Interest Report published on 23 October 2020). The Chief Executive also had a lead operational role in relation to the response to the tram crash in November 2016. The Council had been under considerable pressure.

For full disclosure we set out Grant Thornton's position. Grant Thornton was the external auditor of the Council over the period of the matters in this report and conducts the audit under the Local Audit and Accountability Act 2014. The matters of concern identified in this report developed over the years and the exact picture only became clear once the matter was identified as a significant risk to the value for money conclusion and work was undertaken to address that risk.

Where a local authority has a group structure the consideration of value for money would include the local authority's governance arrangements over its group structure. Grant Thornton was also the external auditor of Brick by Brick (part of the Council's group structure) until 31 March 2019 with the audit conducted entirely separately and by different personnel under the Companies Act regime. It is common practice that audit firms working in the public sector have commercial clients and for the parent and subsidiary auditors to be from the same audit firm. As the group auditor, the Grant Thornton team acting as auditor under the Local Audit and Accountability Act 2014 had access to the audit working papers of the Grant Thornton team acting as Companies Act Brick by Brick auditor for the limited purpose of the consolidation of the group accounts. Audits under the Companies Act are carried out to a different standard than audits under the Local Audit and Accountability Act 2014 in particular the value for money consideration is not a requirement of an audit under the Companies Act. That regime does not call for the same approach as for a public sector audit. [Brick by Brick's auditors would not be expected to pick up or give rise to the concerns raised in this report given the different approach of a Companies Act audit and the particular circumstances including that the parent was the company's sole funder and that the Council had given third party acknowledgement of the loans such that their auditors would not expect to call for the executed documentation.]

Finally, by way of introductory comment, we note that in this report, references to 'officers' are to the Council's staff, while members or Portfolio Holders refer to elected members (Councillors).

## Legal arrangement

### Legal arrangements – engaging Brick by Brick to refurbish Fairfield Halls

First, we consider the legal arrangements for the refurbishment of Fairfield Halls.

It is incumbent upon local authorities, including the Council, to have arrangements to secure value for money. They are in addition subject to the Public Contract Regulations 2015, which govern public sector procurement in England & Wales. Broadly, the effect of these regulations is that when awarding a relevant contract that is subject to the regulations (i.e. one which is over certain financial thresholds), the local authorities are required to advertise that contract (previously on the Official Journal of the European Union, and now on the UK's new Find a Tender Service) and then to follow certain, specific procedures for choosing to whom to award the contract, broadly with a view to ensuring fair and equitable awarding of contracts, and securing value for money. The nature and granularity of the specific procedures depends on the subject matter and value of the contract, with the default for relevant contracts being that a competitive tender process must be carried out, unless an exemption applies which enables an authority to use another route. We refer to a process that is subject to the regulations as a 'public procurement process'.

In June 2016, the Cabinet approved the proposal to use Brick by Brick to bring forward elements of the College Green scheme including the refurbishment of Fairfield Halls. The proposal involved the transfer of land interests (not including Fairfield Halls) to Brick by Brick in order for Brick by Brick to develop residential property on them, and to carry out a refurbishment of Fairfield Halls "under licence", with the financing of the works to Fairfield Halls being an estimated £30 million. The proposal intended that Brick by Brick would be loaned money to fund part of the refurbishment by the Council, which it would need to repay, but would be compensated for the refurbishment through the profits made from the sale of 2,000 houses (built by Brick by Brick) on the College Green land transferred.

The Council's records show that it was thought that this structure would allow the Council to dispose of the College Green land in return for housebuilding and to bring forward the refurbishment of Fairfield Halls, without a public procurement process. It is not unprecedented to use a land transfer arrangement such as this and in November 2016, four months after the original decision, the Council took legal advice which suggested that this type of land transfer arrangement could work (and be lawful) as follows:

- The Council would sell relevant land to Brick by Brick;
- The Council would be able to avoid *any* public procurement process by avoiding imposing enforceable obligations on Brick by Brick to develop the land into residential property or to refurbish Fairfield Halls (instead retaining control through an ability to take back the land if the work was not carried out). Further control could be exercised by securing lending from the Council to Brick by Brick with a charge over the land. The lack of an enforceable obligation was key to avoiding requirements to carry out a public procurement.
- There was a risk that other potential bidders or others might challenge the arrangement, arguing that there was in fact a legally enforceable obligation on Brick by Brick to carry out the development or the refurbishment, which would mean that a public procurement process should have been carried out. This was said to be a particular risk if the Council set out a detailed specification of works or otherwise exercised management control of the works.



- Further, Brick by Brick would need to avoid acting as if a department of the Council, and should act independently and on a commercial basis (because, referring implicitly to earlier legal advice given on the establishment of Brick by Brick, it followed if Brick by Brick were acting as if a department of the Council, it might *itself* need to carry out a public procurement process when engaging sub-contractors for work including the project).

We refer to this as the “land transfer option”.

It is not uncommon to use a land transfer option for development of public land for residential housing: this route allows a public body to transfer land to a developer on terms which permit, but do not require, the developer to develop the land, with the public body instead being able to achieve its objectives by retaining a right to re-acquire the land should the development not occur. Such an arrangement may not, depending on how it is executed, engage rules around public procurement, because it may not involve the public body imposing enforceable obligations on the developer. This type of arrangement can be appropriate where houses are being built as there is less need for detailed specification and timing of delivery of the houses, as compared to a public amenity which the public body requires to be built. However, a decision to include the Fairfield Halls refurbishment would add complexity to the College Green scheme.

Although the June 2016 meeting did not in our view decide explicitly to use the land transfer option for Fairfield Halls, it has been suggested by the Council and then officers in contemporaneous submissions that this was the intention; this is supported by the fact that later, the Council produced a draft conditional sale agreement, which would (if properly executed) effect the land transfer, although neither the Council nor Brick by Brick have been able to provide a properly executed written copy of it, and the land was not transferred. If it was the Council’s intention to use the land transfer option for Fairfield Halls, there was a lack of recognition that the challenges and expertise needed to manage the complex refurbishment were very different to the challenges of managing a house building scheme. The downside risks of adding a complex refurbishment to a housebuilding scheme were not appropriately assessed.

As set out in the legal advice taken by the Council, the land transfer option did not permit, if it was to avoid the need for public procurement, the Council to obligate the developer (Brick by Brick) to deliver a defined specification of works. Without a defined specification of works, the Council could not insist that the intended improvements and developments were completed or require them to be completed to a particular standard. In our view the restrictions of the land transfer option were unsuitable for a complex refurbishment of this nature.

Further, it is as noted above unclear whether the Council intended to use the land transfer option to enable Brick by Brick to carry out the development of Fairfield Halls, as well as the wider development. While the June 2016 Cabinet minutes refer to a wider land transfer for the College Green development, the Fairfield Halls venue was not included in that land transfer but was instead referred to as to be developed by Brick by Brick “under licence” in the Cabinet Report considered at that meeting (although as noted above the Council did later prepare sale documentation).

In line with this, the Council issued a Licence for Access to Carry out Works (the licence) for the project, dated 1 August 2016. While this licence does not reflect the land transfer option discussed in the legal advice, it does reflect a preliminary step outlined in the legal advice (to enable initial works ahead of a land transfer). This appears to be the licence referred to in the June 2016 Cabinet Report.

The licence permits Brick by Brick to enter Fairfield Halls to carry the works set out in a detailed specification in the accompanying schedules and includes a clause that allows the works to be extended beyond the schedule where this is agreed between both parties; the licence does expressly not oblige Brick by Brick to carry out the project and did not cover the funding arrangements for the project. We recognize therefore that there is again an argument that this approach does not engage the public procurement rules, because it does not impose enforceable obligations on Brick by Brick (which could trigger a public procurement process). Our view however is that taken in the round, this did not reflect the underlying reality, as set out below.

As a result of the use of the licence:

- The Council was not properly able to exercise control or oversight over the refurbishment as it would have been had this been under a service contract.
- The arrangement was at risk of challenge because Brick by Brick was given a detailed specification of works, which the legal advice had suggested might make the land transfer option subject to challenge (because it might be viewed in the round as giving rise to an enforceable obligation which would then have made the arrangement subject to a public procurement process).

- The Council did not have assurance that it had engaged the most appropriate developer in terms of capability, costs or other factors, which it would have had, had it conducted a public procurement process.

We refer to the licence arrangement that was pursued instead of the land transfer option as the “**development licence option**”.

The November 2016 legal advice had also ruled out other methods of compliance with procurement law noting that:

- Brick by Brick was a commercial company that did not qualify for the “Teckal’ exemption, that may have allowed works to be legally awarded to a company which is essentially a Council entity without a public procurement process, where it is treated as equivalent to an internal arrangement.
- There were no unique technical characteristics that would prevent other developers doing the work (which would again mean that no public procurement process was required).

The November 2016 legal advice had also flagged, as above, that Brick by Brick would need to avoid acting as if a department of the Council, and should act on a commercial basis – that is, as an independent third party (because, if Brick by Brick were acting as a department of the Council, it might itself need to carry out a public procurement process when engaging sub-contractors for the refurbishment). In considering whether Brick by Brick was acting as an independent third party we consider that, appreciating that Brick by Brick has significant discretion as a commercial company, the following factors should have challenged the Council’s view of Brick by Brick’s independence in line with the legal advice obtained:

- An independent company would be very unlikely to enter into an arrangement to deliver a complex refurbishment project without the protection of properly executed written contract to ensure the company received payment for the work undertaken, and to manage the relationship between it and the commissioning body (for example in relation to disputes)
- The Council would be very unlikely to provide significant funding to an independent company without a legal arrangement being in place to safeguard public monies

Brick by Brick is of the view that there was contextual assurance that it would be paid based on the discussions, verbal assurances and intent of the Council through the draft agreements and the fact the Council processed and paid contractor and consultant invoices through the financial management arrangement with Brick by Brick. In addition Brick by Brick is of the view that as the Council is ‘its one hundred percent shareholder... the ultimate implications of any detriment to Brick by Brick arising from there being no signed contract with the Council would fall upon the Council’. Brick by Brick’s views show how it satisfied itself of its responsibilities. However the Council’s legal advice was that for the proposed land transfer arrangement to be lawful the Council needed to ensure Brick by Brick acted as an independent company and we remain of the view that the independence of Brick by Brick is open to challenge from the Council’s perspective, as there were no properly executed written contract or loan documents and therefore the Council has not ensured that its own legal advice was followed, or that it could secure value for money.

In obtaining external legal advice and not acting on that advice, it is our view that the Council failed to ensure it was acting lawfully. We can find no evidence of senior statutory officers updating Cabinet formally on the legal risks emerging, consideration of how the emerging risks could be effectively mitigated or of the anticipated shortfall in funding and the foreseeable implications.

In our view, it is likely that the licence did not reflect the underlying reality of the arrangements. Rather, it is our view that the arrangements were (at least in part) intended to circumvent procurement law and competitive tendering, albeit in a way that was believed to be lawful; the licence provided that Brick by Brick was allowed, but not obliged, to carry out the works, but in our view the reality was that Brick by Brick was committing itself to carrying out the refurbishment works which the Council wished to see carried out and was doing so in return for economic compensation which had been informally agreed albeit not recorded in binding contracts, so a licence which purported not to place enforceable obligations on Brick by Brick to carry out the refurbishment did not reflect this reality. As the Council was specifying the works it wished to see carried out, and the true objective of the licence was to oblige Brick by Brick to carry out those works, for the benefit of the Council, a public procurement process should have been carried out, and the entry into the licence without one would in our view be likely to have been found to have been a breach of public procurement law had it been challenged in court..

(While the land transfer option was not in the end pursued for Fairfield Halls, we note that the mere entry into the draft conditional sale agreement, which would have effected the land transfer option, would not necessarily have meant that there was no breach of public procurement law; the Council’s legal advice in November 2016 highlighted (as set out above) that with the land transfer option there would be a risk that other potential bidders or others might challenge the arrangement,

arguing that there was in fact a legally enforceable obligation on Brick by Brick to carry out the development, which would mean that a public procurement process should have been carried out.)

Further, regardless of whether the arrangements were a breach of procurement law, the arrangements clearly did not allow the Council to protect its interests and secure economy, efficiency and effectiveness in its use of resources in relation to the project: even if it had been clearly in compliance with public procurement law, the licence arrangement meant that the Council did not have control over the budget (see further below), specification or delivery of the project, as would have been appropriate for a project of this nature.

While Brick by Brick did itself carry out a competitive procurement process when appointing its own contractors, this was not one in compliance with the Public Contracts Regulations: the issue of whether Brick by Brick itself should have carried out a *public* procurement process when engaging contractors is outside the scope of this public interest report.

### **Legal arrangements – funding Brick by Brick to refurbish Fairfield Halls**

We have also considered the basis on which the Council funded the project (which was not covered in the licence).

#### *Power to lend*

The Council intended to fund the project in the short term through a loan drawdown agreement with Brick by Brick. The Council has relied on two powers to make the payments to Brick by Brick: Section 3 of the Local Authorities (Land) Act 1963; and Section 24 of the Local Government Act 1988. We do not consider either to have been available to the Council in the circumstances.

For the Council to advance a loan to Brick by Brick in accordance with section 3 of the Local Authorities (Land) Act 1963 for Brick by Brick to develop land, Brick by Brick would need to own the land on which it was carrying out the work, and the loans would need to be secured by mortgages. Individuals involved at that time assert that there were legally executed documents. However, while drafts of each of a Conditional Agreement of Sale and loan agreement have been provided, and this power may have been relevant had these been properly executed, neither the Council nor Brick by Brick have been able to provide properly executed written contracts. We do not therefore consider that the Council properly exercised this power to make payments to Brick by Brick.

For the Council to advance a loan to Brick by Brick in accordance with section 24 of the Local Government Act 1988 the Council would need to have had agreements in place which legally obliged Brick by Brick to construct residential units as part of the arrangement. Whilst this intention is clear as part of the wider College Green scheme, again, without properly executed written legal documentation there is no evidence that monies lent for the Fairfield Halls refurbishment were lent for the purpose of constructing residential property, and so no evidence that this power was available to the Council in respect of Fairfield Halls. We do not therefore consider that the Council was able to rely on this power to make payments to Brick by Brick.

Setting aside the legal powers which could have been deployed to fund the project, there appears to be no definitive contractual basis at all for the payments, since no properly executed written relevant loan agreements have been found. While it is possible for unsigned contracts to give rise to enforceable legal obligations, where the parties act in accordance with their terms, this will not always be the case, meaning that at best the Council was subject to a material risk that in the event of an action to enforce the loans, a court would find that there were no enforceable obligations. It therefore appears that very substantial amounts of money have been expended by the Council without any formal written basis at all, and without the Council having any right to exercise control and oversight over the use of those monies or (save perhaps under the law of restitution) to obtain reimbursement of those monies, unless a court were to find that, notwithstanding the lack of proper execution, the draft loan agreements had given rise to enforceable obligations. Representations from the then section 151 officer state that the terms of lending and interest rates were agreed at the time. While the then Leader and then Portfolio Holder for Finance and Resources have contended that there were appropriate protections and financial controls in place at all times for the funds, without properly executed written loan agreements the Council's legal position is at best open to challenge.

Even if the Council had had the statutory powers to make the payments, there appear to be no formal documents in which the Council has clearly taken a decision to make the Fairfield Halls payments and recorded its reasons and legal basis for its decision. This is a serious concern as to the Council's financial and corporate management and also calls into question the lawfulness of the Fairfield Halls payments and suggests that the Council has not made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

### *State aid*

The payments to Brick by Brick which should have been pursuant to loan agreements which were not completed also give rise to a significant state aid risk (state aid being where the public sector gives aid which distorts cross border competition, now replaced in UK law by the new subsidy control regime).

We note that the land transfer option also engaged a risk of being unlawful state aid, as flagged in the legal advice taken by the Council, and it is not clear that this risk was appropriately considered or managed.

It was reasonable to expect the senior statutory officers of the Council to have documented their consideration of how to fund a shortfall in funding for the Fairfield Halls project (flagged in the November 2016 advice as a particular state aid risk) and how to ensure compliance with state aid rules. Current officers have been unable to provide this consideration by their predecessors.

### *Challenge from another local authority*

As part of the project the Council sought to apply for grant funding from the Local Enterprise Partnership, Coast to Capital, where the accountable body was another local authority. We have seen correspondence dated March 2018 between officers of that local authority and the Council's then Monitoring Officer, then Chief Executive and then Section 151 Officer where the legal basis of the arrangement was challenged. Despite assurances from the Council's then Monitoring Officer that they were confident in the Council's approach, the conclusion from the other local authority was:

'The Accountable Body is therefore unable at this time to provide Coast to Capital with the assurance in relation to the scheme. Passing monies to an arm's length third party in the absence of a written contract and/or a compliant procurement process is inconsistent with Coast to Capital's Assurance Framework and the national assurance framework.'

The correspondence references discussions with the Council's then Chief Executive before agreeing a meeting with the Accountable Body involving the Council's then Section 151 Officer, the then Executive Director of Place and a representative of the then Monitoring Officer.

The serious concerns expressed by another local authority reflect our concerns regarding the legal powers being used, how the arrangement was compliant with procurement regulations and the absence of a properly executed written contract. From the correspondence we have seen it is clear that the then senior statutory officers and the then Executive Director of Place were aware of the other local authority's concerns. The situation was resolved through providing the grant to the Council who then provided the grant to Brick by Brick and through the Council providing a letter from its external legal advisors. The letter highlights the lack of enforceable obligation on Brick by Brick to undertake the work and does not address the absence of a signed written contract. We consider it would be reasonable to have expected these officers to reflect further on the informed challenge presented by peers from another local authority and consider whether the Council's approach was reasonable. Representations received from the then section 151 officer express the view that on the basis that the grant monies were received the Council's approach was reasonable. Our view continues to be that the level of challenge and concerns raised were significant and the Council could have taken the opportunity to reflect further on their own arrangement at that stage. We have not seen any evidence that these officers reconsidered the Council's approach.

### **Other legal considerations**

#### *Minimum Revenue Provision*

The Council is required by statute to make a prudent provision for the repayment of its debt and to have regard to Department for Levelling Up, Housing and Communities' guidance in calculating the Minimum Revenue Provision (MRP) and to publish its policy annually. (Statutory guidance issued under section 21 (1A) of the Local Government Act 2003 and the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003). As we reported in our 23 October 2020 Report in the Public Interest, the Council made changes to its 2019/20 MRP policy in respect of how much MRP is charged for borrowing related to loans to third parties. The policy means that no MRP has been set aside for the borrowing amounts related to the project.

To comply with state aid rules the draft loan agreements set out a commercial interest rate for Brick by Brick to pay. The Council's funding to Brick by Brick relied on the Council borrowing from the Public Works Loans Board (PWLB). PWLB charge the Council a lower interest rate than the commercial rate the Council charged to Brick by Brick. The Council's argument was that the difference in interest rates offsets the required MRP. The absence of properly executed written loan agreements means that the Council's right to receive interest on the funding provided to Brick by Brick is at best questionable and therefore

the borrowing related to the project requires MRP to be set aside. As the Council was not providing MRP against the borrowing in respect of its own asset, it is our view that the Council was likely breaching the statutory guidance.

Following discussion with the Council on our findings, the Council is now recording the project expenditure as direct capital expenditure. As a result, the Council has agreed to charge MRP on the borrowing related to the project from 2020/21. This is the year after the refurbishment reopened which is in line with the Council's existing policy and would appear to meet the requirements of the statutory guidance.

#### *Record keeping*

The Information Commissioner's Office "Section 46 Code of Practice – records management" issued under Section 46 of the Freedom of Information Act 2000 states 'Authorities should ensure they keep records they will need for business, regulatory, legal and accountability purposes' and that 'Authorities should define how long they need to keep particular records, should dispose of them when they are no longer needed and should be able to explain why records are no longer held'. The record keeping requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulation 2012 and the Openness of Local Government Bodies Regulations 2014 are also likely to have applied.

The absence of records documenting the rationale for decisions in relation to a significant project is a failure to keep the records required and creates legal uncertainty and risk. Throughout the project there are elements where the Council's record keeping has been insufficient:

- Delegated decision implementation documentation is not systematically retained or stored to allow retrieval
- Financial analysis supporting decisions taken by the Cabinet is not available

#### **Recommendations**

**R1 The Chief Executive supported by the Monitoring Officer and the Section 151 Officer should ensure that Cabinet papers for major projects set out clearly**

**R1.1 the legal powers to enter into a particular arrangement and attendant risk**

**R1.2 how the Council can protect its interests and secure economy, efficiency and effectiveness.**

**R2 The Monitoring Officer should ensure that**

**R2.1 contracts are properly executed before entering into arrangements with third parties**

**R2.2 the properly executed documents are stored robustly to allow future scrutiny.**

**R2.3 key requirements underpinning the legal advice are in place before progressing with the arrangement**

**R3 The Monitoring Officer should ensure that where legal advice changes after a Cabinet decision that the consideration of the implications of the changes is documented and where the Monitoring Officer considers additional legal risks are identified that the Cabinet is updated on the impact on the original decision made.**

**R4 The Section 151 Officer should ensure that prior to making payments to third parties that appropriate legal documentation is in place such as a properly executed contract or a properly executed loan agreement**

**R5 The Monitoring Officer and Section 151 Officer should ensure that arrangements are in place to properly consider public procurement rules and UK obligations on subsidy control rules before entering into arrangements.**

**R6 The Chief Executive, Monitoring Officer and Section 151 Officer need to consider how to respond appropriately to challenge on decisions and be prepared to take corrective action where necessary.**

**R7 The Chief Executive should improve record keeping arrangements so that**

**R7.1 the records supporting key decisions including financial analysis are maintained**

**R7.2 a standard approach to record keeping with monitoring of which decisions have been implemented**

**R7.2 tolerances are established for reporting back changes to Cabinet**

## Governance

Significant concerns over the governance culture and reporting mechanisms between the Council and Brick by Brick have already been raised to the Council (in the Public Interest Report published on 23 October 2020 and the PwC review of companies dated 13 November 2020) and the issues with oversight of the Fairfield Halls Refurbishment reflect many of these concerns.

### Governance arrangements for Brick by Brick

The Cabinet paper approving the establishment of Brick by Brick in March 2015, delegated authority to agree the board structure and membership, human resourcing arrangements and to agree the processes and governance for monitoring the performance of the company and approving future Business Plans to the then Executive Director of Place (who became the acting Chief Executive in April 2016 and permanent from July 2016) in consultation with the Cabinet Member for Homes and Gateway Services, the then Section 151 Officer and the then Monitoring Officer. The delegated decision paper was signed in February 2016.

The June 2016 Cabinet paper sets out the governance arrangements in place between the Council and Brick by Brick which requires a detailed business plan to be prepared annually and reviewed by the Council and for there to be Council nominated Board members on Brick by Brick together with Council observers. The Council nominated Board members changed during the period and included the then Section 151 Officer until January 2016, when the then Deputy Section 151 Officer (who became the then Section 151 Officer in February 2019) was appointed until January 2019, when the then Executive Director of Place was appointed until September 2020. In January 2016 the Brick by Brick Board minutes record that the then Section 151 Officer 'will continue to attend board meetings as a shareholder representative, with 'observer status' from January 2016 and subsequent minutes refer to their attendance as the 'observer representing the funder'.

The first Brick by Brick Business Plan was presented in February 2017 and in February of subsequent years. There was no formally documented mechanism through which Council nominated Board members or observers reported back to the Council and therefore it is unclear how the Council sought to provide governance over Brick by Brick through the nominated Board members or observers.

The focus and the effectiveness of actions taken by the Council through its internal monitoring arrangements for Brick by Brick between establishment and November 2018 is unclear. Records indicate that the Council's need to improve its governance arrangements was recognized, for example:

- In November 2018 the then Section 151 Officer sent the then Chief Executive (the former Executive Director of Place) a draft paper on improving governance arrangements in relation to Brick by Brick.
- Meeting notes from the then Executive Director of Gateway, Strategy and Engagement (who joined the Council in August 2018 and took on that role in January 2019) show 'clienting' arrangements for Brick by Brick were discussed and identified as priority to develop.
- In April 2019 the then Executive Director of Gateway, Strategy and Engagement presented a formal terms of reference for the Brick by Brick Monitoring Group at its first meeting. [The Executive Director of Gateway, Strategy and Engagement has contended that she had also offered to undertake a governance review of the arrangements for Brick by Brick, but that this offer was not taken up.]
- At the September 2019 an updated terms of reference were finalised led by the then section 151 officer when they took on the chair role. At the same time other core group terms of reference were agreed including land, legal and finance and quality assurance.

The proposed reporting and escalation arrangements were changed between April and September 2019 and in August 2019 the responsibility was transferred from the Executive Director of Gateway, Strategy and Engagement to the then Section 151 Officer. (The terms of reference in April 2019 show that this was an officer only governance meeting and in September 2019, the terms of reference show that the Portfolio Holder for Homes and Gateway Services was included in the distribution list for papers and attended some meetings as an observer.). In our view the changes weakened the reporting and escalation routes however the rationale for the changes in responsibilities or in the reporting and escalation routes is unclear. We have seen correspondence requesting the views of both the Managing Director of Brick by Brick and the Portfolio Holder for Homes and Gateway Services on the terms of reference and the correspondence indicates that the views offered in response were considered although there is no record of the relative weight given to their contributions. It is our view that an officer led internal monitoring arrangement should not involve Members, although we appreciate that this view is based on our view of best practice in these particular circumstances and not upon a legal or regulatory requirement. There should have been a clear

distinction between the different roles and responsibilities of Members and officers The Shareholder Investment Board, established in October 2019, is the governance arrangement for Members to hold Brick by Brick to account together with the formal approval of the Brick by Brick Business Plan.

What is clear is that Cabinet delegated authority for establishing governance arrangements for Brick by Brick in March 2015 with a further decision in June 2016 and over two years later in Autumn 2018 officers continued to discuss the need for governance and monitoring arrangements with these being put in place in Autumn 2019. This timeline suggests a lack of urgency by the Council to establish appropriate effective governance arrangements over Brick by Brick.

The Council needed to clearly distinguish between the different roles and responsibilities of Members, officers and Brick by Brick representatives in the governance arrangements so that real and perceived conflicts of interests could be managed transparently.

### **Governance over the Fairfield Halls refurbishment project**

Initially the Council's oversight of the project was through the Council's Growth Board from 2015 when this was a Council run project and then through the governance arrangements established for Brick by Brick. Early in 2015 a competitive tender was used to appoint a contractor for the scheme design and development. In June 2015, a Project Initiation Document for the College Green housing development and Fairfield Halls refurbishment was drafted and reviewed by the Growth Board. Based on the initial design there was a high-level plan and initial costings for the project. Updates on the College Green and Fairfield Halls refurbishment project were taken to the Council's Growth Board until May 2017 with the Brick by Brick Managing Director attending after the project was transferred to Brick by Brick in June 2016.

In May 2017, the Fairfield Programme Board was set up when it was recognised that the Growth Board did not have sufficient agenda time to provide oversight of the Fairfield Halls refurbishment which was a complex and challenging project in its own right. This decision was influenced by an Internal Audit review that indicated the need for a dedicated programme board to meet regularly (as envisaged in the Project Initiation Document).

The Fairfield Programme Board (the Board) terms of reference included responsibility to:

- Provide formal input into the Fairfield Halls refurbishment and works packages including public realm aspects.
- Oversee the procurement and mobilisation of the new operator.
- Manage the delivery relationship with Brick by Brick.
- Approve any project or scope changes to be requested by the Council.
- Agree any new allocation of resources from new or existing capital and revenue budgets.
- Escalate significant risks to the Growth Board.
- Ensure that all significant risks are recorded and managed in line with Council policy.
- Manage the Council's external and internal communications about Fairfield Halls.

The then Executive Director of Place, who was the project sponsor, chaired the monthly Board meetings as the senior responsible officer on the project. The then Executive Director of Place continued to chair the Growth Board.

The available notes show that the meetings did discuss key issues such as delays, financial spend in excess of the budget and risks such as impact of the delays on the operator. There are instances where the meeting records note actions taken for example the December 2018 meeting noted the financial spend in excess of the budget on the project covered in the letters exchanged between the then Section 151 Officer and the Managing Director of Brick by Brick.

In theory, the structure put in place including the terms of reference should have been sufficient to manage the project.

As the project was a significant strand of Brick by Brick's activities, the wider Council could have expected its governance arrangements over Brick by Brick to identify matters of concern over the project through the Brick by Brick Business Plan, the presence of Council appointed members of the Brick by Brick Board and observers together with a proposed member steering group. The governance arrangements were not effective however as:

- The Brick by Brick Business Plan only included high level details of the Fairfield Halls project
- There was no formal documented mechanism through which Council nominated Board members reported to the Council and

- The member steering group was not set up until October 2019, a month after the Fairfield Halls reopened.

By November 2017 the [Fairfield Halls Programme] Board minutes note emerging budget pressures relating to the identification of additional asbestos and the construction contractor indicating that the £30 million estimate may need to be more. The Fairfield Halls Board monitoring papers have a total budget of £34.5 million despite the June 2016 Cabinet decision being for a £30 million investment.

In December 2017 the Brick by Brick Board received a report setting out the financial appraisal of the College Green programme which included the project cost, related public realm works costs, payments to the operator (BH Live), interest on additional borrowing which were offset by the projected profit from the Fairfield Homes development and expected grant funding from Coast to Capital leaving an expected College Green (which included the project) loss of £10.5 million. The financial appraisal appears to have been reported to the Brick by Brick Board only. The notes of the meeting show that apologies were received from the then Executive Director of Place, the then Section 151 Officer and their deputy and we have been provided with the email where the related papers were sent to these officers at that time. The then Section 151 Officer disputes having received these papers.

At the end of 2017 key elements of the issues with the project were known in particular

- the main works contract had not been let
- Croydon College were no longer part of the scheme impacting the land available for house building which was an important strand in the financial case for the wider College Green scheme
- The original engineering consultant had left the scheme necessitating the procurement of a primary engineering consultant
- Additional costs were incurred dealing with asbestos and meeting the needs of the operator that the Council had agreed in a separate contract
- The wider College Green scheme which included the project had a projected loss of £10.5 million

In October 2017 the project was called in by the Scrutiny and Overview Committee (the Committee) and in February 2018 the Brick by Brick Business Plan was presented to Cabinet. The 2018/19 Brick by Brick Business plan had a cover report which detailed the then Executive Director of Place as the relevant Lead Officer, and the then Portfolio Holders for Homes and Gateway Services and for Finance and Resources as relevant Cabinet Members. On neither occasion (the Committee and the Cabinet) were the extent and depth of the known issues highlighted formally to Members instead the impression given was all was progressing well. We consider that the transparency expected in both documents was missing. In particular we consider that:

- The Brick by Brick Business Plan should have highlighted to the shareholder the projected loss of £10.5 million on the overall College Green scheme which included the project and notwithstanding that it did not, the then Executive Director of Place, the then Section 151 Officer and their deputy, were they aware of this (on the basis that the related papers would have been provided to them in December 2017, as set out above), should have flagged this in the cover report to the Cabinet together with any action; [we have seen no evidence that the Portfolio Holders were aware of the projected loss]. Instead, the Cabinet report makes reference to the risk for existing schemes from escalation of cost estimates and time delays with the conclusion that Brick by Brick is *'currently projecting to achieve a profit of £21 million on its existing development activity in addition to the £30 million investment into the refurbishment of Fairfield Halls'*.
- One of the original assumptions of the wider College Green scheme was for the Council to purchase land from Croydon College to be made available for house building. Early in 2018 Croydon College rejected the offer for the land and progressed with an alternative purchaser. We have not seen evidence of the financial impact of a change in a key assumption being reassessed by the Council or that the Cabinet was updated formally on this change.

Brick by Brick is of the view that the detailed financial models were provided to officers to support all funding requests. Neither the business plan nor the cover report presented to the Cabinet however provided the detailed financial modelling. Brick by Brick is of the view that the Council had the relevant information to challenge the business plan and that there was no request to provide greater clarity on the project within the business plan. In our view, the projected increased project cost at that time was known by the Brick by Brick Board and the then Executive Director of Place, as a member of Brick by Brick's Board, and the then Section 151 Officer, as the Council appointed observer of the Brick by Brick Board. All were aware of the increased



project cost and the known increased costs should have been highlighted to both the Cabinet and the Scrutiny and Overview Committee either by requiring Brick by Brick to highlight the known increase or identifying the amount in the covering report to the Cabinet. The absence of reporting the known loss to a formal Member meeting did not enable scrutiny by the wider Council.

By June 2018 the project monitoring documents showed the expected project spend being £42.8 million. In September 2018, the Brick by Brick Managing Director sent a copy of the financial monitoring reports to the then Chief Executive highlighting the additional spend in excess of the budget. The main works contract was not let by Brick by Brick until October 2018, three months after the original project completion date, and the project cost was £42.7 million. Brick by Brick confirmed the contract amount to the then Executive Director of Place on 9 October 2018. At this point the project cost clearly significantly exceeded the amount approved by Cabinet in June 2016 of £30 million and it would be reasonable to expect officers to formally report back to the Cabinet. Brick by Brick informs us that the contract was let in line with the strategy agreed with the Council and the increased costs reflect the 'constantly changing brief' indicating that both the delay and the increased costs were known within the Council however we have not been able to identify any formal reporting to the Cabinet.

In October 2018 Brick by Brick wrote to the Council's Section 151 Officer setting out a shortfall of £28.8 million on the College Green scheme (which included net expenditure of £49.2 million on the refurbishment project) setting out the proposed strategy to cover the increased costs. The then Section 151 Officer replied in November 2018 noting the proposed actions which were:

Source	Amount	Description
Brick by Brick	£18.3 million	Full value profit from the scheme (£17 million) and ongoing revenue generation from the energy centre (£1.3 million)
Council*	£7.6 million	Unforeseen asbestos removal costs and additional costs for delivery of the operator requirements
Coast to Capital**	£3 million	Redirected grant funding from the Arnhem Gallery part of the project into the general project
	£28.8 million	

\* The then Section 151 Officer agreed that the Council would contribute £1.6 million for the operator fit out costs and proposed to flex the overall repayment to manage the remaining gap of £6 million.

\*\* The Local Enterprise Partnership, Coast to Capital, provided grant funding to the project including £3 million for the refurbishment of the Arnhem Gallery. As the project spend grew, the Council was granted permission from Coast to Capital to divert the grant funding into the wider scheme.

In our view, the solutions were problematic in that:

- Brick by Brick's proposal to 'attribute the full value of Brick by Brick profit' from the College Green scheme (estimated to be £17 million at that time) to meet the additional costs of the project is a significant decision for any company to make. We note Brick by Brick wrote to the Council, its shareholder, setting out the proposed action and received an acknowledgement from the then Section 151 Officer. Brick by Brick is of the view that its financial viability model was based on profits generated by the College Green scheme to fund the project and that its involvement in the project was important to Brick by Brick as it gave 'the opportunity to be involved in a high-profile project with enormous value potential'. We remain of the view that the decision to attribute the full value of profit at £17 million from one project to another is an unusual decision for an independent company to make and is a decision that opens the Council to the challenge of whether Brick by Brick was operating as an independent company which is a key requirement of whether the Council's arrangement is legal.
- In addition, the decision to attribute the full value of profits from one element of the College Green scheme to fund additional project expenditure is significant to the Council as it would impact the Council's receipt of future dividend from Brick by Brick and as such it would be reasonable to expect the then Section 151 Officer to report the decision formally to the Council. We have found no such evidence. The then Section 151 Officer is of the view that as the dividends were not included within the Medium-Term Financial Strategy (MTFS) there was 'a very minimal impact' and 'a lower estimated future profit would have no immediate impact'. We acknowledge at that time the MTFS did not

include future dividends from Brick by Brick. It is our view that a decision impacting £17 million is significant to both the Council, even where it is not included in the MTFs, and Brick by Brick and therefore Members should have been informed formally by both the then Section 151 Officer and by Brick by Brick in their next business plan. Brick by Brick is of the view that they met their responsibilities in informing their shareholder and Brick by Brick was not asked to provide more detail in their business plan. The then Section 151 Officer asserts that Cabinet members were briefed on the actions although we have not been able to obtain evidence to support this. The arrangement opens the Council to challenge of the soundness of its investment in Brick by Brick.

- The Council's proposal to transfer a car park associated with the project to Brick by Brick at its carrying value of £6 million was not supported by an assessment of the best value of that land as required by section 123 of the Local Government Act 1972. The proposal was not co-ordinated within the Council as another contract was issued to the operator with the associated income being included in the Council's budget and this income would not have been receivable by the Council if ownership of the car park was transferred. In addition the Council's legal transfer documents for the car park and heads of term for the lease were drafted but remain unsigned.

The Fairfield Halls Board terms of reference include 'all significant risks are recorded and managed in line with Council policy' and 'escalate significant risks to the Growth Board'. From the Council's perspective the view was that the financial risk would be managed in that any spend in excess of the budget would be the responsibility of Brick by Brick and would be covered by their profits. However as the licence (and the land transfer– although this was not followed through in full) gave Brick by Brick full control over the specification of the Fairfield Halls works, the response by Brick to Brick to the additional costs was to cover these through 'value engineering' adjustments. It is clear that the Council did not set out a clear understanding of the legal aspects of the intended land transfer approach with Brick by Brick as the Brick by Brick Managing Director has responded by saying that 'there was an obligation on Brick by Brick to work in partnership with the Council to define and agree the specification for the works. Had Brick by Brick had full control over the specification, we could have delivered £30m worth of improvements of our choosing to the building without any recourse to the needs or desires of the Council'.

The Growth Board exception report for October and November 2018 highlights the project as an area of concern with the spend in excess of the budget noted as £15.89 million, indicating that the significant risk on project spend was reported to the Growth Board. The Growth Board's terms of reference require escalation to the officer led Executive Leadership Team or via other Council processes 'as it sees fit' for breaches outside of specified tolerances. The tolerances included:

- overspends of the greater of £50,000 or 0.1% of the project overspend
- project delays past the financial year into another year

The approval decision in June 2016 was for a £30 million project to be completed by June 2018. In October 2018 the tolerance of a £50,000 / 0.1% of the project budget overspend (as reported to the Growth Board) and delayed project into a future financial year had been significantly breached. It is not clear whether the significant additional spend was escalated to an officer led leadership team or via another Council process. In our view, the then Executive Director of Place, as Chair of the Growth Board, had a responsibility to escalate a reported spend in excess of budget of £15.89 million to a formal Cabinet. We have been unable to identify any evidence of the escalating risks being reported to Cabinet formally.

The December 2018 Fairfield Halls Board minutes refer to the exchange of letters on the financial position. We consider that the letters and the minuted reference to the letters indicates that then Executive Director of Place, as chair of the Fairfield Halls Board, the then section 151 officer and Brick by Brick were all aware of the known additional spend and had a duty to escalate the increased spend formally. We have seen no record of the significant increased spend being escalated to the Cabinet formally.

The 11 December 2018 Scrutiny and Overview Committee included an item on Fairfield Halls which would have provided an opportunity for the known additional spend in excess of budget to be highlighted to Members for their consideration and challenge however the presentation focused on questions to the operator. (We have no evidence that the operator was aware of the additional spend in excess of the budget.) This was a missed opportunity to highlight to Members the scale of the known additional spend at that point.

The 16 January 2019 Growth Board notes record that

'Council as a shareholder and funder allowing BBB longer to pay back on equity so it won't emerge as a capital over spend. The financial impact on Council is that our company makes less profit over the medium term'

The then Executive Director of Place and the then Section 151 Officer are recorded as being present for the meeting and could be considered to have knowledge of the discussion. Based on the January 2019 Growth Board notes the rationale

appears to be that 'the equity in Brick by Brick would be sufficient to cover the known overspend'. We consider the rationale to be fundamentally flawed as:

- the Council had not to date provided any equity funding to Brick by Brick
- Brick by Brick at that time had not made a profit and therefore it would not be in a position to cover the additional spend of £15.89 million

These facts should have been known by the then Executive Director of Place as a Brick by Brick Board member and the then Section 151 Officer as a Brick by Brick Board observer. The then Section 151 Officer has expressed the view that the intention was for equity to be provided at the end of the project which had not been reached at that point. We have not been provided with evidence of how the intended equity was included in the Council's forward financial plans.

The 2019/20 Brick by Brick Business Plan was presented to the February 2019 Cabinet meeting. The College Green scheme is identified in the Business Plan, one table shows that the projected profit for the College Green was £0 against a sales income of £177.5 million. The presentation, the Council covering report and the Business Plan did not provide a clear or transparent update on the College Green £28.8 million increased spend set out in the exchange of letters between Brick by Brick and the Council or the mitigating actions agreed. Respondents assert that the increased spend was included within the financial modelling that supported the Brick by Brick Business Plan which could be considered to have met Brick by Brick's responsibilities. The then Executive Director of Place and the then former Section 151 Officer (having passed the role onto their deputy on 1 February 2019) were aware of the significant increased spend and could reasonably have been expected to be aware that Brick by Brick's business plan did not provide clarity to the Cabinet on the potential financial risks associated with the College Green project. In not providing that clarity or challenging the lack of clarity these officers failed in their responsibilities to the Council.

We have received representations from officers that the lack of estimated profit for a significant scheme was included in the report and 'could have been open to question at the meeting'. We accept that the position of a £177.5 million scheme delivering £0 profit is included within the Business Plan; in our view, as acknowledged by respondents, this 'is clearly an unusual for a company'. In our view the significance of the lack of estimated profit on the College Green scheme should have been highlighted by officers to draw attention to the matter in the covering report to the Cabinet to provide greater clarity on the potential financial risks associated with the College Green project. The matter was known to the then previous Section 151 Officer (who ceased to be section 151 officer on 1 February and remained employed by the Council until March 2019) and their successor\* and the then Executive Director of Place.

\*The section 151 officer changed on 1 February 2019, the previous Section 151 Officer who signed the November 2018 letter to Brick by Brick remained in the Council's employ until March 2019 and continued to have a duty to ensure the significant additional spend was reported formally to Members. The Section 151 Officer from 1 February 2019 was a Director of Brick by Brick Board member from January 2016 until January 2019 and we therefore consider they could reasonably have been expected to be aware of the additional spend at that point, which they have acknowledged; however, they have asserted they were not aware that the known additional spend had not been formally agreed with the Cabinet.

At the June 2016 Cabinet, the original delivery date for the project was June 2018 and the actual reopening of Fairfield Halls was September 2019. The June 2016 Cabinet decision approved a £30 million investment for the project that has had a final expenditure of £67.5 million. Both the delays and the escalated costs were known by the then Executive Director of Place, the then Section 151 Officer and the then Chief Executive and there is no evidence of the emerging risks being reported to the Cabinet formally. All had the position and experience to understand their responsibilities to escalate the concerns and there is no formal record of any of this small group of officers doing so. The responsibilities are particularly clear for the senior statutory officers: the Chief Executive and Section 151 Officer as these are set out in statute\* and the Council's Constitution. Representations received from this group of officers indicate that in their view concerns were raised to the relevant Portfolio Holders however we have not been able to obtain a written record of the concerns, who they were raised to or at which meeting. There is an onus on the relevant Portfolio Holders (for Homes and Gateway Services, for Finance and Resources and the Leader) to ask appropriate questions of senior officers and to require clear reporting to Cabinet on the progress of a complex project. Representations received from the relevant Portfolio Holders indicate that in their view concerns were not reported to them [and that there is in their view no evidence of a failure to ask appropriate questions]. Without evidence to support either viewpoint, [and in particular without detailed evidence of what questions were put to senior officers by the relevant Portfolio Holders in this regard], it is clear that there were known issues and effective action was not taken. In our view these officers and Portfolio Holders failed to exercise their functions and responsibilities adequately.

As chair of the Board and the senior responsible officer for the project, the then Executive Director of Place was responsible for ensuring the effective operation of the Board. The fact that the project was delivered late, overbudget with the current view from the Council that additional works are required indicates that the then Executive Director of Places was not effective in delivering the agreed terms of reference. There is evidence of the delays and additional costs being reported at the Growth Board, also chaired by the then Executive Director of Place. We would have expected the Growth Board to have considered the scale of the additional spend to require reporting to Cabinet.

The failure in governance appears to stem from the viewpoint that the project was for Brick by Brick to manage and any risks and cost overruns were for Brick by Brick to address. This viewpoint has been expressed by the then Chief Executive, the then Section 151 Officer, the then Leader, the then Cabinet Portfolio Holder for Finance and the Managing Director of Brick by Brick. In our view that viewpoint is flawed in that Brick by Brick was both:

- Wholly owned by the Council meaning any profits or losses would be consolidated into the Council's group accounts and ultimately impact the Council's financial position; and
- at that time the sole source of funding for Brick by Brick was from the Council.

*\* Statutory responsibility for the Chief Executive is Local Government and Housing Act 1989 section 4 and for Section 151 Officer is the Local Government Act 1972 section 151.*

#### *Role of Scrutiny and Overview Committee*

The Scrutiny and Overview Committee (the Committee) were active in considering the refurbishment of Fairfield Halls on at least six occasions between 2016 and 2020. Members of the Committee raised pertinent questions including on project management and the potential additional spend on the project. The magnitude of the financial additional spend on the project was not reported to the Committee and the lack of transparent reporting prevented adequate scrutiny as noted above.

At the 10 February 2020 Committee, the Brick by Brick representative confirmed that the current estimated cost for the project was £42.6 million. The then Executive Director of Place was also present at that meeting. Members on the Committee have a reasonable expectation that the figures reported are accurate. Both the Brick by Brick representative and the then Executive Director of Place were in a position where they could and should have known that the project cost exceeded £42.6 million in that:

- The mains work contract was let in 2018 for £42.7 million
- The October 2018 Brick by Brick Board minutes note the project spend was £50 million.
- The letter from Brick by Brick to the Council in October 2018 highlighted that the total project costs were £50 million (The £50 million was for Fairfield Halls alone with the letter including separate amounts for other elements of the College Green scheme including the car park and public realm).
- As at January 2020, the Council's records show that the Council had provided cash drawdowns to Brick by Brick in respect of Fairfield Halls project of £59.9 million.

Brick by Brick has expressed the view that 'it was not the role of Brick by Brick's representatives to offer contradictory advice to Members'. The reason for the gap between the known project expenditure and the amount reported to the Committee is unclear. In our view the gap was significant and as such the Committee was hampered in its role to scrutinize the project expenditure.

Between 2016 and 2020 the Committee also questioned the then Leader on the project on at least five occasions during the same period, although as above it is unclear whether concerns had or had not been raised to the Leader by the senior officers regarding the project, in light of representations received.

#### **Financial position of the project**

The monitoring of financial outcomes is intrinsically linked to the project progress and therefore financial governance is impacted by the weakness in governance over the project section.

#### *Original project budget setting*

The September 2014 Cabinet paper had the original project budget of £33.75 million. By October 2015 the Cabinet report indicates that the Council intended to provide Brick by Brick with loan finance to fund the costs of the project and to fund the costs of building the residential units. The June 2016 Cabinet report refers to a £30 million investment in Fairfield Halls and the confidential report states

‘the financial appraisal and development assumptions for the land at College Green proposed to be transferred to Brick by Brick have been tested by the Council and found to be prudent for this stage of the development process.’

We have not been able to obtain the financial appraisal and development assumptions referred to in the confidential June 2016 Cabinet report and are therefore unable to comment on the robustness of that appraisal. We consider the financial appraisal supporting a decision to invest £30 million to be a key document that should have been maintained by the Council to enable subsequent scrutiny and the absence of such a document is a weakness in record keeping. Respondents have stated that £30 million was not the original budget. We have been unable to identify any Cabinet report after June 2016 which approved a budget for the project and we therefore consider £30 million to be the original budget. The February 2020 Scrutiny and Overview Committee meeting referred to a £30 million original budget.

Without the detailed financial appraisal, it remains unclear whether the additional expenditure over the original budget reflects issues in the original budget setting or issues in managing the project’s expenditure or a mix of both. A detailed scope for the refurbishment of Fairfield Halls was provided by the original engineering contractor in September 2015 which was costed at £73 million. There is evidence that this detailed scope was discussed by officers at that time as would be expected. It is not clear from the evidence available to us how the September 2015 scope connects (or if it connects at all) to the project presented to the June 2016 Cabinet.

In the absence of the original financial appraisal our understanding is that the project was intended to be cost-neutral to the Council with Brick by Brick using expected profits from the College Green scheme to cover the costs of the project. This understanding is based on

- The November 2017 Fairfield Halls Board minutes which note that the budget gap identified at that time was ‘Financial risk minimal for council it will be Brick by Brick issue’
- The December 2017 Brick by Brick Board report which sets out that ‘the expectation for delivering the wider College Green projects was that the land value for the homes development would be £nil (acting as a barter transaction to fund the refurbishment of Fairfield Halls).’

Under section 123 of the Local Government Act 1972 the Council has a duty to achieve best value in land disposals. We have not been able to obtain the Council’s assessment of whether £30 million for the land provided to the College Green projects represent best value and therefore we cannot conclude on whether the Council achieved this duty.

#### *Final cost of the project*

The Council provided funding to Brick by Brick through drawdowns and recorded those amounts in its financial statements. The Council has maintained records of the requests however as noted earlier there are no related properly executed written loan agreements providing a legal basis for making payments to Brick by Brick.

According to the underlying financial records:

Financial year	Council Funding provided to Brick by Brick for Fairfield Halls refurbishment	Expenditure incurred by Brick by Brick (from financial ledger)
2016/17	£1.2 million	£1.5 million
2017/18	£9.5 million	£7.5 million
2018/19	£19.9 million	£30.3 million
2019/20	£37.2 million	£27 million
2020/21	-	£1.2 million
Total	£67.8 million	£67.5 million
Adjustments – late VAT and invoices	(£0.3 million)	
Spend on Fairfield Halls refurbishment	£67.5 million	£67.5 million

\* Funding provided includes Coast to Capital grant funding

It is a serious financial control and legal failing that payments in excess of £60 million were made to a third party without sufficient clarity as to the powers relied upon or any properly executed written contracts. Both the then Monitoring Officer and the then section 151 officer had a responsibility to ensure that the legal loan agreements were properly executed prior to making payments. In our view, officers treated Brick by Brick as an extended department of the Council in terms of the financial payments made, and did not ensure the level of rigour we would have expected. Had the legal agreements been entered into and monitored, it is likely that the Council could have monitored the position of the loans provided for the project and this would have enabled the Council to have ceased to make loans beyond the original budget or to have invoked loan covenants or to have escalated that the project's financial viability had been breached. In the absence of properly executed written contracts, the payments described as loans do not appear to have been subject to any such oversight.

The actual cost of the project has been difficult to establish which in itself is a serious failing that the Council's financial arrangements are not sufficiently robust to monitor the expenditure on a significant project. The Council was able to demonstrate the amounts the Council provided (recorded as loans) to Brick by Brick for the project. The actual spend by Brick by Brick has taken the Council's finance team longer to determine. The final cost of the project at £67.5 million is significantly greater than the £30 million originally approved at the June 2016 Cabinet. There are a number of factors to explain the spend in excess of the original budget including a lack of Council arrangements in the:

- robustness of the original budget setting
- clear financial monitoring
- monitoring the complexity of co-ordinating contractors on a complex project leading to a dispute with the original engineering contractor (note that although this is disputed by Brick by Brick the relationship ended and the Adjudicator's decision on the financial resolution was found in favour of the contractor with the Council having to pay the contractor's and Adjudicator's cost.)
- effective risk mitigation
- project oversight and scrutiny
- implementing the governance arrangements in the June 2016 Cabinet report

Brick by Brick expressed the view that 'the principal cause of cost increase relates to contract variations and specification delays by the Council and other essential unforeseen works (such as asbestos and structural issues)'. Brick by Brick's view implies that there was both a 'contract' and a 'specification'. We have not seen contractual variations supporting Brick by Brick's view. As noted above, we have not seen properly executed written contracts obliging Brick by Brick to carry out the work in accordance with any specification or enabling the Council to vary the specification; the idea that there was a 'specification' highlights the risk identified by the Council's legal advice that a specification would engage a risk of challenge in the licence / land transfer option route which it pursued.

The Council as the owner of Fairfield Halls would have had knowledge of both the structure of the building and the presence of asbestos and the costs related to these aspects should have been foreseeable by the Council in setting the original budget.

A number of respondents expressed the view that the financial impact was for Brick by Brick to manage. The Council as owner of Brick by Brick has always been required to account for any losses or profits made by Brick by Brick and this is shown through the group accounts. Therefore the Council had a responsibility to understand significant financial risks impacting Brick by Brick which we would argue the project represented. As ultimately the Council would need to account for any significant loss we remain of the view that the Council's arrangements to manage the risk of any increase in cost were not sufficient. The increase in costs was known, it was reported through the Fairfield Board and the Growth Board. The lack of transparency of the increased costs being reported to formal Member meetings has led to the position where it is unclear whether effective action at the time could have been taken to mitigate the financial risk to the Council.

In establishing the financial position of the project there were changes in financial record keeping during the project that contributed to the lack of clarity. The Council changed its financial system from 1 April 2019. Brick by Brick has provided representations that there was a period of five months in 2019 where Brick by Brick had to manage its finances without access to the system with a delay in migrated data being made available.

Taken together the Council missed opportunities to manage the causes of the increasing costs and has, as noted in our 23 October 2020 Report in the Public Interest, again imposed on council tax payers of Croydon an increased borrowing burden.

### *Impact on the Council's financial position*

As noted earlier in the report given the uncertainties in the properly executed written contract and properly executed written loan agreements as a basis to make payments in relation to the project has led to the Council reconsidering its accounting treatment of the project expenditure. In the absence of a clear lawful basis for making payments to Brick by Brick for the refurbishment of Fairfield Halls, the Council is now recording the project expenditure as direct capital expenditure in the 2019/20 financial statements. The uncertainty on the lawfulness of the arrangement led to the Council's revised approach.

The majority of the adjustments to the 2019/20 financial statements impact the capital reserves position however there are some key revenue impacts on interest receivable and the minimum revenue provision which impact on the Council's General Fund position which is already under significant pressure. Key adjustments include:

- Loans receivable – without properly executed loan agreements the Council cannot account for the £61.3 million funding provided to Brick by Brick as receivable and the amounts have needed to be written off in the Council's accounts (noting that in the group accounts the entries would be subject to consolidation processes)
- Interest receivable – The Council has access to low interest rate borrowing from the Public Works Loans Board and part of the financial rationale for lending monies to Brick by Brick was that the Council would charge Brick by Brick a commercial interest rate. The Council has accrued interest of £9.1 million as at 31 March 2021 which will need to be written off as the amounts are no longer considered to be receivable without properly executed loan agreements, and as the Council's approach has now changed with the underlying loans being classified as capital expenditure.
- Minimum revenue provision (MRP) – as noted earlier the Council needs to account for MRP in future years' budgets and we estimate that the charge would be approximately £1.5 million per annum over the life of the refurbishment depending on the Council's assessment of how long the refurbishment will remain useful. The Council has included this in future budgets.

The view of the then Section 151 Officer was that the strategy of providing the last 25% funding of the project as equity would have included MRP. The unsigned loan agreement documents show that the intention was for funding to be split 75% debt and 25% equity funding. At the time of the then Section 151 Officer's departure no equity had been provided to Brick by Brick on the project or indeed on any other Brick by Brick project.

The Council's failure to establish and manage the project appropriately has led to further financial pressure on the Council's challenging financial position.

### **Recommendations**

**R8** *The Chief Executive, as Head of Paid Service, should ensure appropriate governance arrangements are implemented in a timely manner particularly for strategic developments such as Brick by Brick including where appropriate that there is clear guidance for nominated representatives on the expectations of the role including reporting back to the Council*

**R9** *The Chief Executive should work with the Leader to continue to embed*

**R9.1** *a clearly understood distinction between the different roles and responsibilities of Members, officers and representatives of entities akin to Brick by Brick.*

**R9.2** *clear responsibilities for officers and Portfolio Holders in challenging reports presented to Cabinet and other committees for balance, accuracy and consistency in terms of knowledge*

**R10** *The Chief Executive should review the terms of reference for officer and member/officer boards that oversee significant projects and capital/revenue expenditure and clarify the escalation routes for significant additional spend in excess of the budget*

**R11** *The Section 151 Officer should ensure financial reporting on significant capital projects is enhanced so that*

**R11.1** *a clear agreed budget for the project is identified and the underlying financial analysis is maintained*

**R11.2** *the clear agreed project expenditure amount can be reported through appropriate governance processes*

**R11.3** *where there are changes in the original financial assumptions that there is an assessment on the project's financial viability with appropriate reporting*

**R11.4** *the revenue impact of any changes in the capital project are addressed in future budget setting*

## Other auditor concerns

As part of our work, we have also identified further areas of concern which impact on the delivery of the project.

### **Project management - Co-ordination of contractors**

The project involved a number of contractors and relied heavily on successful co-ordination of the design, build and operator elements, each of which lay with a separate contractor. An additional complexity was the subcontracting of project management responsibilities by Brick by Brick to a fourth contractor. There was a highly complicated series of interdependencies and the deficiencies in co-ordination between contractors (including the need to replace one contractor during the project) being a contributor to the delays, additional costs and quality of delivery issues.

Delays in the establishment of the dedicated Fairfield Board until May 2017, meant that the procurement of the Operator by the Council, and the main works provider by Brick by Brick lacked an effective mechanism to co-ordinate both contractor requirements at an early stage. The Council was limited in terms of what it could require of Brick by Brick due the Council's original decision to use the development licence option (although we note the outcomes would equally have been limited if the proposed land transfer option had been completed). Therefore, there was no effective mechanism to mitigate the co-ordination risk that became critical in the latter stages of the project, contributing to delays, additional cost and contractor disputes.

The relationship between Brick by Brick and the original engineering consultant broke down with the resolution of increased costs being decided by the Adjudicator. The need to assimilate a replacement engineering consultant mid-project and in a short period of time, was highly challenging and is likely to have contributed to the delays and cost implications.

As there was not a competitive tendering process by the Council to support the appointment of Brick by Brick to manage the project, there is no evidence that the credentials and suitability of Brick by Brick to manage a complex refurbishment project were assessed by the Council prior to selection. At the time the licence was granted, Brick by Brick was newly established without a track record of delivery. We acknowledge that Brick by Brick's articles of association allow commercial developments and not solely housing developments and that the Brick by Brick Board was in a position to assure itself of its ability to manage the project; however the Council did not have appropriate methods of oversight in place. There is also no evidence of how other factors such as value for money and risk were assessed by the Council. Representations received from Brick by Brick state that from Brick by Brick's perspective the financial viability of the project was linked to the wider College Green scheme which was in the best interests of Brick by Brick. Their view is supported by Brick by Brick Board discussions of external advice received at that time.

In our view it was not appropriate for the Council to include the refurbishment of Fairfield Halls within a housing development scheme as the projects are very different and require different mechanisms for the Council to be able to secure value for money. The complex interdependencies were foreseeable for the Council and the Council's decision to use Brick by Brick with an arrangement that prevented a legally enforceable obligation to comply with detailed specification for the project should have been supported by a more detailed risk assessment and more robust governance arrangements that responded as risks emerged.

### **Value for money**

In relation to how the Council was able to protect its interests and secure economy, efficiency and effectiveness in its use of resources in relation to the Project, the Council's overall approach was intended to be that the transfer of land to Brick by Brick for development with the value of the land being the same as the estimated cost of refurbishment. Based on representations received, the intention was for the Council to secure the refurbishment of Fairfield Halls and to receive future dividends from Brick by Brick generated from profit as part of the wider College Green scheme.

The Council's detailed financial analysis at that time (June 2016 Cabinet) cannot be found by current Council officers and we are unable to conclude on whether the underlying assumptions were reasonable or not. Brick by Brick did obtain advice on the financial viability of the wider College Green scheme however as would be expected this advice was from a Brick by Brick perspective.

Notwithstanding, the failure to secure legality in the arrangement through a properly executed written contract, the intended arrangement involved a licence to access the building which would only require method statements to address how work would be carried out. The intended approach prevented the Council from issuing a detailed specification with which Brick by



Brick would be obliged to comply. It is difficult to see how the Council's intended approach would have secured economy, efficiency and effectiveness in relation to the project.

The Council did establish governance arrangements which required additional spend reported to the Fairfield Hall Board to be escalated to the Growth Board and where tolerances for additional spend are breached for further escalation to the Corporate Leadership Team or via other Council process as it sees fit. The additional costs exceeded the budget by £15.89 million, which breached the tolerances, and was reported to the Growth Board. The costs in excess of the budget was not reported in a clear and transparent manner to a formal Cabinet meeting. Representations received and meeting notes indicate the view at the time was that 'any overspend was for Brick by Brick to manage'.

In our view the governance arrangements did exist to identify and report the known additional spend however the governance did not operate as intended due to the Council's viewpoint at that time which was the financial risk remained with Brick by Brick. We consider this viewpoint misunderstands how any profits and losses of Brick by Brick impact the Council as the shareholder.

It is unclear whether informal mechanisms were used to raise concerns about the project. We have received representations from former officers stating that 'Lead Members' were briefed and that concerns were either not listened to or support was not provided and we have received representations from the three Members consulted that concerns were not raised. In the absence of documented discussions, it is difficult to reach a view on this point. It is however clear that senior officers (namely the then Executive Director of Place, the then Section 151 Officer and the then Chief Executive) should have been aware that the project's original approval of £30 million had been exceeded as this was reported in emails, Fairfield Hall Board papers and Growth Board papers.

### **Conflicts of interest**

There were inherent conflicts of interest in managing a complex project through a wholly owned company. As noted in Internal Audit's review of Fairfield Halls in December 2020, there was a lack of an assessment of the real or perceived conflicts of interest. At one point the then Executive Director of Place was the project sponsor, chaired the Growth Board, chaired the Fairfield Board and was also the Council appointed Director on the Board of Brick by Brick. The inherent conflicts of interest of delivering each of those roles simultaneously should have been visible to both the then Executive Director of Place and the then Chief Executive who was their line manager, however these conflicts were neither addressed nor mitigated.

### **Delegated decision making**

It is within the Council's Constitution to delegate decisions from Cabinet to named officers in consultation with Cabinet Portfolio Holders and in October 2015 the Cabinet delegated to officers, in consultation with relevant Cabinet Portfolio Holders, the authority to enter into relevant commercial agreements to progress the vision. In June 2016 a further paper was brought to Cabinet which approved the proposal to use Brick by Brick to bring forward elements of the College Green scheme including the refurbishment of Fairfield Halls.

There are a number of related issues

- Record keeping - There is a template to record the action taken in implementing delegated decisions which sets out the actions and is signed by the relevant Executive Director and relevant Portfolio Holder. During our work it has become evident that the retention of the formal documentation rests with individual Executive Directors and their local support arrangements. As personnel have changed, the retrieval of signed delegated decision sheets together with supporting documentation has become problematic and this gap in record keeping has led to gaps in demonstrating how delegated decisions were implemented. The lack of systematic and robust record keeping undermines the Council's governance arrangements, creates legal uncertainty and risk and fails to meet the good practice recommendations in the Information Commissioner's Office "Section 46 Code of Practice – records management" issued under section 46 of the Freedom of Information Act 2000.
- Reporting back to Cabinet – where decisions are delegated to officers in consultation with relevant Portfolio Holders there is an expectation that the decision will be implemented in line with the business case which Cabinet approved. With the Fairfield Hall refurbishment project there were fundamental changes that impacted the underlying assumptions for example the additional spend and the withdrawal of the Croydon College land. The decision was delegated to the then Section 151 Officer in consultation with the Portfolio Holder for Homes and Gateway Services and for Finance and Resources and we have not seen evidence that any of these individuals formally updated the Cabinet on the change in circumstances (although the Portfolio Holder for Finance and Resources has made

representations that in his view there was no need to formally update the Cabinet, as the additional spend was a matter for Brick By Brick, while the withdrawal of the Croydon College land was in the public domain and subject to questions by full Council). However, in our view, the lack of formal update to Cabinet did restrict wider scrutiny of the project by other members of the Cabinet or other members.

- Delays in implementing delegated decisions – It is important that where there are delays in implementing delegated decisions that updates are provided to Members to allow consideration of changes in circumstances. There is currently no guidance on what an appropriate time period is to implement a delegated decision or when a review of change in circumstances should be undertaken.

In our view, the Council should develop its governance arrangements to include clarity on record keeping standards (taking into account the statutory Code of Practice), time limits where there are delays in implementing delegated decisions and guidance on when changes in the known facts or risk profile require reporting back to the original decision maker.

### **Recommendations**

*R12 The Chief Executive should put in place arrangements to consider inherent conflicts of interest for executive officers.*

### **The Council's position**

The Council has acknowledged the difficulties arising from the arrangement, stating, in a letter from the then Section 151 Officer on behalf of the Council during the value for money review, as follows:

*"The Council sought and obtained legal advice subsequent to the June 2016 Cabinet decision in relation to the public procurement regime and its application to the Fairfield Halls scheme. [...] Although the advice assumed an actual land transfer under an option agreement (with buy back and security) the Council elected to grant licences to carry out demolition and other works to the Halls. This was consistent with legal advice, insofar as it meant that there was no enforceable obligation to carry out works. It is recognised however that the overall procurement law position was dependent on the company remaining truly independent and that, as you identify, this was not given sufficient weight. Equally, the Council has not been able to locate all documents entered into by way of licence to carry out works on Council land.*

*In relation to how the Council was able to protect its interests and secure economy, efficiency and effectiveness in its use of resources in relation to the Project, the Council was reliant on the commercial incentive on the Company to control costs and maximise returns. As sole shareholder, as might be expected, the Council had an ability to monitor and control this. No contractual mechanism was applied however, given that no loan agreements were entered into and that the terms of any licence would only require method statements to address how work would be carried out. The external legal advice did make the point that although the Company was not subject to procurement law, it would still be expected to be interested in securing value for money through conducting a competitive tender process for works/services.*

*In summary, whilst the Council did take advice it is recognised that the Council should have sought that advice earlier and in greater depth, and should have then acted on that advice."*

The Council has, in light of the matters reported upon here and their views as set out above, proposed to account for the expenditure on the project as if it had been direct capital expenditure by the Council (as if the Council had initially merely spent the money on the refurbishment itself, rather than providing a loan the Brick by Brick to carry out its own refurbishment).

## Conclusions

The Fairfield Halls refurbishment project was a complex project which was delivered later and at a higher cost than the original Cabinet approval in June 2016. and overspent. The Council failed to ensure the legality of the arrangements for the project combined with governance gaps which restricted wider scrutiny and challenge that may have allowed corrective action to have been taken. Whilst we have been provided with interview information and written assertions that the matters in this report were raised with by officers to the Portfolio Holders they reported to, we have not been able to obtain evidence to verify the content of informal briefings by officers or the questions Portfolio Holders asked of officers.

Representations received from the relevant Portfolio Holders assert that they did not receive any such briefings or updates. In these circumstances, what is notable is a lack of agreement on this point and the fact that there was a failing somewhere. The then Senior Statutory Officers together with the then Executive Director of Place had both the experience and the position to understand their duty to brief Members and in not recording or escalating formally their concerns they have been left open to challenge on their actions.

In summary, throughout the project there have been examples of a failure to discharge duties from a small group of senior officers (the then Senior Statutory Officers and the then Executive Director of Place). These senior officers were responsible for reporting to the then Portfolio holders (the Portfolio Holder for Homes and Gateway Services, for Finance and Resources and the Leader) who were either not briefed by officers and failed to request briefings on the project or did not take effective action in response to concerns raised by the senior officers.

In our view, key senior officers had the following responsibilities:

- The then Monitoring Officer (January 2016 to June 2021) had a responsibility to report on matters they believe to be illegal or amount to maladministration (Local Government and Housing Act 1989 section 5). In not ensuring that the external legal advice received in November 2016 was adhered to, the then Monitoring Officer's actions are open to challenge.
- The Section 151 Officer at that time (January 2015 to January 2019, at which point they moved into another role until March 2019) – under section 151 of the Local Government Act 1972, the Section 151 Officer is required to make arrangements for the proper administration of the Council's financial affairs and to have responsibility for those arrangements. Whether or not the then Section 151 Officer knew the loan documents were not properly executed, they had a duty to confirm appropriate documentation was in place before allowing the funding transactions to be authorized. The then Section 151 Officer also had a duty to escalate financial matters of concern to Cabinet which in our view included the project expenditure exceeding the budget approved by Cabinet. This duty also applied to the subsequent Section 151 Officer (February 2019 to February 2021) in respect of payments authorised from February 2019 although we accept the representations from the subsequent Section 151 Officer that as an ongoing project there was an assumption that appropriate arrangements were in place.
- The then Executive Director of Place was the project sponsor, chaired the Growth Board and the Fairfield Hall Board. Their objectives included
  - establishing 'new client side arrangements to hold Brick by Brick to account in the delivery of the business plan' and to 'oversee the opening of Fairfield Halls',
  - ensuring that their 'department understands and complies with corporate policy and accountability frameworks including those that relate to financial, people and procurement and commissioning processes and procedures'
  - being 'accountable for the robust management of the budget ensuring forecasting is accurate and take immediate action to deal with any unplanned pressures to deliver a balance budget'

In not ensuring the known project additional spend was reported to Cabinet formally they did not meet their objectives.

- The then Chief Executive Officer (June 2016 to September 2020) as Head of Paid Service has a duty to, where they consider it appropriate, to prepare a report on: (a) the manner in which the discharge by the authority of its different functions is co-ordinated; (b) the number and grades of staff required by the authority for the discharge of its functions; (c) the organisation of the authority's staff; and (d) the appointment and proper management of the authority's staff. (Local Government and Housing Act 1989 section 4). The Chief Executive Officer also had a

responsibility as Chief Executive to effectively manage senior officers reporting directly to them and to do so in line with the Council's Constitution.

In addition, in our view the relevant Portfolio Holders for each of these areas should have been aware of the escalating risks in a complex project (and representations received from relevant senior officers indicate that in their view concerns were raised to the relevant Portfolio Holders, although as noted we have not seen evidence of this, and this is disputed by the relevant Portfolio Holders). In representations made during the drafting of this report some Portfolio Holders have suggested that that the project was Brick by Brick's responsibility and not the Council's; in our view, this demonstrates a misunderstanding of the relationship between the parent entity and its wholly owned company structure (which as some respondents have acknowledged is very different to that with an external company) and the development licence option for the refurbishment which was pursued. It was a political priority. We consider the relevant Portfolio Holders at the time to be the Finance and Resources, Homes and Gateway Services and the Leader

The Council's key failures in the project were:

- receiving external legal advice in November 2016 that raised concerns over the possibility of challenge to the legality of the Council's approach to the project and failing to properly pass these legal concerns on to Cabinet or act upon that advice
- failing to ensure that legal documents were properly executed and retained
- not escalating the known delivery delays and escalating costs
- allowing the lack of transparency of reporting the known issues with the project in the Brick by Brick 2018/19 Business Plan to remain unchallenged
- allowing significant amounts of public money to be incurred on a scheme where the formal written legal documents had not been finalized.
- allowing significant additional expenditure beyond the original budget to remain unreported to Cabinet
- allowing the 2019/20 Brick by Brick's Business Plan to remain unchallenged when it was clear that the public version did not accurately reflect the facts known to the officers
- not responding to direct Member questions with the known project spend at that time in February 2020

As a last resort any of these individuals named above could, and in our view should, have raised their concerns directly with the Scrutiny and Overview Committee (which had sought assurances over the project) or the General Purposes and Audit Committee or the Head of Internal Audit or External Audit. The individuals could, and in our view should, also have used whistleblowing if they did not feel management or Portfolio Holders were acting appropriately.

The Council has responded to the previous reports (in the public interest published on 23 October 2020 and the PwC review of companies dated 13 November 2020) including reporting to Cabinet in November 2020, February, July and November 2021 on the actions taken to address governance concerns relating to Brick by Brick and other Council companies. In a report delivered on 18 October 2021, the Council announced that it had implemented 62 of the 99 recommendations from the first report in the public interest, and we are told that further progress has been made since; there has been significant turnover in the Council's senior officers and Portfolio Holders since the period this report covers.

In reaching our view on the legality of the arrangement we discussed with and challenged the current Senior Statutory Officers who reviewed the position. The Council has, in light of the matters reported upon here and their views as set out above, decided to account for the expenditure on the project as if it had been direct capital expenditure. The Council has proposed amendments to the draft 2019/20 financial statements that correct the accounting for this arrangement

We understand that the Council is now also in the process of considering alternative options with Brick by Brick, while in the meantime making other changes to the related governance arrangements.

Between 2016 and 2020 the Council spent nearly £67.5 million on the Fairfield Halls refurbishment scheme. In a drive to get the scheme implemented, the Council's then statutory and other chief officers did not ensure there was an appropriate legal basis for the engagement of Brick by Brick to carry out the works (by the licence and proposed land transfer) which would avoid legal challenge and enable proper scrutiny and oversight of the project and its costs; did not properly advise members about the independent expert legal advice received or act on that advice; did not secure adequate financial governance for the loans; did not formally and publicly advise members of the risks and changes to the project; and did not seek proper formal authority from members for the expenditure.

## Appendix: Timeline

Date	Source	Fairfield Halls spend	Comment
Jun 2016	Cabinet paper	£30m	Initial Cabinet approval
Oct 2017	Scrutiny & Overview Committee		Minutes record: <i>Progress on the main contract had completed. Council is within original budget they set contractor</i>
Nov 2017	Fairfield Hall Board highlight report	£34.5m	Budget per monitoring reports with no explanation of variation from initial budget of £30m
Dec 2017	Brick by Brick Board report	£34.5m	Board report of forecast project spend including overall £10.5m loss on the wider College Green scheme
Feb 18	Cabinet paper – Brick by Brick Business Plan 2018/19 for shareholder approval	£30m	Officer report to Cabinet refers to Brick by Brick making profits and the £30m investment on Fairfield Halls  Business Plan refers to c£30m refurbishment on Fairfield Halls and no reference to the £34.5m budget in the monitoring reports
Feb 18	Fairfield Halls project monitoring report	£38.95m	Forecast project spend increased to £38.95m per monitoring reports
Jun 18	Fairfield Halls Board report	£42.8m	Forecast project spend increased to £42.8m per monitoring reports  Brick by Brick confirmed increase in spend in separate email to then Chief Executive who forwarded the email to the then Section 151 Officer
Sept 18	Fairfield Halls Board report and emails	£42.7m	Main works contract let in September 2018 at £42.7m
Oct 18	Letters between Brick by Brick and Council	£49.1m	Net spend on Fairfield Halls refurbishment identified as £49.1m  Total College Green projected loss of £28.8m
Oct 18	Brick by Brick Board report	£50m	Forecast project spend on Fairfield Halls refurbishment increased to £50m
Nov 18	Growth Board report	£15.89 m overspend	Reported project spend in excess of the budget included in monitoring report and no detailed explanation i.e., project spend was now £50.39m based on Budget £34.5m + overspend £15.89m
Dec 18	Scrutiny and Overview Committee		No commentary on the known additional spend in excess of the budget  Focus of presentation was progress of operator readiness for re-opening
Feb 19	Cabinet paper – Brick by Brick Business Plan 2019/20 for shareholder approval		Officer report to Cabinet has no commentary on Fairfield Halls project spend despite internal reports to the Growth Board showing a forecast spend of £50m which is in excess of the £30m investment approved by the June 2016 Cabinet.  Brick by Brick Business Plan reports £0m profit on College Green project. This includes the impact of the financial position on the Fairfield Halls project.
Jan 20	Scrutiny and Overview Committee	£42.6m	First reporting to formal meeting with members on Fairfield Halls refurbishment spend since approval in June 2016. Amount reported to members for spend on project was £42.6m
Mar 20	Financial ledger	£59.9m	Council record of funding provided to Brick by Brick for Fairfield Halls. No additional funding provided by the Council to Brick by Brick in January or February 2020.
Mar 21	Financial ledger	£67.5m	Total spend on Fairfield Halls



## ACTION PLAN IN RESPONSE TO THE REPORT IN THE PUBLIC INTEREST

1. The Council has fully accepted all recommendations made by the external auditor (R1-R12)
2. There are 7 statutory recommendations from the external auditor for the Council to urgently address:

R1 – Cabinet papers for major projects	R7 – Record keeping arrangements
R2 – Contract execution & storage	R9 – Roles and responsibilities
R3 – Updating legal advice	R11 – Financial reporting on significant capital projects
R4 – Payments to third parties	

Note: Statutory recommendations are written recommendations to the Council made by the Auditor under section 24 (Schedule 7) of the Local Audit and Accountability Act 2014. A recommendation under schedule 7 requires the Council to discuss and respond publicly to the report. Council must decide (i) if the recommendations are accepted and (ii) what, if any actions will be taken in response to them. This plan sets out the actions that the council proposes to take in response to all of the recommendations made in the report, including statutory recommendations.

### Overall accountability for the action plan rests with Leader of the Council and the Chief Executive

#### Recommendation 1

The Chief Executive supported by the Monitoring Officer and the Section 151 Officer should ensure that Cabinet papers for major projects set out clearly:

R1.1 the legal powers to enter into a particular arrangement and attendant risk

R1.2 how the Council can protect its interests and secure economy, efficiency and effectiveness

#### Cabinet Member Accountability:

#### Improvement Work to Date

Since the last Report in the Public Interest, the Council has taken action to improve the processes surrounding the submission of reports to Cabinet. This has included lengthening the lead in process for the production of Cabinet reports; the introduction of a twelve month forward plan; early consideration of all cabinet papers at the Corporate Management Team; and holding the

Cabinet briefing / Informal Cabinet meetings earlier in the cycle prior to Cabinet papers being published. This allows for much earlier consideration of papers and more opportunity for assurance of, and challenge to, advice being presented to the Cabinet.

The Council's new interim Monitoring Officer has also introduced a new process to reduce the number of Cabinet and Committee reports being published late, which in turn allows Cabinet Members greater opportunity to fully consider recommendations and advice presented to them in Cabinet reports.

The Council has also included a new KPI for late publication of reports in its new Finance, Performance and Risk reports which are presented to Cabinet bi-monthly.

<b>Action</b>	<b>Deadline</b>	<b>Accountability</b>
1.1 A new report writers guide will be produced alongside a new report template for all Council reports to use regardless of which board or committee in will be presented in. This will explain the issues raised in the RIPI and why commentary is needed on the lawfulness of the council's arrangements	<b>To be determined</b>	<b>Monitoring Officer</b>
1.2 The template for reports will be amended to include a reference in the legal comments section to the need to ensure legal advice is recorded in the paper on the power to enter into a particular arrangement for a major project and the actions required to ensure it remains lawful,	<b>To be determined</b>	<b>Monitoring Officer</b>
1.3 The Capital Board will be asked to produce guidance on what constitutes a major project and this will be incorporated into the new report writers' guide. This section in the report will also draw out the need for officers and those delivering on the Council's behalf to ensure the council delivers value for money within all its major projects and secures economy, efficiency and effectiveness for the taxpayers and residents of Croydon in accordance with Section 3(1) of the Local Government Act 1999 and the duty of best value. The template will stress the importance of ensuring the report provides decision makers with full information and the requirement to update the decision making body when this information changes.	<b>To be determined</b>	<b>Director of Commercial Investment</b>



1.4 Progress reports on the delivery of major projects to Cabinet will also incorporate an assurance section that the requirements are to ensure the arrangements are lawful and have been met e.g. contracts signed, land correctly transferred etc prior to committing the Council contractually. This will also be included in the new guide.	<b>To be determined</b>	<b>Monitoring Officer</b> <b>Director of Commercial Investment</b>
1.5 Once the new guide and the new report template has been produced, it will be brought to GPAC and the Ethics Committee for member consultation and agreement. Training will then be developed to ensure understanding of the new requirements by report writers.	<b>To be determined</b>	<b>Monitoring Officer</b> <b>Director of Commercial Investment</b>
1.6 The Council will make full use of its decision management software (Mod.Gov) to automate production of reports. This will have the benefit of allowing report authors to draw in expert advice earlier in the process and prevent reports from being changed after they have received legal and financial commentary.	<b>To be determined</b>	<b>Monitoring Officer</b>

**Recommendation 2**

The Monitoring Officer should ensure that:

R2.1 contracts are properly executed before entering into arrangements with third parties

R2.2 the properly executed documents are stored robustly to allow future scrutiny

R2.3 key requirements underpinning the legal advice are in place before progressing with the arrangement

**Cabinet Member Accountability:**

<b>Action</b>	<b>Deadline</b>	<b>Accountability</b>
2.1 The Monitoring Officer will undertake a review of existing council processes for the signing of contracts, storage of signed contracts, and assurance on underpinning legal requirements prior to arrangements being entered into.	<b>September 2022</b>	<b>Monitoring Officer</b>  <b>Director of Commercial Investment</b>
2.2 The Capital Board will be given a formal role going forward in the assurance of the contracts having been signed, that they are stored securely and all legal requirements have been met prior to approval to proceed with a major project. The terms of reference to be updated to reflect this.		
2.3 This review will be reported to the Statutory Officers' Board in the first instance and will include any recommendations on required changes to processes, thresholds and delegations. This review will then be brought to the General Purposes and Audit Committee for Member oversight and comment.		

**Recommendation 3**

The Monitoring Officer should ensure that where legal advice changes after a Cabinet decision that the consideration of the implications of the changes is documented and where the Monitoring Officer considers additional legal risks are identified that the Cabinet is updated on the impact on the original decision made

**Cabinet Member Accountability:**

<b>Action</b>	<b>Deadline</b>	<b>Accountability</b>
3.1 The Monitoring Officer will review the Council's Constitution, particularly Part 5A, the Protocol on Decision Making. This review will have particular regard to setting out proportionate thresholds for decisions to be reported back to the relevant decision-making body when advice (legal or otherwise) upon which the decision was based significantly changes. The review will also consider introducing a time limitation on the delegated decisions that are made by Cabinet in order to ensure they remain relevant and are used appropriately. This will also be included in the new Report Writers Guide.	<b>May 2022</b>	<b>Monitoring Officer</b>
3.2 A standing item will be included on the Statutory Officers' meeting to identify if there have been any significant changes to advice underpinning Cabinet decisions.	<b>Immediate</b>	<b>Chief Executive</b>

<b>Recommendation 4</b>		
The Section 151 Officer should ensure that prior to making payments to third parties that appropriate legal documentation is in place such as a properly executed contract or a properly executed loan agreement		
<b>Cabinet Member Accountability:</b>		
<b>Action</b>	<b>Deadline</b>	<b>Accountability</b>
4.1 The Section 151 officer will undertake a review of the Council's existing processes for ensuring payments to third parties meet the required governance controls such as a signed and dated loan agreement or contract. This review will make any recommendations that are necessary to ensure that there are proportionate thresholds, checks and balances on payments to third parties.	<b>July 2022</b>	<b>Corporate Director of Resources</b>
4.2 The Capital Board will incorporate this assurance check as part of their formal programme board oversight on the progress of major projects and will amend their terms of reference to reflect this additional role.		
4.3 The findings of this review will be reported to the Statutory Officers' meeting in the first instance, with any changes that are required to the Council's Constitution being reported to the Council via GPAC or Ethics committee.		

<b>Recommendation 5</b>		
The Monitoring Officer and Section 151 Officer should ensure that arrangements are in place to properly consider public procurement rules and UK obligations on subsidy control rules before entering into arrangements		
<b>Cabinet Member Accountability:</b>		
<b>Action</b>	<b>Deadline</b>	<b>Accountability</b>
5.1 The Council's Director of Commercial Investment will review the Council's existing arrangements for ensuring compliance with subsidy control legislation. This review will be reported to the Section 151 officer and Monitoring Officer and will highlight any risks in the Council's current arrangements. The review will also make recommendations and set out an action plan to mitigate and address any risks that are identified. The Capital Board may play a part in the assurance mechanism before entering into arrangements. If so, its terms of reference will be amended.	<b>September 2022</b>	<b>Director of Commercial Investment</b>

## Recommendation 6

The Chief Executive, Monitoring Officer and Section 151 Officer need to consider how to respond appropriately to challenge on decisions and be prepared to take corrective action where necessary

### Cabinet Member Accountability:

#### Improvement Work to Date

As part of the Croydon Renewal and Improvement Plan, a range of actions have been undertaken to improve the culture of the organisation in relation to openness, transparency, accountability and challenge. The various actions are all designed to facilitate constructive challenge and open dialogue from Members, residents, officers and each other. To date, this work has included:

- Introducing a 'guardians' programme for staff, providing a safe space for staff across the organisation to raise concerns
- New customer complaints handling process
- Developing a new access to information protocol for Councillors
- Introducing new codes of conduct for Members, Co-opted Members and Officers

Action	Deadline	Accountability
6.1 A new member enquiry / casework process and supporting software will be rolled out to allow more pro-active tracking, management and responses to member casework enquiries and also allow learning from the casework to be captured more effectively to improve services. This may result in policy decisions needing to be revisited.	July 2022	Assistant Chief Executive
6.2 A new system of internal control officer boards will be implemented following a review of core business meetings and forums.  At the time of writing this report three have already been re/launched, namely the Health and Safety Committee; Equality, Diversity and Inclusion Board; and the Capital Board. The Corporate Resilience Board has been in operation throughout the pandemic.	July 2022	Director of Policy, Programmes & Performance

6.3 A new Member / Officer working protocol will be developed and submitted to Council for adoption into the Council's Constitution. <i>Please note that this action will also support 9.2</i>	<b>March 2022</b>	<b>Monitoring Officer</b>
6.4 A new assurance framework will be developed and reported on annually to the General Purposes and Audit Committee	<b>July 2022</b>	<b>Corporate Director of Resources</b>

**Recommendation 7**

The Chief Executive should improve record keeping arrangements so that:

R7.1 the records supporting key decisions including financial analysis are maintained

R7.2 a standard approach to record keeping with monitoring of which decisions have been implemented

R7.2 tolerances are established for reporting back changes to Cabinet

**Cabinet Member Accountability:**

<b>Action</b>	<b>Deadline</b>	<b>Accountability</b>
7.1 A review will be undertaken by the Council's Information Management Team of record keeping across the Council for key decisions, delegated decisions and Cabinet decisions in general and record keeping of formal internal control boards. The review will make any necessary recommendations regarding proposed future systems of control, in particular to ensure required or agreed future reporting requirements are adhered to through the forward plan and these will be reported to GPAC and Cabinet.	<b>September 2022</b>	<b>Assistant Chief Executive</b>
7.2 This review to provide assurance that the Council is operating in accordance with the relevant legislation including the good practice recommendations in the Information Commissioner's Office "S46 Code of Practice – Records Management" issued under section 46 of the Freedom of Information Act 2000.	<b>December 2022</b>	<b>Assistant Chief Executive</b>



**Recommendation 8**

The Chief Executive, as Head of Paid Service, should ensure appropriate governance arrangements are implemented in a timely manner particularly for strategic developments such as Brick by Brick including where appropriate that there is clear guidance for nominated representatives on the expectations of the role including reporting back to the Council

**Cabinet Member Accountability:****Improvement Work to Date**

Actions already taken by the Council to strengthen the governance arrangements for strategic and major projects and programmes include:

- Appointment of a new Commercial Investment Director;
- Establishment of a Croydon Companies Supervision and Monitoring Panel (officer only) to have oversight of all Council owned companies
- Establishment of a Brick by Brick Shareholder Cabinet Advisory Board (Member only);
- Established a new programme office that includes a remit to work on the capital programme
- Agreement of new terms of reference for the Capital Board with a focus on good planning, governance and delivery
- Where warranted, non-executive and / or independent chairing and leadership has been sought, including independent chairs for the Council's General Purposes and Audit Committee, Housing Improvement Board, Children's Improvement Board and the Croydon Adult Safeguarding Board.

**Action****Deadline****Accountability**

8.1 The Croydon Companies Supervision and Monitoring Panel be tasked with considering what additional measures, if necessary, need to be introduced to support and clarify the roles and responsibilities of any person appointed by the Council to be a director of a Council owned company. This review to incorporate an undertaking to abide by the code of conduct and standards of public life (commonly known as the Nolan principles).

**May 2022****Director of  
Commercial  
Investment**

*Please note that this action will also support 9.4*

8.2 The Council has had guidance notes agreed on the role of a non-executive appointee on behalf of the Council but these will now be reviewed and brought back to Ethics Committee for approval.	<b>To be determined</b>	<b>Monitoring Officer</b>
8.3 Mandatory training will be provided on a regular and timely basis to all Council owned company directors. Attendance at this training is part of the requirements to remain a Council appointed Director.	<b>To be determined</b>	<b>Monitoring Officer</b>
8.4 The terms of reference for the Council's new internal control boards will be reviewed to ensure that there is clarity on how the work undertaken by these boards flows into member meetings and formal member briefings as appropriate.	<b>To be determined</b>	<b>Director of Policy, Programmes &amp; Performance</b>

**Recommendation 9**

The Chief Executive should work with the Leader to continue to embed

R9.1 a clearly understood distinction between the different roles and responsibilities of Members, officers and representatives akin to Brick by Brick

R9.2 clear responsibilities for officers and Portfolio Holders in challenging reports presented to Cabinet and other committees for balance, accuracy and consistency with their knowledge

**Cabinet Member Accountability:****Improvement Work to Date**

The Council has agreed a new code of conduct and guidance for Members and a new code of conduct for officers. This is being supplemented by tailored learning and development activity as part of the May 2022 Member Induction Programme, in new officer induction programmes and the corporate culture change programme.

<b>Action</b>	<b>Deadline</b>	<b>Accountability</b>
9.1 Review role descriptions for members and a revised member handbook is being developed. This work will be brought to the Ethics Committee for approval.	<b>May 2022</b>	<b>Monitoring Officer</b>
9.2 A new Member / Officer working protocol will be developed and submitted to Council for adoption into the Council's Constitution. This protocol will clarify responsibility for providing effective advice and challenge.  <i>Please note that this action will also support 6.3</i>	<b>May 2022</b>	<b>Monitoring Officer</b>
9.3 The Croydon Companies Supervision and Monitoring Panel be tasked with considering what additional measures, if necessary, need to be introduced to support and clarify the roles and	<b>May 2022</b>	<b>Director of Commercial Investment</b>

responsibilities of any person appointed by the Council to be a director of a Council owned company.		
<p>9.4 The Croydon Companies Supervision and Monitoring Panel be tasked with considering what additional measures, if necessary, need to be introduced to support and clarify the roles and responsibilities of any person appointed by the Council to be a director of a Council owned company. This review to incorporate an undertaking to abide by the code of conduct and standards of public life (commonly known as the Nolan principles).</p> <p><i>Please note that this action will also support 8.1</i></p>	<b>May 2022</b>	<b>Director of Commercial Investment</b>

**Recommendation 10**

The Chief Executive should review the terms of reference for officer and member/officer boards that oversee significant projects and capital/revenue expenditure and clarify the escalation routes for significant additional expenditure in excess of the budget

**Cabinet Member Accountability:****Improvement Work to Date**

The July 2021 Council meeting noted the work underway to redesign the Council's internal control system. Two new officer Boards have been created and launched, with further Boards about to start operating, and also a new Cabinet Advisory Board to oversee the work on Brick by Brick and other large commercial shareholder interests the Council has. This redesign has clarified the purpose of existing meetings and forums and has produced a new template for the terms of reference to ensure clarity on accountability of that Board and reporting mechanisms into member meetings and formal member briefings.

Since June 2021 the Cabinet has been receiving a monthly update on the council's general fund, housing revenue account and capital expenditure.

<b>Action</b>	<b>Deadline</b>	<b>Accountability</b>
10.1 The Capital Board will review its terms of reference to develop an effective role in regard to its oversight of the delivery of major projects and clarify the escalation routes for significant overspends.	<b>May 2022</b>	<b>Director of Commercial Investment</b>
10.2 The format of the monthly cabinet update on general fund, HRA and capital expenditure will be reviewed in general to ensure it is incorporating the best practice of high performing councils in budget reporting to members. This review will also pay specific regard to the reporting on risks and opportunities, over and underspends on the delivery of significant projects either revenue or capital expenditure and either general fund, parking places reserve account or housing revenue account related.	<b>May 2022 P1 Report</b>	<b>Corporate Director of Resources</b>

10.3 The Internal Control Board terms of reference template will be reviewed for all boards to ensure clarity on responsibilities for risks in regard to its responsibilities, workload and escalation routes.	<b>July 2022</b>	<b>Director of Policy, Programmes &amp; Performance</b>
10.4 The current monthly budget assurance meetings chaired by the Chief Executive and Corporate Director of Resources will be reviewed to assess effectiveness after its first year of operation.	<b>April 2022</b>	<b>Director of Policy, Programmes &amp; Performance</b>

**Recommendation 11**

The Section 151 Officer should ensure financial reporting on significant capital projects is enhanced so that

R11.1 a clear agreed budget for the project is identified and the underlying financial analysis is maintained

R11.2 a clear agreed project expenditure amount can be reported through appropriate governance processes

R11.3 where there are changes in the original financial assumptions that there is an assessment on the project's financial viability with appropriate reporting

R11.4 the revenue impact of any changes in the capital project are addressed in future budget setting

**Cabinet Member Accountability:**

<b>Action</b>	<b>Deadline</b>	<b>Accountability</b>
11.1 The Corporate Director of Resources will oversee the review work to be undertaken by the Director of Commercial Investment in regard to improving the role of the Capital Board in meeting a number of these recommendations.  That review will incorporate the recommendations above.	<b>May / June 2022</b>	<b>Corporate Director of Resources</b>
11.2 The review of the monthly budget report format will also take into account these recommendations and report to GPAC, Scrutiny and finally Cabinet taking into account members' views.	<b>To be determined</b>	<b>Corporate Director of Resources</b>

<b>Recommendation 12</b>		
The Chief Executive should put in place arrangements to consider inherent conflicts of interest for executive officers		
<b>Cabinet Member Accountability:</b>		
<b>Action</b>	<b>Deadline</b>	<b>Accountability</b>
12.1 A new code of conduct for all officers is currently in development which will incorporate best practice in regard to the declaration of interests and arrangements for managing any.	<b>May 2022</b>	<b>Monitoring Officer</b>
12.2 An annual review of declarations for all officers will be undertaken each May. This will update a formal register of all declarations to be published on the council website.	<b>May annually</b>	<b>Head of Internal Audit</b>
12.3 CMT, DMTs and all internal governance boards will have declarations of interest added as a standing item to their agendas.	<b>May 2022</b>	<b>Director of Policy, Programmes &amp; Performance</b>
12.4 The Statutory Officers' Board will amend its terms of reference to include the formal review of any officer conflicts of interest and the agreement of arrangements for managing them.	<b>May 2022</b>	<b>Chief Executive</b>



<b>REPORT TO:</b>	<b>GENERAL PURPOSES AND AUDIT COMMITTEE</b> 3 March 2022
<b>SUBJECT:</b>	<b>REVISIONS TO THE COUNCIL'S CONSTITUTION</b>
<b>LEAD OFFICER:</b>	<b>John Jones, Monitoring Officer</b>
<b>WARDS:</b>	<b>All</b>
<b>PUBLIC/ EXEMPT:</b>	<b>Public</b>

**SUMMARY OF REPORT:**

This report asks the Committee to recommend to the Council changes to the Constitution which are necessary for the implementation of the mayoral model of governance. The report also includes other constitutional changes to improve the Council's governance, which have been recommended by the Constitution Working Group. Whilst additional changes have been recommended, a complete review and update of all parts of the Constitution has not been conducted.

**CORPORATE PRIORITIES 2021-24:**

Changes to the Constitution proposed in this report will enable improvements to the Council's governance as part of the Croydon Renewal Plan.

**FINANCIAL IMPACT**

Implementation of the recommendations within this report shall be contained within existing budgets.

**RECOMMENDATIONS:**

The Committee is asked to recommend to Council that they:

1. Approve the changes to the Constitution as detailed in section 2 and set out more fully in Appendix 1 and that:
  - i) The following changes shall be implemented with immediate effect:
    - Section 4.22 (Emergency or extreme urgency) of Part 3 – Responsibility for Functions
    - Part 4I – Tender and Contract Regulations
  - ii) All other changes shall be implemented with effect from 00.01 hours on the third day after the day of declaration of the result of the poll at the first election of the Mayor.

## **1. BACKGROUND**

- 1.1 Consideration of changes to the Constitution is a responsibility of the General Purposes and Audit Committee, prior to referral of any proposals to full Council for approval.
- 1.2 In July 2021, full Council agreed that a politically proportionate Constitution Working Group be established to keep the constitution under review and inform proposals for any revisions to the Constitution.
- 1.3 The Constitution Working Group has been meeting since late November 2021 to consider revisions to the constitution in preparation for the introduction of the mayoral governance model, which will commence in May 2022.
- 1.4 General Purposes and Audit Committee agreed, at its 25 January meeting, to recommend other constitutional changes to full Council. Due to the delayed January meeting of the Committee, it was not possible for full Council to consider these changes at its 31 January meeting and so they will be considered instead at the full Council meeting of 23 March.
- 1.5 The Constitution Working Group has prepared proposals both to ensure a legally compliant constitution as from the date when the elected Mayor takes office (9<sup>th</sup> May 2022) and also to make other improvements more generally to support good governance. This report sets out all of the revisions proposed by the Working Group for consideration by the Committee.
- 1.6 A number of changes to the Planning and Planning Sub-Committee Procedure Rules have been under discussion between the Chair of Planning Committee and senior Planning officers. These included changes to the approach for consideration of minor applications, provisions for speakers at committee meetings, the number of members on each committee and the order of business.
- 1.7 These discussions began more than a year ago. More work (and engagement with members and officers) is required to prepare detailed proposals which address all knock-on impacts. It will also be necessary to consider whether these (and other) changes are still right for Croydon at this time. Consequently the only proposals in relation to the Planning and Planning Sub-Committee Procedure Rules proposed at this time are to ensure consistency across the constitution (see 2.15 below)

## **2. PROPOSAL**

- 2.1 The proposed revisions to the Constitution appear, in track changes, at Appendix 1. These proposals have been prepared on the basis of the following principles and assumptions:
  - (i) The constitution should support high standards of accountability and transparency (within the constraints of legislation relating to confidential and 'exempt' information);

- (ii) While decisions about the extent of executive decision making are a matter for the elected Mayor, the context in which those decisions will take place is assumed to be as close as possible to the operation of the current Leader/ Cabinet model. This is consistent with the basis on which the referendum was conducted, as set out in the notice of proposals agreed by Council on 5 July 2021;
  - (iii) Membership of the Cabinet will be drawn from the same party as the elected Mayor. In the event that the Cabinet contains Members from other parties, the Council may need to review some elements of the constitution relating to the definition of the 'Opposition'.
- 2.2 In addition to changes of terminology where relevant (eg substituting 'Mayor' for 'Leader', ensuring that substantive changes in one Part are reflected in all other Parts of the constitution) the following sections set out the material changes which are proposed.
- 2.3 Part 1 - Summary and Explanation: the proposed changes are designed to provide an easy-to-read introduction to the Constitution. This includes a summary of the key structures of the Council and an explanation of how the Council exercises and scrutinises its decision-making powers as well as summarising role and responsibilities of the elected Mayor and how this differs from the role of the Civic Mayor.
- 2.4 Part 2 – Articles of the Constitution: changes are proposed which will:
- (i) Simplify the presentation of the number of Members in each ward (Article 2.1);
  - (ii) Clarify that the Members' Code of Conduct also applies to co-opted Members (Article 2.4);
  - (iii) Reflect the requirement for the elected Mayor to report their scheme of delegation to full Council (Article 4.1);
  - (iv) Remove the requirement for admission arrangements for community schools to be decided by full Council, and add the Corporate Plan to the Policy Framework (Article 4.02);
  - (v) Clarify the role of the Civic Mayor as a) Chair of the Council and b) ceremonial representative of the Council at civic events (Article 5.1);
  - (vi) Set out the ability of Scrutiny and Overview Committee to hold enquiries and investigate options to inform policy development (Article 6.2);
  - (vii) Ensure that the description of Executive arrangements appropriately reflects the Mayoral model of governance (Article 7);

- (viii) Provide additional clarity about the roles of statutory officers (with further, more detailed content moved and added to Part 3 – Responsibility for Functions) (Article 12.2);
- (ix) Provide for signature and sealing of documents by electronic means (Article 14.4);
- (x) Provide that any changes to the Constitution, with the exception of changes relating to the operation of Scrutiny and Overview Committee or its Sub-Committees, may only be made with the written consent of the elected Mayor (Article 15.2).

2.5 Part 3 – Responsibility for Functions: the following changes are proposed:

- (i) Addition of text to clarify the distinction between Council, Executive and Local Choice functions;
- (ii) Revise the terms of reference of Appointments and General Purposes and Audit Committee with the aim of:
  - Creating an Audit and Governance Committee (section 2.3) with capacity to undertake the full range of functions of a local authority Audit Committee (revised terms of reference are based on the CIPFA model terms of reference for local authority Audit Committees);
  - Implementing the decision of Ethics Committee on 19<sup>th</sup> February 2021 which agreed that the JNC Model Disciplinary Procedure for Statutory Chief Officers should be adopted by the Council. This includes revising Appointments Committee to become Appointments and Disciplinary Committee (section 2.1) and the creation of Appeals Committee (section 2.2). Associated procedures are set out in Part 4J – Staff Employment Procedure Rules;
  - Creating a non-executive General Purposes Committee (section 2.5) to conduct the non-audit functions of General Purposes and Audit Committee and the staffing functions of Appointments Committee, meeting on an ‘as required’ basis. The General Purposes Urgency Sub-Committee remains unaffected;
- (iii) The Committee is asked to note that, while the current constitution lists the Mayoralty and Honorary Freedom Selection Sub-Committee (section 2.8) without any reference to a ‘parent’ committee, the decision to establish the Sub-Committee by Annual Council in 2014 was on the basis that the Sub-Committee be a sub-committee of General Purposes and Audit Committee.

In light of changes to General Purposes and Audit Committee referenced above, and recent practice that full Council has itself made appointments to the Committee, it is proposed to amend the title of the Sub-Committee to ‘Civic Mayoralty and Honorary Freedom Selection Committee’, and for this to be a committee of the Council.

- (iv) Addition of arrangements for the elected Mayor's scheme of delegation (section 3.3 – 3.5);
- (v) Addition of information relating to the responsibilities of Corporate Directors (section 4) in accordance with the Local Government Act (Constitutions) (England) Direction 2000 which requires all local authorities to include a description of the roles of officers within their constitutions. The opportunity has been taken to move text about the roles of statutory officers from Part 2 – Articles to this Part with the aim of increasing transparency about the roles of senior Council officers and their accountabilities. More detail is proposed to be included in the Mayoral scheme of delegation, to be brought to the Annual Council Meeting in May 2022.
- (vi) Addition of text to enable the Chief Executive to exercise any executive or non-executive function in cases of emergency or extreme urgency (section 4.22). Irrespective of the change of form of executive, these changes provide the Council with a resilient decision-making process for cases of urgency, which is to be found in most Council constitutions. It is valuable for this to be in place with immediate effect. There is the necessary safeguard that the Chief Executive, if they elect to exercise this power, must account to the Executive or Council as appropriate as soon as reasonably practicable.
- (vii) Addition of measures which will be taken by the Chief Executive to ensure correctness of decision making (section 4.23).

2.6 Part 4A – Council Procedure Rules: the proposed changes are designed to:

- (i) Clarify arrangements for determining quoracy of Council meetings (section 1.1);
- (ii) Clarify that the Chair has discretion to decide on matters of interpretation of the Council Procedure Rules relating to meetings of the Council (section 1.2);
- (iii) Clarify the basis on which a point of order or point of personal explanation/clarification may be raised (sections 1.15, 1.16 and 1.17);
- (iv) Add provision that the elected Mayor shall present their scheme of delegation to Annual Council and a statement reflecting on the previous year and outlining their priorities for the year ahead (section 2.3);
- (v) Add provision that a 'State of the Borough' debate may take place annually, in a form to be decided by the Chair of Council and agreed with the elected Mayor, with the aim of enabling wider public engagement and informing the Mayor's policy proposals (section 2.4);
- (vi) Clarify the process for identifying substitute members (section 2.9 and 2.10);
- (vii) Clarify the definition of the Opposition (section 2.12);

- (viii) Revise the Guillotine procedure (sections 3.3 to 3.5 and 3.64) and the Order of Business (section 3.7) to enable time for debate on significant policy proposals and recommendations;
- (ix) Revise the process for Public Question Time to ensure sufficient time to enable the preparation of good quality responses and the inclusion of questions on the printed agenda and to further clarify the grounds on which a question may be rejected (sections 3.16 to 3.24);
- (x) Further clarify the grounds on which a question for Mayor and Cabinet Questions may be rejected (section 3.28);
- (xi) Add provision for the Monitoring Officer to liaise with the proposer of a motion with the aim of ensuring that a motion is consistent with Council Procedure Rules and therefore may be accepted for debate (section 3.40);
- (xii) Amend provisions for recommendations from the Executive and Committees so that matters may be debated and not deferred for debate, if so proposed and seconded (sections 3.57 to 3.64);
- (xiii) Amend provisions for Executive and Committee recommendations to be referred back (sections 3.67 to 3.70);
- (xiv) Make express provision for the circumstances in which the Council Procedure Rules may be suspended (section 3.72);
- (xv) Add provision for the Council by resolution, Monitoring Officer, Chief Executive and/or the Chief Finance Officer to call an Extraordinary Council Meeting (section 5.1).

2.7 Part 4B – Access to Information Procedure Rules: the following additional content is proposed:

- (i) Clarification of the process which must be complied with if the public are to be excluded from a meeting of the Cabinet, Cabinet Sub-Committee or Joint Committee (section 14);
- (ii) Entitlement for the Head of Paid Service, Monitoring Officer and Chief Finance Officer to attend meetings of the Executive and its Committees (section 17);
- (iii) Clarification that Executive decisions are deemed to be made when they are recorded and publicised in accordance with the Constitution (section 20);
- (iv) Detailed requirements for contents of a report to be provided by the Mayor and/or Cabinet when required by Scrutiny and Overview Committee (section 33.4);
- (v) Increased frequency for the Mayor to report use of Special Urgency powers to Council (from annually to quarterly) (section 34).

- 2.8 Part 4C – Budget and Policy Framework Procedure Rules: the budget, policies and strategies contained within this Framework (as defined in Article 4.02) are proposed by the Mayor but must be agreed by the full Council. Different rules apply in a mayoral authority in the event that full Council does not agree the Executive’s proposals in comparison to the Leader/ Cabinet model. The opportunity has been taken to look at good practice in other mayoral authorities to mitigate the risk of conflict between the Mayor and full Council.
- 2.9 The following changes to the Procedure Rules are proposed:
- (i) Clarification of what is meant by plans, strategies and budgets within the Budget and Policy Framework (section 2a));
  - (ii) Addition of arrangements to publicise and consult on proposals to amend any plan, strategy or budget within the Framework (section 2b) – d));
  - (iii) Amendment of the procedure which applies if full Council rejects the Mayor’s proposal (section 2h)) and the same or an amended proposal returns to full Council for a second time (the opportunity has been taken to simplify the wording of the wider procedure in sections 2 e) – g));
  - (iv) Provisions to support consideration of the Mayor’s budget proposals and the preparation of alternative proposals (section 3a) – f).
- 2.10 Part 4D- Executive Procedure Rules: this Part is revised to add the Mayor’s role in relation to the Executive, including their powers of delegation and in particular:
- (i) The contents to be included in the Mayor’s scheme of delegation (section 1.2);
  - (ii) The process by which the Mayor may make amendments to their scheme of delegation (section 1.4);
  - (iii) Clarification relating to the Council’s Scheme of Delegation (section 1.5);
  - (iv) Clarification relating to the exercise of functions which have been delegated where there is a conflict of interest (section 1.6);
  - (v) Revision of provisions for Guillotine for meetings of the Executive to be consistent with Council Procedure Rules (section 1.7(d));
  - (vi) Requirements for executive decisions to be made on the basis of written reports, in the presence of appropriate officers and appropriately recorded (section 1.9);
  - (vii) A requirement for the Mayor to establish and publish a programme of business for the year (section 1.9(e));

- (viii) Additional text for the order of business of Cabinet meetings (the current Constitution has missing text in this section) (section 2.5);
- (ix) The process for placing items on the agenda for Executive meetings and those individuals and bodies which may do so (section 2.6);
- (x) Removal of wording relating to Advisory Committees (Traffic Management Advisory Committee) which may not be applicable under the Mayor and Cabinet form of executive.

2.11 Part 4E – Scrutiny Procedure Rules: the Centre for Governance and Scrutiny (CfGS) has reviewed the Council’s current Procedure Rules in light of good practice as well as recent changes arising from the Scrutiny Improvement Review and has made suggestions which are reflected in these proposals:

- (i) Changed arrangements for the appointment of vacancies to Scrutiny and Overview Committee between meetings to support the ongoing conduct of business (section 2.3);
- (ii) Changes are proposed to mirror changes to the Guillotine procedure in the Council Procedure Rules (section 3.7 – 3.9);
- (iii) Additional and new detail about the work programming process to reflect changes implemented following the Scrutiny Improvement Review (section 6.3 – 6.7 and 7.2 – 7.3);
- (iv) Clarification on recommendations to be made by Scrutiny to the Council or Executive and how these should be responded to (section 8.1 – 8.7);
- (v) Clarification of the basis on which any investigations carried out by Scrutiny will be conducted (section 10.2 – 10.3);
- (vi) Detail on the basis on which Call-Ins will ordinarily be raised (section 11.4), arrangements for the arrangement of Call-In meetings (section 11.10) and the approach to be taken if Scrutiny and Overview Committee considers that an Executive decision is contrary to the Budget and Policy Framework (section 11.12 – 11.14);
- (vii) Addition of provision for Councillor Call for Action (section 12) and Members and Officers giving account (section 13).

2.12 Part 4F – Non-Executive Procedure Rules:

- (i) Changes are proposed to mirror changes to the Guillotine procedure, points of order, points of personal explanation and clarification in the Council Procedure Rules (sections 3.5 – 3.8, 9.6, 9.7 and 9.8 respectively);
- (ii) Provision is added to enable recorded votes to be taken at Non-Executive Committee meetings (section 10.3).



2.13 Part 4I – Tender and Contract Regulations: a small number of minor modifications to the Regulations are recommended in order to improve efficiency and speed up the procurement process. Other proposed changes to the constitution (with the exception of section 4.22 of Part 3) relate to the operation of the Executive and conduct of meetings of the Council and its committees. It is therefore appropriate that they come into force from the start of the new municipal year and administration. However, there is ongoing work which could be more efficiently progressed prior to the start of the new municipal year by applying the revised Tender and Contract Regulations straight away. To enable the benefits of improved efficiency and swifter procurement to be realised by the Council as soon as possible, it is proposed to implement the following changes with immediate effect:

- (i) Increase the threshold at which the fuller level of governance and reporting applies from the current level of £100,000 to the Procurement Contracts Regulations 2015 ('PCR') threshold for Goods and Services (currently £177,898), defined as 'Low Value Expenditure'. The PCR state the contract values at which a formal procurement exercise must take place by public bodies and are changed every two years, set by the World Trade Organisation. It is unusual for a local authority to apply a value below the PCR threshold: the current level was set in 2013 had has not been adjusted for inflation or to align with the PCR since that time.

Approval to award contracts up to the Low Value Expenditure threshold will be by the relevant Director. This will have the effect of speeding up the award of contracts, allowing faster implementation of projects, delivery of outcomes and savings. The burden on suppliers when bidding will be simplified as the process will be quicker, making the Council more attractive to suppliers and thus increasing competition, resulting in more competitive prices. To ensure rigour and good governance, an additional sign-off for spend between £10,000 and the new threshold will be required by the Head of Procurement or the Strategic Procurement Manager

- (ii) Amendment of reference to the Price/ Quality split (section 22.4) to ensure that this is considered and the justification for the split chosen set out in the procurement report. This will bring Croydon in line with common procurement practice, considering every procurement on its merits instead of the current default of 40% Price and 60% Quality. Social Value will continue to be applied in line with Council policy.
- (iii) Removal of the current requirement that all Lead Member decisions on award of contracts go to Cabinet first (section 28.7), replaced with a requirement for a retrospective report of all Lead Member delegated decisions. The current provision is in conflict with provision elsewhere in the Tender and Contract Regulations (section 24.4c) which enables Lead Member decisions: the change will speed up the approvals process for award of contracts by approximately 4 to 6 weeks which should significantly improve supplier engagement. It will be a matter for the Mayor to decide the extent of any delegation of decision making to Lead Members.

- 2.14 Part 4J – Staff Employment Procedure Rules: these procedure rules have been revised alongside the terms of reference of Appointments Committee, to ensure consistency with the JNC Model Disciplinary Procedure for Statutory Chief Officers. Key features of the changes are:
- (i) Application of the rules in relation to appointments to the Monitoring Officer and Chief Finance Officer in addition to the Head of Paid Service (section 3);
  - (ii) Changes to clarify the disciplinary process and distinguish between matters in respect of which the Appointments and Disciplinary Committee recommend dismissal and those in respect of which the Appointments and Disciplinary Committee recommend no action or such recommendations fall short of dismissal (section 4);
  - (iii) Provision for urgent action to be taken to suspend in consultation with the Chair of the Appointments and Disciplinary Committee (section 4.10);
  - (iv) Parameters for the operation of suspension of the Head of Paid Service, Monitoring Officer or Chief Finance Officer (section 4.11);
  - (v) Establishment of an Independent Panel to consider a proposal to dismiss the Head of Paid Service, Monitoring Officer or Chief Finance Officer (section 4.15);
  - (vi) Establishment of the Appeals Committee to consider appeals where the proposal is disciplinary action short of dismissal (section 4.16).
- 2.15 Part 4K – Planning and Planning Sub-Committee Procedure Rules: changes are proposed as follows:
- (i) The requirement, at section 2.18, for Ward Members to attend training before they may make a referral to committee is removed, to ensure consistency with provision for referrals by the MP and GLA member. Training and guidance for Ward Members on criteria for referrals will continue to be provided by the Director of Planning and Sustainable Regeneration;
  - (ii) Changed wording at sections 6.8 - 6.10 is designed to clarify the arrangements for guillotine and achieve consistency with full Council and other non-executive Committee meetings, while reflecting the specific requirements relating to consideration of planning applications. Changes are also made to Part 3 to mirror this provision.
- 2.16 Part 4O – Procedure rules for remote meetings: this Part is removed in its entirety as the legislation which enabled it has expired. Provision remains for Licensing Sub-Committee hearings to be held remotely, as set out in Annex 2 to Part 5F and Part 5G of the Constitution. The drafting of a new protocol for use in meetings where it is lawful for remote participation will be progressed after the election and will be prioritised if there is a change to the relevant legislation.

- 2.17 Part 5A – Protocol for Decision Making: the following additional text is proposed:
- (i) Clarification of the different decision-making bodies covered by the Constitution;
  - (ii) Principles which will apply to all decisions made by the Council including executive decisions;
  - (iii) Addition of text to require Corporate Directors to keep the implementation of decisions under review and ensure that circumstances relevant to the decision continue to apply (section 1.9). Where there has been a material change of circumstances, a further report must be made to the decision-making body prior to implementation. This change addresses an action in the action plan following the Report in the Public Interest dated 26 January 2022.
- 2.18 Part 5B – Protocol on Staff Councillor Relations: this revised version of the existing Protocol was prepared by a Member-Officer Task and Finish Group. Ethics Committee, at its meeting on 9<sup>th</sup> February agreed to recommend to General Purposes and Audit Committee that this revised version be recommended to Council for inclusion within the Constitution: the full report to Ethics Committee is appended to this report.
- 2.19 Part 5C – Monitoring Officer Protocol: the text is updated to ensure consistency with the Member Code of Conduct and references to Dispensations in the Ethics Committee terms of reference (section 1.2 i))
- 2.20 Part 5H – Protocol for Participation in meetings of the Traffic Management Advisory Committee: The Traffic Management Advisory Committee (TMAC) has existed to advise the relevant Cabinet Member on traffic management issues. Under the mayoral model, it is for the Mayor to decide whether to delegate any decision making to any members of the Executive and it follows that any provision of advice to decision-makers (with the exception of legal, finance and other professional advice) is also at the discretion of the Mayor.
- 2.21 This Protocol is therefore proposed for removal from the Constitution until such point that the Mayor establishes a scheme of delegation which would enable such an approach. The Council has previously decided to make traffic management an executive function: this is a matter which, statutorily, the Council can choose to be either an executive or non-executive function. The Council could therefore, at some future point, consider a proposal to make traffic management a non-executive function and identify an appropriate committee to carry out that function.
- 2.22 Leader’s Scheme of Delegation: The scheme is removed in its entirety: a new Mayoral scheme of delegation will be brought to the Annual Council Meeting in May 2022.
- 2.23 It is also proposed to add the Officer Code of Conduct (which was revised in January 2022) to the Constitution at Part 5J so that there is transparency and clarity about the standards which officers are required to meet, in parallel with the provisions of the Members’ Code of Conduct.

- 2.25 Changes to the following Parts of the Constitution relate to changes of terminology only:
- Part 4G – Delegations to Executive Directors Decision Making Procedure Rules (the title will also be changed to ‘Delegations to Corporate Directors Decision Making Procedure Rules’)
- 2.26 For clarity, no changes are proposed to the following Parts of the Constitution:
- Part 4H – Financial Regulations
  - Part 4L – Terms of Reference Health and Wellbeing Board
  - Part 4M – Local Pension Board Procedure Rules
  - Part 4N – Pension Committee Terms of Reference
  - Part 5D – Planning Code of Good Practice
  - Part 5F – Protocol for Licensing Hearings
  - Part 5G – Protocol for Licensing Hearings under the Gambling Act 2005
  - Part 5I – Members’ Code of Conduct
  - Part 6D- Scheme of Co-option
  - Part 6E – Terms of Reference Corporate Parenting Panel
- 2.27 A paper relating to the Members Scheme of Allowances (Part 6A of the Constitution) appears elsewhere on this agenda.

### **3. REASONS FOR RECOMMENDATION**

- 3.1 The proposed changes to the constitution will in some cases ensure, and in others assist with compliance and consistency with other decision making by the Council.

### **4. CONSULTATION**

- 4.1 There is no statutory duty to undertake public consultation on changes to the consultation. The changes proposed in this report will support implementation of other decisions by Council and compliance with legislation and as such have not been subject to separate consultation.

### **5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

- 5.1 All costs associated with this work has been delivered from existing 2021/22 budgets and the Council continues to have additional provision to support this work in 2022/23.

Approved by: Nish Popat – Interim Head of Corporate Finance

### **6. LEGAL CONSIDERATIONS**

- 6.1 External legal advice has been sought. This states:

- 6.2 The Council is obliged to introduce a mayor and cabinet form of executive by virtue of section 9MF(5) of the Local Government Act 2000 ('LGA 2000') following the outcome of the referendum on the mayoral system on 7 October 2021. A resolution to change to a mayor and cabinet form of executive was made at an extraordinary council meeting on 11 October 2021.
- 6.3 Under subsections 9L(2) and (5) of the LGA 2000, the Council must cease to operate its existing leader and cabinet form of executive and move to the elected mayor and cabinet form of executive at "a time during the third day after the day of the declaration of the result of the poll at the first election of the mayor".
- 6.4 The Council is also obliged to maintain an up-to-date constitution under Section 9P of the LGA 2000. When the Council's form of executive changes, the constitution in its current form will cease to be fit for purpose and so must be amended to address this and reflect the new elected mayor and cabinet form of executive.
- 6.5 The Full Council may only approve changes to the Constitution following its consideration of written proposals made by (amongst others) the General Purposes and Audit Committee, under Article 15.2 of the current Constitution. Such changes may take effect from the conclusion of the meeting at which they are agreed unless the recommendation made provides otherwise (e.g. on a specified date, as is required by the provisions of the LGA 2000 in this case).
- 6.6 The proposed changes to the Constitution have been reviewed and are consistent with relevant legislation applicable to each Part that has been reviewed and amended. The changes proposed by the amendments to the Constitution are sufficient to ensure that it will be fit for the purposes of operating an elected mayor and cabinet form of executive.
- 6.7 It should be noted that the Constitution has not been subject to a complete constitution review, with only the proposed changes and amendments to specific Parts subject to legal consideration. Continuing review of the constitution should be maintained to ensure compliance with the Council's duties.
- 6.8 Following its amendment, the Constitution must be made available for inspection at the Council's offices and published on the Council's website under Article 16.3 of the Constitution, consistent with Section 9P of the LGA 2000 and the Local Government Transparency Code 2015.

## **7. HUMAN RESOURCES IMPACT**

- 7.1 There are no immediate Human Resources implications arising from the contents of this report.

Approved by: Gillian Bevan, Head of HR – Resources and Assistant Chief Executive

## **8. EQUALITIES IMPACT**

- 8.1 The constitution of the Council should give due regard to equality and fairness and ensure that equality is fundamental to how the Council undertakes its core business. The Council has a statutory duty to comply with the provisions set out in the Sec 149 Equality Act 2010. The Council must therefore have due regard to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.2 Any constitutional review should have regard, wherever possible, to the vision that Croydon is a fairer, safer, more inclusive borough, where everyone has a voice and feels as if they belong. The review should also have regard wherever possible to the Council's core priority, which is to focus on tackling ingrained inequality and poverty in the borough.
- 8.4 The Tender and Contract Regulations, within the Constitution, include provision that contracts, where appropriate, include a clause that states the Contractor will maintain their compliance with Council policies that are relevant to the services that the Council are procuring. Through this provision, the Council can require providers of appropriate services to adopt both the George Floyd Race Matters Pledge and the Equalities Pledge (the Council standard for equalities in the borough).

Approved by: Denise McCausland, Equality Programme Manager

## **9. ENVIRONMENTAL IMPACT**

- 9.1 There is no environmental impact arising from this report.

## **10. CRIME AND DISORDER REDUCTION IMPACT**

- 10.1 There is no crime and disorder impact arising from this report.

## **11. DATA PROTECTION IMPLICATIONS**

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

No.

- 11.2 **HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

N/A.

Approved by: Richard Ennis, Interim Director of Resources.

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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:**

**1: Proposed changes and amendments to the Constitution:**

- Part 1 - Summary and Explanation
- Part 2 - Articles
- Part 3 - Responsibility for Functions
- Part 4A – Council Procedure Rules
- Part 4B – Access to Information Procedure Rules
- Part 4C – Budget and Policy Framework Procedure Rules
- Part 4D- Executive Procedure Rules
- Part 4E – Scrutiny and Overview Procedure Rules
- Part 4F – Non-Executive Committee Procedure Rules
- Part 4G – Delegations to Executive Directors Decision Making Procedure Rules
- Part 4I – Tender and Contract Regulations
- Part 4J – Staff Employment Procedure Rules
- Part 4K – Planning and Planning Sub-Committee Procedure Rules
- Part 4O – Procedure rules for remote meetings
- Part 5A – Protocol for Decision Making
- Part 5B – Protocol on Staff Councillor Relations (Ethics Committee report 9 February 2022)
- Part 5C – Monitoring Officer Protocol
- Part 5H – Protocol for Participation in meetings of the Traffic Management Advisory Committee
- Part 5I – Member Code of Conduct
- Part 5J - Officer Code of Conduct

**BACKGROUND PAPERS:**

Legal considerations provided by Browne Jacobsen LLP

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<b>REPORT TO:</b>	<b>ETHICS COMMITTEE</b> <b>9 February 2022</b>
<b>SUBJECT:</b>	<b>Staff-Councillor Relations Protocol</b>
<b>LEAD OFFICER:</b>	<b>Richard Ennis, Corporate Director of Resources (interim)</b>
<b>WARDS:</b>	<b>All</b>
<b>CORPORATE PRIORITIES 2021-24:</b>	
A review of the protocol to assist both Members and Officers to have an appropriate understanding of their respective roles will support implementation of the Croydon Renewal Improvement Plan.	

### **FINANCIAL IMPACT**

Implementation of the recommendations within this report shall be contained within existing budgets.

### **RECOMMENDATION**

Ethics Committee is recommended to:

1. Review the draft revisions to the Staff-Councillor Relations Protocol;
2. Recommend to General Purposes and Audit Committee the inclusion of these revisions with a package of wider changes to the Constitution, to be recommended to Council on 23 March 2022.

## **1. EXECUTIVE SUMMARY**

- 1.1 This report seeks comments from the Committee on a revised draft Protocol on Staff-Councillor relations, which has been developed with input from Members and Officers.
- 1.2 Subject to the views of the Committee, the revised draft will be proposed for inclusion in the Constitution and will be used to inform staff and Member training.

## **2. BACKGROUND**

- 2.1 The Staff-Councillor Relations Protocol has not been materially reviewed or amended for some years.
- 2.2 In its response to the Report in the Public Interest ('RIPI'), the Council identified a need to clarify member and officer roles to support good governance arrangements. An action was included in the RIPI action plan to

review the Staff-Councillor Relations Protocol and to deliver training to develop good practice.

- 2.3 Following revision of the Member and Officer Codes of Conduct, Ethics Committee agreed at its meeting in December 2021 that a Member/ Officer Task and Finish Group be convened to review the Staff-Councillor Relations Protocol, to prepare a revised draft for consideration by the Committee, prior to inclusion in proposed amendments to the Constitution in March 2022.
- 2.4 Cllrs Fraser and Hale were nominated by the Committee to join the Task and Finish Group, which also included 5 officers. The Task and Finish Group met twice as follows:

**Meeting 1:** reviewed Protocols from Bristol, Lewisham and Tower Hamlets and considered whether anything might be missing from/ could be strengthened in the current Protocol.

**Meeting 2:** considered draft additional/ amended text. (The meeting was held across two separate occasions due to limited Member availability).

### 3. THE PROPOSAL

- 3.1 Analysis of the Council's current Protocol in comparison with relevant examples from other councils has shown that the Protocol is short in comparison with many and does not include content in relation to, for example:
- Declaration of close personal relationships between Members and staff;
  - The accountability of staff to their line managers;
  - Arrangements for informal briefings of groups of Members;
  - Criticism of staff members in public meetings;
  - The responsibility of staff to ensure that Members receive the information they need to carry out their roles as Members.
- 3.2 A revised draft Protocol appears at Appendix 1: this has been informed by the comments of the Task and Finish Group and shows changes in comparison to the current Protocol. A clean version appears at Appendix 2.
- 3.3 The Committee is asked to note that:
- Hyperlinks will be added to all documents referred to in the Protocol;
  - More detail about the definition of bullying and harassment appears in the Member and Officer Codes of Conduct (and associated guidance) and so content on this topic has been removed from this Protocol;
  - A glossary has been added, as requested by the Task and Finish Group, to increase the accessibility of the Protocol for staff;
  - This Protocol addresses working relationships between staff and Councillors: any issues arising in working relationships between different officers are addressed in HR policies which are set out in the HR handbook;

- The requirement to notify the Monitoring Officer of close relationships which may be seen as influencing Member/ Officer decisions (whether Member/ Officer, Member/ Member or Officer/ Officer) is in addition to the procedures for disclosure of pecuniary and other registrable interests. The Monitoring Officer will maintain a record of such notifications, which will not be published.

#### **4. NEXT STEPS**

- 4.1 Subject to comments from the Committee, the draft revised Protocol will be considered by the Constitution Working Group prior to General Purposes and Audit Committee on 3<sup>rd</sup> March and Full Council on 23<sup>rd</sup> March 2022.
- 4.2 Once a revised draft has been finalised, attention will turn to arrangements for training on the Protocol:
- i) Two (repeated) sessions have been scheduled on the topic as part of the Member induction programme from May 2022;
  - i) It is proposed to hold a discussion on the Protocol at a future meeting of CMT/ Directors/ Heads of Service;
  - ii) Once adopted by Council, the Protocol will be discussed at the all-staff webinar;
  - iii) A summary of the Protocol will be produced for use at staff induction ongoing and for insertion in the Member Handbook.

#### **5. CONSULTATION**

- 5.1 The revised Protocol has been informed by comments from a Member/ Officer Task and Finish Group.

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

- 6.1 There are no direct financial implications arising from this report.

Approved by: Matt Davis, Interim Deputy s151 Officer.

#### **7. LEGAL CONSIDERATIONS**

- 7.1 The Head of Head of Litigation & Corporate Law comments on behalf of the Interim Director of Law and Deputy Monitoring Officer as to the proposed revision of the Staff-Councillor Relations Protocol ('Protocol').
- 7.2 Although there is no requirement in law to produce a separate Protocol detailing such relations there is a requirement for both Members and Officers to conduct themselves in a certain way.
- 7.3 Section 27(2) of the Localism Act 2011 sets out the need for a Member Code of Conduct. It outlines that a local authority must adopt 'a code dealing with

the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.’

- 7.4 The Local Government Act 2000 enables the Secretary of State to issue a statutory code of conduct for local authority staff, in addition to their terms and conditions of employment. However in England no such code has been issued. Therefore, most local authorities continue to operate with a voluntary code to bring together the existing laws, regulation and conditions of service which regulate staff conduct to ensure the Council operates within its legal framework.
- 7.5 The fundamental principles that should be reflected within the Protocol is, as set-out in Ahmed v United Kingdom (2000) 29 EHRR 1, that “the local government system of the UK has long resided on a bond of trust between elected members and a permanent corps of local government officer... that relationship of trust stems from the right of council members to expect that they are being assisted in their functions by officers who are politically neutral and whose loyalty is to the council as a whole”.
- 7.6 Such principles have emanated from and been developed by the recommendations of the Widdicombe Committee and more recently from the review by the Committee of Standards in Public life as to Local Government Ethical Standards.
- 7.7 The Local Government Association has also have published a great deal of information as to effective councillor/officer relations, which includes “[A councillor’s workbook on effective councillor/officer relationships 2018](#)”.
- 7.8 In summary, the Protocol clarifies the roles, responsibilities and relationships of Members and Officers and sets out how they will work together. It also guides Members and/or Officers as to the other specific policies/protocols with regards to carrying out their duties, such as requesting information or decision making within the Council’s framework.

Approved by: Sandra Herbert, Head of Litigation & Corporate Law on behalf of the Interim Director of Law & Deputy Monitoring Officer.

## **8. HUMAN RESOURCES IMPACT**

- 8.1 There are no immediate human resources impacts for Croydon Council employees or staff as a consequence of this report and its recommendations. Should there be any matters arising, these will be dealt with as appropriate under Council HR policies and procedures.  
Approved by: Gillian Bevan, Head of HR- Resources.

## **9. EQUALITIES IMPACT**

- 9.1 The Protocol seeks to ensure mutual respect and an appropriate understanding of Councillors’ and Officers’ respective roles and responsibilities.

9.2 The Protocol should be understood in the context of the Council's HR policies and procedures and the Members' Code of Conduct: these include commitments to promote equalities and not to discriminate unlawfully against any person and are the route for addressing any concerns raised under this Protocol. The delivery of training on this Protocol to Members and Officers should support understanding of its provisions, including the way in which compliance with the Protocol will support the Council to meet its duty under the Public Sector Equality Duty.

Approved by: Denise McCausland, Equalities Manager

## **10. ENVIRONMENTAL IMPACT**

10.1 There is no environmental impact arising from this report.

## **11. CRIME AND DISORDER REDUCTION IMPACT**

11.1 There is no crime and disorder impact arising from this report.

## **12. DATA PROTECTION IMPLICATIONS**

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

No.

### **12.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

N/A.

Approved by: Richard Ennis, Corporate Director of Resources.

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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:**

**1: Draft revised Staff-Councillor Relations Protocol (tracked changes)**

**2: Draft revised Staff-Councillor Relations Protocol (clean)**

BACKGROUND PAPERS: None

## Appendix 1 – Revised draft Protocol (tracked changes)

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.B - Protocol on Staff – Councillor **Member** Relations

### INTRODUCTION

1. **Members and staff have a common purpose: to work as one team to serve the communities of the London Borough of Croydon. This working relationship is based on** ~~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.~~ **To achieve this, it is essential that both** Members and **staff** employees feel free to speak to one another openly and honestly **and that there is a shared understanding of** ~~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.~~
2. ~~The Protocol also gives guidance on what to do on~~ **This Protocol clarifies the roles and relationships of Members and staff and sets out how they will work together. It also includes a process to follow on** the rare occasions when things go wrong.
3. The Protocol must be read and operated in the context of any relevant legislation and the:
  - **Seven Principles of Public Life (the Nolan Principles)**
  - **Members' Code of Conduct**
  - **Officer Code of Conduct**
  - **Access to Information Procedure Rules**
  - **Access to Information Protocol**
  - **Protocol for Decision Making**
  - **Whistleblowing policy** ~~and any procedure for confidential reporting.~~
4. **If any questions arise from this Protocol, advice should be sought from the Monitoring Officer. Guardians are available for staff members who wish to confidentially share and talk through an issue in the first instance.**

### ROLES OF MEMBERS AND STAFF

5. 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~~ **accountable, through the Chief Executive, to the Authority Council as a whole and not to any political group.** 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.

6. Mutual respect **and recognition of respective roles and responsibilities** between Members and staff is essential to good local government.

## **MEMBERS' RESPONSIBILITIES**

7. Members have three main areas of responsibility: **determining the strategic policy and plans 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.~~ **They will also scrutinise the Council's performance, through Scrutiny and Overview Committee and Full Council.**
8. **Members will not be involved in day to day operational or managerial decisions. (Members sitting on regulatory committees will take decisions which affect the rights of individuals and businesses, for example in relation to development management and licensing matters, for which specific codes and protocols apply).**
9. **Members should not seek to give instructions to officers other than in accordance with the terms of reference of their Committee. Members are not authorised to initiate or certify financial transactions or to enter into a contract on behalf of the Council. The Mayor's scheme of delegations sets out the basis on which any executive decisions may be taken by individual Cabinet Members.**
10. **As individual Members of the Council, all Members have the same rights and obligations in their relationship with staff and should be treated equally.**
11. **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.
  - (ii) **While there should be a close working relationship between a Cabinet member and the relevant corporate director and other senior staff,**

such relationships should never be allowed to become so close or appear to be so close, as to bring into question the abilities of staff to deal impartially with other Members, individuals or organisations.

- (iii) These Members must still respect the impartiality of officers, must not ask them to undertake work of a party political nature, or to do anything that would prejudice that impartiality or apply inappropriate pressure on officers.
- (iv) At some meetings a resolution may be passed which authorises a named Officer to take actions between meetings in consultation with a member of the Executive or Chair/ Vice Chair. In these circumstances it is the Officer, not the Member, who takes the action and is accountable for it.
- (v) The Executive Procedure Rules set out the only circumstances in which a Member may take decisions, acting individually.

## 12. Opposition-Ward Members

- (i) Members shall be given timely access to information that they require to carry out their role as Ward Members. Corporate Directors must ensure that all relevant staff are aware of the requirement to keep local Members informed so that Members can contribute to the decision-making process and fulfil their representative role.
- (ii) This requirement is particularly important:
  - (a) during the early stages of policy development, where practicable;
  - (b) following any specific incident in their ward;
  - (c) in relation to specific or sensitive operational matters such as significant service disruption, ongoing planning enforcement cases; proposed changes to services sited within their wards and significant anti-social behaviour issues;
  - (d) whenever any form of public consultation exercise is undertaken.
- (iii) Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward(s) affected will be invited to attend the meeting as a matter of course.
- (iv) When an event occurs in the borough which has or will have a significant impact on the Council and/or Croydon residents and/or businesses, the Chief Executive will ensure that the Leaders of all groups and the relevant Ward Councillors are informed as soon as possible.
- (v) Staff responsibilities for responding to member enquiries, related processes and the timescales for response are set out in the Access to Information Protocol.



### 13. Scrutiny and Opposition Members

- (i) ~~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 of equal rights for all Members is particularly important in the context of scrutiny and overview, and staff responsibilities for ensuring that scrutiny's statutory rights to relevant information are met are set out in the Access to Information Protocol.~~
- (ii) 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 RESPONSIBILITIES**

- 14. **Staff are responsible for day-to-day managerial and operational decisions.** ~~Their~~The role of staff is to give advice and information to Members and to implement the policies determined by the Council.
- 15. Staff are always accountable to their line manager who sets their work priorities, and not to individual Members. While staff should always seek to assist a Member they must not exceed the bounds of authority they have been given by their managers. If a matter requires urgent attention, Members should contact the relevant Head of Service in the first instance.
- 16. 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**

- 17. Members can expect from staff:
  - (i) A commitment to the Authority as a whole, and not to any political group **or individual Member;**
  - (ii) A working partnership;
  - (iii) An understanding of and support for respective roles, workloads and pressures;
  - (iv) Timely response to enquiries and complaints **in accordance with agreed standards and processes;**
  - (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 **and discussion** 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 **in which they are working;**
- (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~~ **Officer** Code of Conduct.

**18.** Staff can expect from Members:

- (i) A working partnership;
- (ii) An understanding of and support for respective roles, workloads and pressures;
- (iii) **An understanding and knowledge of the local area and a willingness to share this with staff;**
- (iv) Political leadership and direction;
- (v) Respect, dignity and courtesy;
- (vi) Integrity, mutual support and appropriate confidentiality;
- (vii) 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 **staff** employees, and the potential vulnerability of **staff** 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.)~~

- (viii) That Members shall not use their position or relationship with ~~employees~~ **staff** to advance their personal interests or those of others or to influence decisions improperly;
- (ix) That Members shall at all times comply with the ~~relevant~~ **Member** Code of Conduct.

19. Practical implications of some of the principles set out above are shown below:

- (i) Members and staff should be courteous to each other at all times even if they disagree with their respective views. Members and staff should not shout or raise their voice in an aggressive or rude manner and should not undermine respect for each other at Council meetings or in any other forum in which they participate in their role as a Member or member of Council staff, including social media.
- (ii) In public forums, staff will not use Councillors' first names; staff will be introduced to the meeting in the first instance with reference to their job title.
- (iii) Members shall not raise matters relating to the conduct or capability of an individual member of staff or staff collectively in meetings held in public. While it is legitimate for members to express well-founded concern constructively about the way a service is run or a policy is implemented by staff, a personal attack by a Member on a member of staff or on staff generally at a formal or informal Member meeting will never be acceptable, nor will a personal attack by a member of staff on a Member. This would be damaging both to effective working relationships and to public respect for the Council. In general, staff are unable to defend themselves against criticism in a public forum. Attacking the conduct of a staff member in public can constitute bullying, as can undue pressure brought by either staff or Members in private. Chairs of meetings have a particular responsibility to ensure that personal attacks are not made by any attendee during public meetings.
- (iv) Members and staff should respect each other's non-working time. Emails may be sent outside normal working hours but responses should not be expected at such times, and phone calls should not be made. While many staff members are willing to be contacted by Members outside normal working hours (and vice versa), this step should only be taken in cases of genuine importance or urgency or by prior arrangement.
- (v) Staff have a duty to provide information, advice and recommendations to Members. Such information etc can be provided both formally and

informally but should be given formally and in writing where significant or potentially controversial issues are at stake.

- (vi) Staff must therefore be able to report to Members as they see fit and without any political pressure.
- (vii) More detail about the basis on which decisions must be taken appear in the Access to Information Procedure Rules and the Protocol on Decision Making.

## **RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS**

- 20. Relationships with a particular individual or party groups should not be such as to create public suspicion that a member of staff favours that Member or group above others. Members of staff may be a member of a political party, but may not have an active political role or stand for elected office if they are in a politically restricted post.
- 21. Members and staff should immediately (no later than three working days from when the relationship is identified) inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles. The Monitoring Officer will maintain a record of such declarations.
- 22. It is not enough to avoid actual impropriety. Members and staff should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where a conflict of interests could be perceived. For example, a Member should not sit on a body or participate in any decision which directly affects the staff member on a personal basis.
- 23. The Officer Code of Conduct provides more detail on expected standards in concerning working relationships between staff and Members. Staff should refer to the Officer Code of Conduct and/or seek advice from the Monitoring Officer if in any doubt. Staff are also required to undertake e-learning on the Officer Code of Conduct annually.

## **BRIEFINGS**

- 24. In order for the Mayor, Cabinet members and Committee Chairs and/or Vice Chairs to discharge their responsibilities, those Members will be briefed from time to time by Directors on service issues, proposals and policy development. Directors may, from time to time, nominate other staff members to attend these meetings. These informal meetings may be on a one-off or regular basis, in accordance with the requirements of the Members and roles concerned.
- 25. Political groups which are not represented on the Executive may also have nominated leads for particular portfolios and if those leads so request, the

relevant Director(s) will make themselves available to brief them on service issues relating to Committee papers once the agenda has been published.

26. The Mayor or Leader of any other group represented on the Council, may request the Chief Executive or relevant Corporate Director to prepare reports on matters relating to the Council for consideration by the group. Such requests must be reasonable and should not seek confidential information (eg relating to casework or personal details of applicants for services).
27. If the Corporate Director considers that the cost of providing the information requested for a group is unreasonable, or if the request is unreasonable in other respects, the request will be referred to the Chief Executive for determination, where necessary in consultation with the Mayor or Leader of the relevant group.
28. The Mayor or Leader of any other group may ask the Chief Executive or Corporate Director to give or arrange a private and confidential briefing for the group. Senior staff members may be properly called upon to support and contribute to such deliberations by groups but must at all times maintain political neutrality. Staff requested to give such a briefing should seek advice from the Monitoring Officer before doing so.
29. Any briefing offered to or requested by a group will be offered (and described in broad terms) to any other group(s). Where possible, such briefings should be to all or a combination of groups. The detailed content of informal briefing sessions shall remain confidential between staff and the group concerned.
30. Staff advice and reports to groups will be limited to a statement of material facts relating to matters of Council business and identification of options and the merits and demerits of such options for the Council. Reports will not address any political implications and advice should not include making recommendations to a group. The observance of this distinction will be assisted if staff are not present at meetings or parts of meetings where matters of party business are to be discussed.
31. When staff provide information and advice to a group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council, Cabinet or Committee meeting when the matter in question is considered.
32. Special care needs to be exercised whenever staff are involved in providing information to a group meeting which includes persons who are not Members of the Council. Such individuals are not bound by the Member Code of Conduct (and in particular the provisions relating to declaration of interests and confidentiality) and for this and other reasons staff may decline to attend and/or give advice to such meetings.

#### **IF ~~WHEN~~ THINGS GO WRONG**

33. From time to time the relationship between Members and staff may break down or become strained. It shall always be preferable to resolve matters informally.

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.~~

34. Procedure for Members

- (i) In the event that a Member is dissatisfied with the conduct, behaviour or performance of a ~~member of staff~~ ~~n-employee~~, the Member should consult the Group Whip and then raise the matter should be raised with the appropriate Executive ~~Corporate~~ Director. Where the matter concerns an Executive ~~Corporate~~ Director, it should be raised with the Chief Executive. Where the matter concerns the Chief Executive it shall be raised with the Chief People Officer or with the Mayor Leader as appropriate. Where there is a prima facie case for a disciplinary investigation, this will be dealt with in accordance with the Council's disciplinary procedures.
- (ii) If a Member is concerned about the way a service or part of it is performing as opposed to the conduct of a specific officer, and if the concerns cannot be resolved through discussion with the manager of the service, the Member should raise the matter with the Chief Executive and/or request that the Mayor and/or relevant Cabinet Member consider the matter. The Member may also wish to consider referring the matter for consideration to the Scrutiny Chairs and/or to General Purposes and Audit Committee, as appropriate.

35. 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, If a member of staff wishes to raise a concern about a Member's behaviour they can either escalate it to their line manager, Corporate Director or 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.~~ Officers also may use the Council's Whistleblowing Procedure.

- (ii) Having been notified of a concern in this way, the line manager, Corporate Director or Monitoring Officer will take appropriate action, including approaching the Member concerned and raising with the Group Leader and/or Whip or referring the matter to the Monitoring Officer where there is a potential breach of the Code of Conduct.
- (iii) Group Leaders and Whips should promote a positive atmosphere of trust, respect and understanding between Members and staff and must be prepared to deal with and seek to resolve any reported incidents of breaches of this Protocol by their Group Members. In the event of receiving a report of this nature, a Group Leader and/or Whip will actively consider the matter and seek to achieve a satisfactory outcome, reporting that outcome to the member of staff who reported the issue.

### **RESPONSIBILITY FOR THIS PROTOCOL**

- 36. The Monitoring Officer has overall responsibility for this Protocol and will annually review how it is working.
- 37. The Monitoring Officer will report annually to the Ethics Committee on matters relating to this Protocol.

### **~~AMENDMENTS/ VARIATION TO THIS PROTOCOL~~**

- 38. 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.

### **GLOSSARY**

<b>Administration</b>	
<b>Chief Officer</b>	The Chief Executive, Corporate Directors and Directors
<b>Executive</b>	The Executive is made up of the Elected Mayor and between 2 and 9 Councillors (also known as the Cabinet). The Executive take strategic decisions on all of the Council's functions which are not the responsibility of any other part of the Council. The term 'Executive' may refer to the elected Mayor, to the Mayor and Cabinet acting together, individual Cabinet Members or officers taking decisions which have been delegated to them.
<b>Guardians</b>	The Council's programme which provides staff a safe space to confidentially share concerns about behaviour or the culture at Croydon, talk through issues and be signposted to relevant support and guidance by specially trained members of staff.
<b>Member</b>	Members of the Council include:

	<ul style="list-style-type: none"> <li>• The elected Mayor</li> <li>• Elected Councillors</li> <li>• Non-voting, co-opted Members of Committees</li> </ul>
<b>Monitoring Officer</b>	This officer has a specific role to ensure that the Council, its staff and Members maintain the highest standards of conduct in all they do.
<b>Political group</b>	<p>Members may be part of a political group on the Council if they are a member of a political party.</p> <p>If they are not a member of a political party, they can still be a member of a political group (for example, a group of Independent members) if two or more members who wish to be part of that group sign a notice saying that they wish to be treated as a political group.</p>
<b>Statutory Chief Officers</b>	<p>The following roles are known as statutory Chief Officers because the Council is legally required to have these posts and the roles have specific responsibilities set out in legislation:</p> <ul style="list-style-type: none"> <li>• Chief Executive (or Head of Paid Service),</li> <li>• Chief Financial Officer (Section 151 Officer),</li> <li>• Monitoring Officer,</li> <li>• Director of Adult Social Services (held by the Corporate Director Adult Social Care and Health)</li> <li>• Director of Children's Social Services (held by the Corporate Director Children, Young People and Education)</li> <li>• Director of Public Health</li> </ul>



## Appendix 2: Revised Protocol (clean)

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.B - Protocol on Staff – Member Relations

### INTRODUCTION

1. Members and staff have a common purpose: to work as one team to serve the communities of the London Borough of Croydon. This working relationship is based on mutual respect and trust. To achieve this, it is essential that both Members and staff feel free to speak to one another openly and honestly and that there is a shared understanding of respective roles and expectations.
2. This Protocol clarifies the roles and relationships of Members and staff and sets out how they will work together. It also includes a process to follow on the rare occasions when things go wrong.
3. The Protocol must be read and operated in the context of any relevant legislation and the:
  - Seven Principles of Public Life (the Nolan Principles)
  - Members' Code of Conduct
  - Officer Code of Conduct
  - Access to Information Procedure Rules
  - Access to Information Protocol
  - Protocol for Decision Making
  - Whistleblowing policy
4. If any questions arise from this Protocol, advice should be sought from the Monitoring Officer. Guardians are available for staff members who wish to confidentially share and talk through an issue in the first instance.

### ROLES OF MEMBERS AND STAFF

5. 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 accountable, through the Chief Executive, to the Council as a whole and not to any political group. 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.

6. Mutual respect and recognition of respective roles and responsibilities between Members and staff is essential to good local government.

## **MEMBERS' RESPONSIBILITIES**

7. Members have three main areas of responsibility: **determining the strategic policy and plans of the Council and giving it political leadership, representing the Authority externally, and acting as advocates on behalf of their constituents.** They will also scrutinise the Council's performance, through Scrutiny and Overview Committee and Full Council.
8. Members will not be involved in day to day operational or managerial decisions. (Members sitting on regulatory committees will take decisions which affect the rights of individuals and businesses, for example in relation to development management and licensing matters, for which specific codes and protocols apply).
9. Members should not seek to give instructions to officers other than in accordance with the terms of reference of their Committee. Members are not authorised to initiate or certify financial transactions or to enter into a contract on behalf of the Council. The Mayor's scheme of delegations sets out the basis on which any executive decisions may be taken by individual Cabinet Members.
10. As individual Members of the Council, all Members have the same rights and obligations in their relationship with staff and should be treated equally.
11. 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.
  - (ii) While there should be a close working relationship between a Cabinet member and the relevant corporate director and other senior staff, such relationships should never be allowed to become so close or appear to be so close, as to bring into question the abilities of staff to deal impartially with other Members, individuals or organisations.
  - (iii) These Members must still respect the impartiality of officers, must not ask them to undertake work of a party political nature, or to do anything that would prejudice that impartiality or apply inappropriate pressure on officers.
  - (iv) At some meetings a resolution may be passed which authorises a named Officer to take actions between meetings in consultation with a member of the Executive or Chair/ Vice Chair. In these circumstances

it is the Officer, not the Member, who takes the action and is accountable for it.

- (v) The Executive Procedure Rules set out the only circumstances in which a Member may take decisions, acting individually.

## 12. Ward Members

- (i) Members shall be given timely access to information that they require to carry out their role as Ward Members. Corporate Directors must ensure that all relevant staff are aware of the requirement to keep local Members informed so that Members can contribute to the decision-making process and fulfil their representative role.
- (ii) This requirement is particularly important:
  - (a) during the early stages of policy development, where practicable;
  - (b) following any specific incident in their ward;
  - (c) in relation to specific or sensitive operational matters such as significant service disruption, ongoing planning enforcement cases; proposed changes to services sited within their wards and significant anti-social behaviour issues;
  - (d) whenever any form of public consultation exercise is undertaken.
- (iii) Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward(s) affected will be invited to attend the meeting as a matter of course.
- (iv) When an event occurs in the borough which has or will have a significant impact on the Council and/or Croydon residents and/or businesses, the Chief Executive will ensure that the Leaders of all groups and the relevant Ward Councillors are informed as soon as possible.
- (v) Staff responsibilities for responding to member enquiries, related processes and the timescales for response are set out in the Access to Information Protocol.

## 13. Scrutiny and Opposition Members

- (i) The principle of equal rights for all Members is particularly important in the context of scrutiny and overview, and staff responsibilities for ensuring that scrutiny's statutory rights to relevant information are met are set out in the Access to Information Protocol.
- (ii) 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 RESPONSIBILITIES**

14. **Staff are responsible for day-to-day managerial and operational decisions.** Their role is to give advice and information to Members and to implement the policies determined by the Council.
15. Staff are always accountable to their line manager who sets their work priorities, and not to individual Members. While staff should always seek to assist a Member they must not exceed the bounds of authority they have been given by their managers. If a matter requires urgent attention, Members should contact the relevant Head of Service in the first instance.
16. 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**

17. Members can expect from staff:
  - (i) A commitment to the Authority as a whole, and not to any political group or individual Member;
  - (ii) A working partnership;
  - (iii) An understanding of and support for respective roles, workloads and pressures;
  - (iv) Timely response to enquiries and complaints in accordance with agreed standards and processes;
  - (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 and discussion 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 in which they are working;
  - (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 Officer Code of Conduct.

18. Staff can expect from Members:

- (i) A working partnership;
- (ii) An understanding of and support for respective roles, workloads and pressures;
- (iii) An understanding and knowledge of the local area and a willingness to share this with staff;
- (iv) Political leadership and direction;
- (v) Respect, dignity and courtesy;
- (vi) Integrity, mutual support and appropriate confidentiality;
- (vii) Not to be subject to bullying or harassment or to be intimidated or put under undue pressure or improper influence. Members should have regard to the seniority of employees in determining what reasonable requests are, having regard to the power relationship between Members and staff, and the potential vulnerability of staff, particularly at junior levels.
- (viii) That Members shall not use their position or relationship with staff to advance their personal interests or those of others or to influence decisions improperly;
- (ix) That Members shall at all times comply with the Member Code of Conduct.

19. Practical implications of some of the principles set out above are shown below:

- (i) Members and staff should be courteous to each other at all times even if they disagree with their respective views. Members and staff should not shout or raise their voice in an aggressive or rude manner and should not undermine respect for each other at Council meetings or in any other forum in which they participate in their role as a Member or member of Council staff, including social media.
- (ii) In public forums, staff will not use Councillors' first names; staff will be introduced to the meeting in the first instance with reference to their job title.

- (iii) Members shall not raise matters relating to the conduct or capability of an individual member of staff or staff collectively in meetings held in public. While it is legitimate for members to express well-founded concern constructively about the way a service is run or a policy is implemented by staff, a personal attack by a Member on a member of staff or on staff generally at a formal or informal Member meeting will never be acceptable, nor will a personal attack by a member of staff on a Member. This would be damaging both to effective working relationships and to public respect for the Council. In general, staff are unable to defend themselves against criticism in a public forum. Attacking the conduct of a staff member in public can constitute bullying, as can undue pressure brought by either staff or Members in private. Chairs of meetings have a particular responsibility to ensure that personal attacks are not made by any attendee during public meetings.
- (iv) Members and staff should respect each other's non-working time. Emails may be sent outside normal working hours but responses should not be expected at such times, and phone calls should not be made. While many staff members are willing to be contacted by Members outside normal working hours (and vice versa), this step should only be taken in cases of genuine importance or urgency or by prior arrangement.
- (v) Staff have a duty to provide information, advice and recommendations to Members. Such information etc can be provided both formally and informally but should be given formally and in writing where significant or potentially controversial issues are at stake.
- (vi) Staff must therefore be able to report to Members as they see fit and without any political pressure.
- (vii) More detail about the basis on which decisions must be taken appear in the Access to Information Procedure Rules and the Protocol on Decision Making.

## **RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS**

- 20. Relationships with a particular individual or party groups should not be such as to create public suspicion that a member of staff favours that Member or group above others. Members of staff may be a member of a political party but may not have an active political role or stand for elected office if they are in a politically restricted post.
- 21. Members and staff should immediately (no later than three working days from when the relationship is identified) inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles. The Monitoring Officer will maintain a record of such declarations.

22. It is not enough to avoid actual impropriety. Members and staff should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where a conflict of interests could be perceived. For example, a Member should not sit on a body or participate in any decision which directly affects the staff member on a personal basis.
23. The Officer Code of Conduct provides more detail on expected standards in concerning working relationships between staff and Members. Staff should refer to the Officer Code of Conduct and/or seek advice from the Monitoring Officer if in any doubt. Staff are also required to undertake e-learning on the Officer Code of Conduct annually.

### **BRIEFINGS**

24. In order for the Mayor, Cabinet members and Committee Chairs and/or Vice Chairs to discharge their responsibilities, those Members will be briefed from time to time by Directors on service issues, proposals and policy development. Directors may, from time to time, nominate other staff members to attend these meetings. These informal meetings may be on a one-off or regular basis, in accordance with the requirements of the Members and roles concerned.
25. Political groups which are not represented on the Executive may also have nominated leads for particular portfolios and if those leads so request, the relevant Director(s) will make themselves available to brief them on service issues relating to Committee papers once the agenda has been published.
26. The Mayor or Leader of any other group represented on the Council, may request the Chief Executive or relevant Corporate Director to prepare reports on matters relating to the Council for consideration by the group. Such requests must be reasonable and should not seek confidential information (eg relating to casework or personal details of applicants for services).
27. If the Corporate Director considers that the cost of providing the information requested for a group is unreasonable, or if the request is unreasonable in other respects, the request will be referred to the Chief Executive for determination, where necessary in consultation with the Mayor or Leader of the relevant group.
28. The Mayor or Leader of any other group may ask the Chief Executive or Corporate Director to give or arrange a private and confidential briefing for the group. Senior staff members may be properly called upon to support and contribute to such deliberations by groups but must at all times maintain political neutrality. Staff requested to give such a briefing should seek advice from the Monitoring Officer before doing so.
29. Any briefing offered to or requested by a group will be offered (and described in broad terms) to any other group(s). Where possible, such briefings should

be to all or a combination of groups. The detailed content of informal briefing sessions shall remain confidential between staff and the group concerned.

30. Staff advice and reports to groups will be limited to a statement of material facts relating to matters of Council business and identification of options and the merits and demerits of such options for the Council. Reports will not address any political implications and advice should not include making recommendations to a group. The observance of this distinction will be assisted if staff are not present at meetings or parts of meetings where matters of party business are to be discussed.
31. When staff provide information and advice to a group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council, Cabinet or Committee meeting when the matter in question is considered.
32. Special care needs to be exercised whenever staff are involved in providing information to a group meeting which includes persons who are not Members of the Council. Such individuals are not bound by the Member Code of Conduct (and in particular the provisions relating to declaration of interests and confidentiality) and for this and other reasons staff may decline to attend and/or give advice to such meetings.

#### **IF THINGS GO WRONG**

33. From time to time the relationship between Members and staff may break down or become strained. It shall always be preferable to resolve matters informally.
34. Procedure for Members
  - (i) In the event that a Member is dissatisfied with the conduct, behaviour or performance of a member of staff, the Member should consult the Group Whip and then raise the matter with the appropriate Corporate Director. Where the matter concerns a Corporate Director, it should be raised with the Chief Executive. Where the matter concerns the Chief Executive it shall be raised with the Chief People Officer or with the Mayor as appropriate. Where there is a prima facie case for a disciplinary investigation, this will be dealt with in accordance with the Council's disciplinary procedures.
  - (ii) If a Member is concerned about the way a service or part of it is performing as opposed to the conduct of a specific officer, and if the concerns cannot be resolved through discussion with the manager of the service, the Member should raise the matter with the Chief Executive and/or request that the Mayor and/or relevant Cabinet Member consider the matter. The Member may also wish to consider referring the matter for consideration to the Scrutiny Chairs and/or to General Purposes and Audit Committee, as appropriate.



35. Procedure for staff

- (i) If a member of staff wishes to raise a concern about a Member's behaviour they can either escalate it to their line manager, Corporate Director or to the Council's Monitoring Officer, as appropriate to the circumstances. Officers also may use the Council's Whistleblowing Procedure.
- (ii) Having been notified of a concern in this way, the line manager, Corporate Director or Monitoring Officer will take appropriate action, including approaching the Member concerned and raising with the Group Leader and/or Whip or referring the matter to the Monitoring Officer where there is a potential breach of the Code of Conduct.
- (iii) Group Leaders and Whips should promote a positive atmosphere of trust, respect and understanding between Members and staff and must be prepared to deal with and seek to resolve any reported incidents of breaches of this Protocol by their Group Members. In the event of receiving a report of this nature, a Group Leader and/or Whip will actively consider the matter and seek to achieve a satisfactory outcome, reporting that outcome to the member of staff who reported the issue.

**RESPONSIBILITY FOR THIS PROTOCOL**

- 36. The Monitoring Officer has overall responsibility for this Protocol and will annually review how it is working.
- 37. The Monitoring Officer will report annually to the Ethics Committee on matters relating to this Protocol.
- 38. 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.

**GLOSSARY**

<b>Chief Officer</b>	The Chief Executive, Corporate Directors and Directors
<b>Executive</b>	The Executive is made up of the Elected Mayor and between 2 and 9 Councillors (also known as the Cabinet). The Executive take strategic decisions on all of the Council's functions which are not the responsibility of any other part of the Council. The term 'Executive' may refer to the elected Mayor, to the Mayor and Cabinet acting together, individual Cabinet Members or officers taking decisions which have been delegated to them.
<b>Guardians</b>	The Council's programme which provides staff a safe space to confidentially share concerns about behaviour or the culture at Croydon, talk through issues and be signposted to

	relevant support and guidance by specially trained members of staff.
<b>Member</b>	Members of the Council include: <ul style="list-style-type: none"> <li>• The elected Mayor</li> <li>• Elected Councillors</li> <li>• Non-voting, co-opted Members of Committees</li> </ul>
<b>Monitoring Officer</b>	This officer has a specific role to ensure that the Council, its staff and Members maintain the highest standards of conduct in all they do.
<b>Political group</b>	Members may be part of a political group on the Council if they are a member of a political party.  If they are not a member of a political party, they can still be a member of a political group (for example, a group of Independent members) if two or more members who wish to be part of that group sign a notice saying that they wish to be treated as a political group.
<b>Statutory Chief Officers</b>	The following roles are known as statutory Chief Officers because the Council is legally required to have these posts and the roles have specific responsibilities set out in legislation: <ul style="list-style-type: none"> <li>• Chief Executive (or Head of Paid Service),</li> <li>• Chief Financial Officer (Section 151 Officer),</li> <li>• Monitoring Officer,</li> <li>• Director of Adult Social Services (held by the Corporate Director Adult Social Care and Health)</li> <li>• Director of Children’s Social Services (held by the Corporate Director Children, Young People and Education)</li> <li>• Director of Public Health</li> </ul>

**CONSTITUTION OF THE  
LONDON BOROUGH OF CROYDON**

**PART 5.J**

**OFFICER CODE OF CONDUCT**

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## **1. General Principles**

Croydon Council provides services that have an impact on the lives of those working and living in the borough and handles millions of pounds of public money every year. Our dedicated workforce is our greatest strength and the public trusts us to work for it in a professional, fair, inclusive and honest way.

So it is important that you are clear about what the Council expects from you in terms of how you carry out your work, behave, respect and treat your colleagues and members of the public. The code of conduct sets out these expectations and together with our values it reflects our culture and the sort of organisation that we want to be.

These values are:-

**One team:** Crossing boundaries to work together towards shared goals with colleagues, partners and communities.

**Proud to serve:** Striving to always do our best for the community. Getting the most from limited resources and using taxpayer's money wisely.

**Honest and open:-**Working hard to build trust by treating everyone with honesty and integrity.

**Taking responsibility:** - Encouraging and supporting each other to take responsibility and show what we can do, learning together and recognising all of our contributions.

**Valuing Diversity:** - We make the most of the many perspectives that make Croydon distinctive.

It is important that you read, understand and follow the code and doing so will ensure that we are all working to the standards that the public expects and will help make the Council a good place to work.

If you are at all uncertain, you should be guided by the key principle that even if your actions, decisions or behaviour are proper, you need to ensure that you are above suspicion and there is no appearance or perception of improper conduct.

Everyone who works at Croydon Council has a responsibility to our residents and those who use our services. That is why it is so important we ensure that we are "doing the right thing" and adhering to the high standards of governance at the Council. We are accountable to the people who use our services and live within the borough, and so it is vital that we conduct our business with honesty, transparency and accountability.

There are other codes that are important for you to understand and which you should read alongside this one. These include (for example), the council's financial regulations, schemes of delegation, expenses policy, anti-bribery and whistleblowing policies. You can find details of these documents and other essential regulations here: <https://intranet.croydon.gov.uk/working-croydon/governance/how-we-do-things/governance-how-we-do-things-overview>

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles (Appendix A).

You can also find lots of other useful guidance in the policies listed at the end of the code or on the 'Good Governance - doing the right thing' section of the Intranet. This covers information on your authority to act as an officer of the Council, how the Council governs, how its processes work and the standards you have to consider and adhere to as an employee.

E-learning is available and all employees should undertake this. You can find this learning on the [Croydon Learning](#) website.

## 2. Who the code of conduct applies to

The code of conduct applies to everyone who is employed directly or works for or on behalf of the London Borough of Croydon. This includes all those employed directly on a permanent, temporary or casual basis and those employed indirectly, including agency staff and consultants. The code also applies to those who are external secondees and office holders. All officers must follow this code. Breaches of the code may be treated as a disciplinary offence and may lead to disciplinary action which could result in dismissal. In some cases a breach of the code may result in criminal prosecution. It should be noted that in the event of pending criminal prosecutions the council reserves the right to investigate and conclude any employment related disciplinary proceedings.

## 3. Overview and Reporting

The Council expects that you:

- Act in a way which means that residents have confidence in your honesty and integrity.
- Respect your colleagues and the public.
- Treat other people professionally and do not discriminate against them.
- Deliver the best possible and efficient service to customers in accordance with the Council's standards and policies at the time.

This includes:

- How you behave (or are perceived to behave) both inside and outside of work.
- How you use public money and other resources.
- Acting with honesty, impartiality and objectivity.
- Working with the Council's suppliers and contractors in an honest and open way where there is no perception of improper conduct including corruption
- Not allowing personal interests to affect your work.
- Ensuring that you, your family or your friends, must not gain financial or other benefits from the decisions or actions you take whilst working for the Council.
- Always declaring any interests you have outside work that relate to your work for the Council. You must always think how your actions would look to the residents of Croydon.
- Telling us if you are charged, cautioned or convicted of a criminal offence, immediately such criminal charges occur. This may mean you are unsuitable to work for the Council, even if the offence is not connected to your work and could lead to the termination of your employment.

If you are at all uncertain, you should be guided by the key principle that even if your actions, decisions or behaviour are proper, you need to ensure that you are above suspicion and there is no perception or appearance of improper conduct.

If you are unsure what is expected, you should raise the matter with your manager, Corporate Director, the Chief People Officer, or the Head of Internal Audit.

### Reporting

It is important to ensure we maintain the public's trust in us and you must tell us about any:

- a) Personal interests which may affect your work or the decisions that you make.

- b) Actual or suspected theft, fraud, bribery or corruption by someone working for the Council, a supplier, councillor or a member of the public.
- c) Loss or improper disclosure of any Council data or information or breach of confidentiality.
- d) Discrimination, bullying, harassment or similar behaviour.
- e) Person misusing their position.
- f) Suspicions that a colleague is under the influence of drugs or alcohol at work.
- g) Suspicions or information that the conduct or behaviour of others is in any way inappropriate in relation to children and vulnerable adults.
- h) Suspected breaches of health and safety codes of practice and policies.

We will take your concern, complaint or grievance seriously and handle it sensitively using the appropriate Council procedure.

You should as soon as reasonably possible raise any concern (where possible initially with your manager), but as a minimum with the Corporate Director, Chief People Officer or Head of Internal Audit.

To make it easier for you to raise your concerns the Council also has a procedure which allows you to raise your concern confidentially and, if necessary, outside your department. This is the **Whistleblowing Policy** and you can find this on the [Intranet](#).

#### **4. Political neutrality**

As an officer you work for the Council as a whole and not just the majority group. You must not allow your personal political opinions to interfere with providing balanced professional advice. This must always be done in a politically neutral way and you must be prepared to explain your advice to all political groups. You should bear in mind that you may be called to account for your advice, for example to an overview and scrutiny committee.

You should also refrain from making political comments in public or on social media. Failure to do so could compromise your neutrality and bring the council into disrepute as officers are supposed to not express political views which could result in disciplinary action, including dismissal.

If you are asked by a Councillor to provide assistance on a matter that you feel is clearly political, or which does not have a clear link with the work of the Council, you should seek the advice of your Corporate Director or the Director of Legal Services (the Council's Monitoring Officer).

If you are asked to attend any meetings of any political group of the Council, you should consult your Corporate Director before accepting the invitation.

#### **Political activity**

You are not eligible to stand for office as a Councillor of the London Borough of Croydon, but you may stand for office in another Council providing you are not in a politically restricted post (see paragraph below).

#### **Politically restricted posts**

Some officers, normally those in more senior positions, are in posts where political activity is restricted through the Local Government and Housing Act 1989. This Act prevents them from taking part in certain political activities outside their work. If this applies, you should have been informed in writing, and it may be included in your contract of employment. You should, if this is the case, have been informed of the rules for claiming exemption. If you are not sure about your position, you should contact your manager or Human Resources. Guidance on which posts can be classified as politically restricted can be found in the [HR Handbook](#), Module 02, Chpt 8.

The political activities which are restricted for these officers include:

- standing as a Member of Parliament, or a Councillor in any local authority (other than a Parish Council)
- holding office in a political party at any level, (except in limited roles concerned only with the internal membership of the party)
- canvassing at elections
- speaking in public or publishing any written or artistic work which appears to be intended to influence public support for a political party.

You need to be aware of your position in terms of political activity. If you are not sure whether an activity is subject to 'political activity restrictions', you should seek advice from your Corporate Director or Human Resources, who will consult the Director of Legal Services (the Council's Monitoring Officer) if necessary.

Violation of the statutory rules is a breach of contract and will render you liable for investigation under the Council's Disciplinary Procedure ([HR Handbook](#), Module 11, and Chpt 2) which could include action be taken up to and including dismissal.

## **5. Council policies and legal requirements**

As a Council officer, you must ensure you are familiar with the legal and/or statutory requirements of your job. You must work within this framework and in such a way as to comply with the Council's policies and procedures at all times.

All members of the local community, service users and officers have the right to be treated fairly and impartially. As a Council officer you must comply with all Council policies relating to equalities and to the other requirements of the law

## **6. Health and Safety**

The Council has a legal duty of care for the health, safety and welfare of its employees. In addition, all employees must take reasonable steps to protect their own health and safety and that of other people who may be affected by their actions, or omissions, at work. Some employees, particularly managers have specific responsibilities, and these are detailed in the Council's corporate and specific departmental health and safety policies and procedures. The Council's corporate health and safety policy and procedures are available on the Intranet (<https://intranet.croydon.gov.uk/working-croydon/health-and-safety/health-and-safety-policies>)

The Council's corporate health and safety policy and procedures and guidance documents provide advice on health and safety including accident reporting, fire safety policy, visual

display screens and risk assessments, violence to staff and lone and night working. Some departments have their own codes of practice as which should be available from line management . If you are not sure what the safety procedures are or where to get protective clothing and equipment you must raise this with your manager.

You can also seek further advice and guidance from The Health & Safety team, Human Resources, or your trade union safety representative.

You have a duty to help prevent accidents and injuries at work by being aware of the policies that apply to your work and complying with them at all times:

**You must:**

- comply with all instructions relating to health and safety and security procedures
- use the protective clothing and equipment that the Council supplies to you
- follow the health and safety codes of practice and policies which are relevant to your work
- comply with hygiene requirements
- at the earliest opportunity, report any hazards, defects, accidents or incidents that you become aware of to your manager or supervisor
- not interfere with, or misuse anything provided for health, safety or welfare
- avoid risk of injury or danger to yourself or others
- leave any Council building as soon as the fire alarm sounds and follow any instructions of the fire wardens and the person managing the incident
- inform the Council of any other work that you do which, when added to your Council working hours, would take your total working hours above 48 hours per week
- inform the Council of any medical condition you have which would be adversely affected by the work that you are employed to do
- not smoke in any Council premises or vehicles and comply with the Council's Smoking Policy.

Managers have some additional responsibilities set out in the corporate and departmental health and safety policies and codes of practice.

**These include:**

- providing appropriate health and safety induction for all new employees
- carrying out a risk assessment for the activities undertaken by employees and ensuring that the risk assessment outcomes are implemented as appropriate and are suitable and sufficient
- informing employees of the risks associated with the work being undertaken and of the precautions that must be taken in order to prevent or reduce the risk of accidents and/or work-related ill health.

## **7. Standards of behaviour**

We have standards of behaviour which we expect from you. They make the Council a good place to work and ensure that colleagues and customers feel welcomed and valued. This includes complying with the Council's commitment to equality.

We expect all officers who work for, or on behalf of, the council to commit to the following:



- not to bully any person
- not to harass any person
- to promote equalities and not discriminate unlawfully against any person

People working for the Council and our customers are entitled:

- To be treated with dignity, respect, courtesy and fairness.
- Not to be bullied, harassed or victimised.
- Not to experience any form of unlawful discrimination.

We will not tolerate unfair, offensive or unlawful discriminatory behaviour carried out by, or against, any member of staff. It can be regarded as a serious disciplinary offence, which may result in disciplinary action, which could lead to dismissal. In certain circumstances, it could also lead to criminal proceedings.

Discriminatory, unacceptable or offensive behaviour can take many different forms. Remember that your colleagues and our residents may have different standards from you and may be offended or feel harassed by behaviour that you think is acceptable. To help us all understand this, we have produced a more detailed guide, with practical examples (see Appendix B).

If you feel that you have been subject to this sort of behaviour you should first of all discuss this with the other person and your manager and try and resolve it informally. If this is not possible or appropriate, or you are unsatisfied with the response, you should use the Council's employee grievance procedure.

If you experience such behaviour from someone not employed by the Council e.g. a service user, resident or member of the public, you should notify your manager immediately so that the incident can be recorded and appropriate action taken. In line with the council's equality statement; the council does not tolerate harassment, victimisation or unlawful discrimination in service delivery and employment on the grounds of age, disability, gender reassignment, race/ethnicity, religion or belief, sex/gender, sexual orientation, marriage & civil partnership, and pregnancy & maternity

## **8. Standards of appearance**

How you look and dress at work has an impact on how people view the Council. We recognise that:

- Different types of dress (e.g. protective clothing) are needed or appropriate for different types of work.
- Our employees come from a large range of backgrounds, cultures and ages with different styles of dress.
- Sometimes more casual clothing may be appropriate (e.g. for youth workers or on off-site training courses or approved 'dress down' days).

The Council has set out acceptable standards of dress (see Appendix C).

## 9. Declarations of Interest

There may be occasions when there is scope for conflict between the Council's interests and your own.

It is very important that you do not let your personal interests influence the work that you do or the decisions that you make for the Council – or put yourself in a position that might lead a person to accuse you of doing so. You must not allow your private interests or beliefs to conflict with your professional duty.

Where a matter affects your financial or personal interests or well-being so that a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest, you must disclose the interest.

You must not misuse your official position or information acquired in the course of your employment to further your private and personal interests, or the interests of others. Private and personal interests include those of your family, as well as those arising through membership of, or association with clubs, societies or other organisations and voluntary bodies. It is important for conflicts of interests to be clearly seen with no perceptions of bias or favouritism.

You must tell us about any financial and non-financial interests that could bring you into conflict with the Council's interests. These include any personal interests that could potentially influence your work, even if these seem very small and insignificant. Examples of situations that you must tell us about are set out below; but these should not be viewed as the only circumstances in which you must declare a conflict of interest.

- If you own land and/or a property in the borough where you receive rent from someone on housing benefit or otherwise are or become a landlord within the borough.
- If you have links of any sort (including, but not limited to, as a director, company secretary, trustee, partner, shareholder, owner contractor or employee) with an outside organisation which may work for the Council or supply goods and services to it (or are tendering or preparing to do so), or which may receive or apply for grants or other benefits from the Council, (if you are involved in the grant allocation process or where this could create a conflict of interest).
- You or anyone in your household or a close relative (parents/siblings/children) submit a planning or licensing application in the borough.
- Live near a property where a planning or licensing application has been submitted.
- Receive any services or grants from the Council (except the services that all residents are entitled to like refuse collection or schools).
- Are related or have a close relationship with anyone who:
  - Works at the Council
  - Does work for the Council or supplies goods and services to it
  - Is an elected member
  - Is a client of the Council
  - Is submitting a tender for work for the Council

- Are a member of a group or voluntary organisation which gets funding or a grant from the Council;
- Do work for another organisation in the borough (such as being a school governor or on the board of an NHS organisation) or are nominated/appointed to a position on behalf of the council in another organisation in the borough
- A member of your family or friends are applying for employment with the Council

A conflict of interest may also arise when you have a direct interest in the outcome of a Council decision. If this is the case then in order to protect yourself from any appearance of improper conduct **you should inform your manager immediately** that you are aware of the situation.

**If you have any of these interests you must register it by completing a [formal declaration of interest](#), which must be reviewed and signed off by your line manager and director.** Once completed this should be submitted to [governance@croydon.gov.uk](mailto:governance@croydon.gov.uk). You should also seek advice via the governance team on ext 65575 if you are not sure if you need to declare an interest, or if you've declared interest(s) changes.

If you are involved with a company or organisation tendering for a Council contract you must inform your Director by completing [a formal declaration](#). It may be a criminal offence if you do not.

**Officers in Tiers 1 – 3 (Head of Service and above) are required to complete an annual declaration of interest. However, should a conflict arise at any time you must report it to your manager immediately and declare it in writing as above and not wait until the annual declaration.**

**Line managers should contact the governance team ([governance@croydon.gov.uk](mailto:governance@croydon.gov.uk) or ext 65575) for guidance if a member of staff notifies them of a potential conflict of interest.**

See [Declarations of Interest Guidance](#) on the intranet for more information

## **10. Tendering / dealing with contractors**

Orders and contracts must be awarded on merit by fair competition against other tenders and in accordance with the Council's Standing Orders ([www.croydon.gov.uk/constitution](http://www.croydon.gov.uk/constitution)), Financial Regulations and Procedures and Tenders and Contracts Regulations. You must not show favouritism to any contractor. You must also make sure that no special favour is shown to current or recent former employers, officers or their partners, close relatives or associates in awarding contracts.

If you are involved in the tendering process and deal with contractors, you must be clear about the need for the separation of client and contractor roles. You must also make sure that if you are privy to confidential information on tenders or costs for either internal or external contractors, you do not disclose such information to any unauthorised party or organisation.

If, as part of your job, you are involved with or supervise contractors, and you have any kind of personal or other relationship with a contractor or potential contractor, the law states that you must disclose this relationship to the Council as your employer. Any such relationships should be disclosed to your manager by submitting a declaration of interest.

## **11. Gifts, hospitality and legacies**

### **Gifts**

From time to time, you may be offered gifts or hospitality by a customer, client or service user. We have clear rules on this so that you are not open to allegations of bribery, or placed in a difficult position.

Generally gifts and offers of hospitality should be politely refused. Sometimes, exceptions may be made for very small items such as pens or diaries. These principles also apply to your personal life, if the offer is made to you in connection with you being an employee of the Council.

You must avoid putting yourself in a position where you can be thought to be acting improperly and must not ask for any gift or tip

If you are offered a gift, you must report it to your manager (whether the gift is accepted or declined), so that the gift can be recorded in the departmental hospitality register <https://intranet.croydon.gov.uk/working-croydon/governance/being-employee/accepting-gifts-and-hospitality>.

Gifts that are not acceptable must be declined or returned.

### **Hospitality**

When considering offers of hospitality you should consider whether:

- the invitation comes from an organisation likely to benefit from the Council
- the organisation is seeking a contract with the Council, or already has a contract with the Council
- the hospitality is part of a conference, seminar etc. or is more of a social function
- the scale and location of the hospitality is proportionate to the event
- the event takes place outside normal working hours
- it is being offered on a frequent basis
- it is being offered just to you or to others as well.

You should not accept any offers of entertainment (such as tickets to sports events or the theatre, or hotel accommodation) without the Chief Executive's permission and you should actively seek to avoid getting into a position where such offers are made to you.

If you are offered any hospitality, entertainment or favours you must report it to your manager and record it in your department's Gifts & Hospitality register, whether it is accepted or not. You may accept reasonable hospitality, such as tea, coffee and light refreshments when you are for example visiting another organisation, or a resident's home or are on a training course.

Some employees will be required to make an annual declaration of interest. These groups of staff are listed on the intranet: <https://intranet.croydon.gov.uk/working-croydon/governance/being-employee/declarations-interest>. The governance team will normally contact these staff on an annual basis. Please note that this instance of declaration of interest is in addition to, and not instead of, your duty to report any individual matter immediately.

If you are in any doubt please see the Council's [gifts and hospitality policy](#) on the intranet or take advice from your Head of Service, or [governance@croydon.gov.uk](mailto:governance@croydon.gov.uk).

## Legacies

On occasions, members of the public or service users may wish to express their appreciation of the services they have received from a particular member of staff by leaving them money/gifts in their will. This is likely to be more common where employees work closely with and / or care for vulnerable people as a part of their duties.

If a client or member of the public suggests to you that they are considering giving or leaving you money or gifts, you must firmly but politely discourage them from doing so. You should explain the difficulty that this may cause you and that people you meet through your work do not leave you things in their will. You must also report the matter to your manager, who should contact the governance team for guidance: [governance@croydon.gov.uk](mailto:governance@croydon.gov.uk) or ext 65575.

In the event that any gifts or monies are left to you in a will, you must declare the fact to your Head of Service immediately. Under no circumstances must you accept the bequest. Failure to comply with these rules is likely to lead to disciplinary action including the possibility of dismissal.

## 12. Membership of other bodies

Your membership of an outside organisation (including societies, professional bodies, voluntary groups or lobbying organisations) may be perceived as affecting the work you do or the decisions that you make. You must make sure that your outside interests do not:

- Conflict with your Council role.
- Put you in a position which might influence decisions you take at work.
- Put you in a position where you might promote the outside body's interests whilst at work.
- Conflict with the Council's policy and approach on equalities and diversity.
- If you are in doubt regarding your membership of an outside organisation, you should discuss with your line manager in the first instance, to find out if you should register your membership by completing a [formal declaration of interest](#).

In particular you must tell us if you belong to:

- A 'secret' society.
- A group which may be considered discriminatory.
- A group which has a contract or potential contract with the Council.
- A group which receives funding or support from the Council.

We define a 'secret' society as one that is not open to members of the public unless they join it and requires its members to make some sort of commitment to the society, such as an oath of allegiance.

### **13. Reporting of Criminal Offences**

As an employee of the Council, you are expected to conduct yourself at all times (inside and outside of work) in a manner that will maintain public confidence in both your personal integrity and in the good reputation of the Council.

In general, what you do outside of work is your personal concern unless your actions would affect your suitability to carry out your post or cause a breakdown in the Council's employment relationship with you and/or damage the image and reputation of the Council.

You must inform your manager as soon as possible if you are arrested (even if no action is taken against you) or you are subsequently cautioned or convicted in connection with any offence. This does not include minor driving offences such as fixed-penalty notices for speeding unless:

- driving is a key requirement of your job, for example, you drive a Council vehicle or you drive your own vehicle regularly on Council business
- the conviction results in disqualification from driving

Disclosing that you have been arrested, cautioned or convicted of a criminal offence does not necessarily mean that disciplinary action will be taken against you. Consideration will be given to the extent to which your conduct:

- affects your suitability to carry out your job
- impacts on work colleagues, customers, contractors/partners with whom the Council works
- impacts on the Council's valued image and reputation and
- undermines the trust and confidence that the Council must have in you as one of its employees.

Failing to disclose such information, even where no charges are brought against you, may also lead to disciplinary action under the Council's Disciplinary Procedure.

### **14. Protecting children and vulnerable adults**

We are committed to safeguarding the interests of children and vulnerable adults and expect all staff to protect the interests and welfare of children, young people and adults at risk.

Even if your job does not involve you working directly with these groups, we expect you to report suspected acts of abuse or inappropriate behaviour against children or vulnerable adults.

### **15. Using Council resources and assets**

Council resources and assets include not only physical objects and financial resources but also computer data and information generally. We must ensure that we use these and all public funds in a responsible and lawful manner, ensuring value for money.

You must only spend Council budgets or approve expenditure in line with the Council's Financial Regulations and Procedures, Contracts Handbook and Tenders and Contracts Regulations. You must only make decisions or approve expenditure if you have the authority to do so and in accordance with the Council's Schemes of Authorisation. You can find all of these in the ['Governance - the Right Thing' section of the intranet](#).

Anything that you write or produce at work (including research, reports, drawings and software) is the Council's intellectual property and should not be passed on to third parties. Similar principles apply to the copyright of Council publications. In the event of leaving the Council's employment you should not take the Council's intellectual property with you to a supplier/contractor organisation.

You must not use Council facilities or equipment including buildings, vehicles, and tools, for your personal or outside interests.

You must not take anything that belongs to the Council, including surplus equipment, material or food unless properly authorised in advance.

Take care to avoid waste, loss or damage to Council property.

See also the [Council's e-mail and computer usage policies](#)

## **16. Misusing your position**

The public place a high degree of trust in the Council and the people who work for it and it is very important that you do not misuse this trust or your position

Under the Bribery Act 2010 it is an offence to request, agree to receive, or accept a financial or other advantage intending that a relevant function or activity should be performed improperly as a result.

For example, you must not:

- Use your position to give anyone an advantage or disadvantage.
- Accept or give a financial or other type of bribe or inducement
- Favour friends, family or current or past colleagues when making a job appointment or awarding a contract – this must be done on merit. In terms of recruitment processes if a member of your family, a friend, applies for employment with the Council you should declare the conflict of interest and not take any part in the recruitment process at all
- Try to influence councillors or MPs (including regarding job appointments).
- Deal with, or make a decision on, any application from someone you are personally associated with (for example a planning application or council tax benefit claim).

## **17. Confidentiality and data protection**

The public trust us to keep their personal information safe and secure and not to use it unless we are authorised to do so.

The Council has a number of policies, procedures and processes that govern how it manages its information so that, as an organisation, it can comply with its legal, regulatory and operational requirements.

You have a responsibility to ensure that the Council meets these legal obligations including complying with the Data Protection Act 2018 and the General Data Protection Regulation (GDPR) when processing personal data as part of your job.

You must, therefore, make sure that you familiarise yourself with, understand and comply with the Council's policies regarding data and information, including its Workforce Data Protection Policy and any procedures applicable to your specific role. This includes undertaking relevant mandatory Information Management training. You can find the Council's policies on data protection on the intranet.

As well as understanding the points below, you should also make sure that you are aware of the [six principles of the Data Protection Act 2018](#), which imposes a legal duty on individuals to process data to ensure the rights of the Data Subject are not infringed.

Individuals who have access to personal data should at all times be aware of these and the [lawful basis](#) for using the data under their control. In particular:

- To access only data covered by the [Workforce Data Protection Policy](#) if it is needed for the work they do and that they have authority to access, that information. Data should only be used for the specific lawful purpose for which it was obtained;
- To only disclose data individuals (whether inside or outside the Council) where this is authorised;
- Not make any unnecessary copies of personal data;
- To keep data secure (for example by complying with rules on access to premises, computer access, including password protection, and secure file storage and destruction);
- Not to remove personal data, or devices containing or that can be used to access personal data, from the Council's premises without adopting appropriate security measures (such as encryption or password protection) to secure the data and the device;
- Never store personal data on personal devices;
- To use only your Council approved email account for email communications whilst working for the Council and not to send emails or transfer attachments using a personal email account;
- Always, lock drawers and filing cabinets. Never leave personal or valuable data unattended;
- Not to disclose personal data by discussing it where you can be overheard or processing data where it can be read easily by a third party;
- To dispose of personal data securely when finished with it by shredding or use of confidential waste bins;
- To report data breaches of which they become aware to the Information Management Team at [data.breach@croydon.gov.uk](mailto:data.breach@croydon.gov.uk) immediately;
- Understand the [Rights of Data Subjects](#) as to how their data can be accessed by them and the other rights that they have to control the use of their information;
- To ask for help if you are unsure about data protection or if you notice any areas of data protection or security which can be improved upon from the information management team at [information.management@croydon.gov.uk](mailto:information.management@croydon.gov.uk).



Further details about the Council's security procedures can be found in the information management policies on the intranet: <https://intranet.croydon.gov.uk/lbc-policy-manager/accesscontrol2.html>

Failing to observe data protection requirements may amount to a disciplinary offence, which will be dealt with under the Council's disciplinary procedure.

Significant negligent or deliberate breaches of Council policies, such as accessing employee or customer data without authorisation or a legitimate reason to do so, may constitute gross misconduct and could lead to dismissal without notice.

It is a criminal offence to conceal or destroy personal data which is part of a subject access request. This conduct would also amount to gross misconduct which could result in your dismissal without notice. Likewise under Section 170 of the Data Protection Act 2018 it is an offence for a person to knowingly or recklessly obtain or disclose personal data of another person without the consent of the Council. Where this occurs, the Council will refer the incident to the Information Commissioner's Office for investigation and possible prosecution.

## **18. Relationships with other people**

We expect you to have a professional and co-operative relationship with other people when you are at work, including elected members, colleagues, residents, suppliers and organisations that we work with.

There are some particular rules about how we work with different groups of people:

### **Residents, clients and service users**

- You must always be courteous, efficient and impartial when dealing with individual people or groups.
- You should avoid developing inappropriate personal relationships with residents, clients and service users, especially if they are considered vulnerable, even if this is with the best intentions. This could be giving them money or gifts, showing them preferential treatment, or having an intimate relationship.

### **Elected members**

The relationship between Members and staff is important to the successful working of the Council and we expect you to follow the [Protocol on Staff-Councillor Relations](#) (which can be found on the external [council website](#)). In addition:

- You must declare any personal relationships with elected members via a [declaration of interest](#).
- You must provide balanced advice to members or political groups and not let your own political opinions affect this.
- You should avoid over-familiarity with members so that your approach or political balance is not called into question.
- You must not approach elected members about personal employment issues.

You must also not let your personal political views affect your work, in how you provide services to residents, or your relationships with colleagues.

## **Contractors and suppliers**

- You must declare [via a declaration of interest form](#) if you have a private or business relationship with any of our contractors or suppliers and complete a written declaration of interests.
- You must [declare in writing](#) if you (or a family member, friend or business associate) are part of a company or organisation submitting a tender to the Council.
- You must not disclose any information to any contractor or supplier unless authorised to do so.
- You must notify your manager immediately if you are approached by a contractor or supplier seeking unauthorised information or preferential treatment.

## **Colleagues**

Sometimes personal relationships develop in the workplace. You must make sure that they do not adversely affect the work that you do, the decisions that you make, or how you treat other colleagues.

- You must tell your manager or the Monitoring Officer about any relationship with a colleague that may impact, or be perceived to have an impact on your work.
- Relatives, spouses, partners, God Parents or close personal friends are not allowed to directly line manage each other or be involved in any employment issues or decisions about each other. If a relationship develops between a manager and a direct report this should be raised with the manager's manager and Monitoring Officer and alternative line management arrangements need to be put in place. This includes recruitment decisions, managing performance and appraisal, job evaluation, restructuring, disciplinary and grievance issues, or authorising expenditure.
- You must appoint people based on merit and not their relationship with you.
- You must not canvass for a job on behalf of a friend or family member.
- You may not sit on the interview panel for a family member or a personal friend.
- If a candidate is known to you other than as a work colleague, you should inform the panel and seek advice on how to proceed.

## **19. Use of social media**

The communications and social media tools that the Council provides are intended for Council business only, except for during your break periods where you may make limited personal use of sites like Facebook and Twitter and access personal emails. We monitor the Council's internet and email facilities to check that they are being used properly. The Council reserves the right to access any information on its systems or networks at any time which is all the property of the council.

Information that you publish on social media sites (whether at home or at work) can be seen to represent the Council or affect the Council's reputation. You should ensure that information you publish, or which is published through accounts you are responsible for, does not:

- Publish confidential information.
- Publish information that is Council property.
- Say that you work for the Council in a way that is not true.
- Publish the personal information of a third party without the necessary consent.
- Make negative comments about the Council, colleagues, customers or anyone else linked to the Council.
- Make offensive, defamatory or discriminatory remarks.

- Display offensive photographs or images.
- Express political views
- Express view that are contrary to Council policy
- Use social media to bully or harass colleagues (cyberbullying).
- Publish images of colleagues without their permission.
- Publish anything else that may adversely affect the Council's reputation.

## **20. Contacting and responding to the media**

The Council's public image and reputation is affected by how it is presented in the media. The Council has a communications team whose responsibility is to manage the Council's reputation with the media and make or publish official comments on behalf of the Council.

Members of staff are not permitted to discuss Council issues with the media or provide them with information or documents without the permission of the Chief Executive or your Corporate Director or Director. This applies to electronic media, such as commenting on social networking sites or blogs, as well as press, radio and TV.

Staff side leads from the trade unions are permitted to speak directly to the media only on the union's behalf.

You must also not publish information in your own right which is against the Council's interests or defamatory of elected members, colleagues, people or organisations that we work with.

All media enquiries must be referred immediately to the Council's communications team. If you are aware of an issue which will cause media interest or are told that someone intends to contact the media about the Council or its services, you should immediately inform your manager and a member of the communications team.

## **21. Your personal affairs**

Your personal affairs or financial circumstances may affect how you work or behave or have an impact on the Council.

### **Financial Responsibilities**

- You must not do anything that defrauds the Council or deliberately stops it getting income that it is entitled to.
- You must not fall into unmanaged debt to the Council. This would include but is not limited to, rent arrears, council tax arrears, parking fines, arrears arising from leaseholder arrangements with the Council, arrears in the repayment of employee loans. You must tell us and make arrangements to pay back the money you owe in a timely manner. Where any such arrears have been accrued prior to employment with the Council, and are still outstanding, employees should undertake to clear them within an agreed and reasonable period of time.
- If you leave Council employment any outstanding payment arrears will be taken from your final salary. If your final pay is insufficient to cover the sums owed to the council, you will need to enter into a debt repayment plan with the Council for the repayment of all sums owed.

- You should check your pay when you receive it and let your manager and the payroll team know about any problems or inaccuracies (including your personal information and tax code).

### **Carrying out other work**

Should you wish to take on any kind of additional work, paid or unpaid, you must inform your director beforehand in writing. You must comply with the requirement to make a formal declaration of interests, as set out above. In general, you can do other work, in addition to your Council role as long as:

- It does not conflict with your Council role.
- It is not during your Council working time or when you are on sick leave.
- It is not seen to be against the interests of the Council.
- It does not affect your ability to do your Council job.
- What you are doing does not damage the Council's reputation, or reduce public confidence.
- The **total** amount of work that you do does not exceed the hours set out in the Working Time Regulations.
- It does not put you in a position where you are competing with the Council for work or contracts.
- You do not use Council resources, material or information (for example IT equipment, photocopiers, postage, phone calls, e-mail).
- You do not use your position with the Council for private gain.
- You tell your other employer that you also work for the Council.

If you do undertake work outside the Council, you must not use the Council's facilities for that work.

## **22. Alcohol and drugs**

In order to provide the best possible services to and support the wellbeing of our staff the Council has a clear position on the use of alcohol and drugs:

- If you use, or are in possession of illegal drugs at work, you will be subject to disciplinary action and reported to the police.
- If you arrive for work smelling of alcohol or drugs we may take disciplinary action.
- You may not consume alcohol at work (unless it has been approved for a work event).
- If you use drugs, alcohol or other substances outside of work, this must not affect your ability to do your job or damage the Council's reputation.

For more information see the Council's [drug and alcohol policy](#) on the intranet. It is your responsibility to report any suspicions about colleagues drug or alcohol use at work to your manager.

## **23. The role of the Monitoring Officer**

The Monitoring Officer is responsible for making sure that Councillors and officers act with propriety and within the law. This person has a statutory responsibility to produce a report to full Council in the event of any possible illegality, maladministration or injustice coming to

their attention. The Monitoring Officer in the London Borough of Croydon is the Director of Legal Services.

## **24 Where to get help and further information**

If you have any questions about this code of conduct, or advice about a particular situation you should first of all speak to your Head of Service. In some cases you need to speak or seek approval directly from your Director, Corporate Director or the Chief Executive.

Further help and guidance can be found in the following documents on the Council's intranet:

- Customer Commitment
- [Alcohol and drugs policy \(module 11, chp6 in HR handbook\)](#)
- [Employee Grievance Procedure \(module 13, chp1 in HR handbook\)](#)
- [Protocol on Staff – Councillor Relations](#) (on the external website)

In the [Governance - the right thing](#)” section of the intranet you will find the Council's policies, procedures and guidance on:

- [Gifts and hospitality](#)
- [Expenses \(also module 05, chpt 6 in HR Handbook\)](#)
- [Whistleblowing \(also module 13, chpt 2 in HR Handbook\)](#)
- [Declarations of interests](#)
- [Nolan Principles](#)
- [Anti-Bribery](#)
- [Scheme of Delegation](#)
- [Financial regulations](#)
- [Purchasing, procurement, tendering and contracts.](#)
- [Information management and data loss](#)
- [Acceptable use of email and internet \(also module 18, chpt 2 in HR Handbook\)](#)

End

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## Appendix A: The Seven Principles of Public Life

These principles (also known as the Nolan Principles) are:

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B: Standards of behaviour at work

We have standards of behaviour which we expect from you. These help make the Council a good place to work and ensure that colleagues and customers feel welcomed and valued. We also expect you to comply with the Council's commitment to equality.

The Equality Act 2010 imposes positive duties on local authorities to promote equality and to eliminate unlawful discrimination and harassment. Under the Act Croydon council may be liable for any discriminatory acts which you commit.

Officers are expected to uphold Section 149 Equality Act 2010:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

People working for the Council and our customers are entitled:

- To be treated with dignity, respect, courtesy and fairness.
- Not to be bullied, harassed or victimised.
- Not to experience any form of unlawful discrimination.

By law they are protected from discrimination on grounds of:

- Race
- Sex
- Disability
- Religion or belief
- Age
- Sexual orientation
- Gender reassignment
- Pregnancy or maternity
- Being married or in a civil partnership.

These are called 'protected characteristics' and they are referred to in the more detailed guidance below.

We will not tolerate unfair, offensive or unlawful discriminatory behaviour. It may be regarded as a serious disciplinary offence, which could lead to dismissal.

Discriminatory, unacceptable or offensive behaviour can take many different forms. Remember that your colleagues or customers may have different standards to you and may be offended or feel harassed by behaviour that you think is acceptable.

If you feel that you have been subjected to this sort of behaviour you should first of all discuss this with the other person or your manager and try and resolve it informally. If this is not possible or appropriate you should use the Council's Grievance procedure.

The next pages set out what we consider to be:

- Discrimination

- Bullying/harassment
  - Unacceptable or offensive behaviour
- All of these fall below the standards of behaviour that we expect.

## Discrimination

Discrimination can take a number of different forms.

Some of these are unlawful under the Equality Act 2010. Others may not be unlawful if the employer can demonstrate that they are **objectively justified**. This is a legal term where employers can prove there is a legitimate basis for treating an individual or group differently to others. The different forms of discrimination are:

- Treating someone worse than someone else because of a protected characteristic (this is called **direct discrimination**).
- Applying a practice or policy which disadvantages a person or people who share a particular protected characteristic (**indirect discrimination**).
- Treating someone worse than someone else because you think they have a protected characteristic, whether they do or not (**perception**).
- Treating someone worse than someone else because they are **associated with** a person who has a protected characteristic.
- Treating someone **unfavourably** because of something arising as a result of their disability. This is called **discrimination arising from disability**.
- Failing to make reasonable adjustments in the workplace so that a disabled person is not at a substantial disadvantage when carrying out their job.
- Treating someone unfavourably because of absence due to pregnancy, pregnancy-related sickness or maternity leave, or because they are undergoing gender reassignment.
- Treating a person badly or **victimising** them because you think that they
  - Have complained about discrimination.
  - Are going to complain about discrimination.
  - Have helped someone else complain.
  - Have done anything to uphold their own or someone else's equality law rights.

## Bullying and harassment

Bullying and harassment is any sort of unwanted behaviour that violates someone's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

Bullying can take the form of physical, verbal, and non-verbal conduct but does not need to be related to protected characteristics. Bullying behaviour may be in person, by telephone or in writing, including emails, texts, or online communications such as social media. The standards of behaviour expected are the same, whether you are expressing yourself verbally or in writing.

**Examples of bullying** include but are not limited to:

- verbal abuse, such as shouting, swearing, threats, insults, sarcasm, ridiculing or demeaning others, inappropriate nicknames, or humiliating language, including gossip
- Non-verbal behaviour and micro aggressions such as inappropriate eye contact.
- physical or psychological threats or actions towards an individual or their personal property



- practical jokes
- overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures
- inappropriate comments about someone's performance
- abuse of authority or power, such as placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- ostracising or excluding someone from meetings, communications, work events or socials
- sending, distributing, or posting detrimental material about other people, including images, in any medium
- smear campaigns.

### **Preventing bullying behaviour from developing**

Ideally, a culture of honest and clear communication should be sought, with respect for the individual and for the confidentiality required when managing individual performance-related issues.

You also need to be mindful that colleagues can come from a wide range of backgrounds and may have been part of workplaces where the culture and expected standards are very different from what is expected in the council; as a result, you may not be aware of the impact that your communication has on others.

Early discussion about emerging issues is important to help avoid matters escalating and help establish more effective working relationships for the future.

### **Harassment**

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Like bullying, harassment can take the form of physical, verbal, and non-verbal conduct but does not need to be related to protected characteristics. Harassment may be in person, by telephone or in writing, including emails, texts, or online communications such as social media. It may manifest obviously, or be hidden, or insidious.

**Examples of harassment** include but are not limited to:

- sending unwelcome emails
- unnecessarily repetitive, intrusive questioning
- unwelcome physical contact such as touching or invading 'personal space'
- haranguing
- intimidation
- inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, and offensive jokes
- overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures
- inappropriate comments about someone's performance

- placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- sexual harassment.

All forms of bullying and harassment are unacceptable and we will take firm action against them.

### Unacceptable or offensive behaviour

There is no definitive explanation of what constitutes unacceptable or offensive behaviour. The impact of unwanted conduct as perceived by the victim is more important than the perception of the harasser and their intent. Whether it is reasonable for the victim to feel the way they do is also taken into account.

Unacceptable or offensive behaviour can include:

- Any unwanted, unwelcomed and unreciprocated behaviour which undermines someone's dignity/feelings at work.
- Behaviour which might unreasonably threaten someone's job security or promotion prospects.
- Behaviour which creates an intimidating working environment, such as:
  - Actions, jokes, mimicking, or suggestions which might create a stressful working environment.
  - The production, distribution, display or communication and discussion of material such as books, posters, magazines, newspaper articles, photographs, videos, computer generated imagery etc., which may give rise to offence.
- People in authority using their position to bully, abuse or harass others.
- People in authority assuming a threatening or intimidating management style.

If someone finds any behaviour towards them at work has overtones which they find reasonably offensive they have the right to have it stopped.

This behaviour can be from a work colleague, contractor, councillor or someone working with the Council.

Unacceptable behaviour does not include legitimate actions taken:

- By a manager to encourage a worker to perform their duties or manage their performance.
- Within disciplinary or other formal procedures.

The following examples are a guide to help you understand what behaviour could be unacceptable and deemed discriminatory or offensive, whether it is intentional or not.

There will be other types of behaviour which could be unacceptable or offensive, but we hope that this is a useful guide to the most common types.

Type	Description	Examples
<b>Sexual harassment</b>	Behaviour which has the purpose or effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. This means any harassing	Inappropriate gestures, leering, getting too close, unwanted physical contact, including touching, patting, pinching, brushing against another person's body, indecent assault, display of material with sexual overtones (even if not directed at the complainant), giving unwanted gifts, using suggestive language, making

Type	Description	Examples
	conduct based on gender or sexuality.	unwanted propositions, derogatory comments, ridiculing or name calling based upon sex, repeatedly asking for dates after being refused, banter of a sexual nature, telling sexually explicit jokes, using affectionate names, asking personal questions, using innuendos, sending offensive emails, text messages and social media content (including social media activity in and outside work)
<b>Racial harassment</b>	Behaviour which has the purpose or effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person due to their race, colour or country of origin.	Inappropriate gestures, facial expressions, mimicking accents, derogatory comments, ridiculing or name calling based upon race, display of offensive material (even if not directed at the complainant), threats or insults, racial abuse, telling racist jokes and banter, inappropriate nicknames, labels, assault, excluding from social functions or events, ostracising, sending offensive emails, text messages and social media content (including social media activity in and outside of work)
<b>Disability harassment</b>	Behaviour which is directed at any individual with a disability, or groups of disabled people, which has the purpose or effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person due to their disability	Inappropriate gestures, mimicking, derogatory comments based upon a disability or reasonable adjustments that are in place, ignoring wishes or feelings, ostracising, staring, laughing at a disability, intrusive or inappropriate questioning, personal questions, telling jokes that are based upon a disability, patronising comments, inappropriate nicknames, excluding from social functions or events due to a disability, removing or preventing access to reasonable adjustments, sending offensive emails, text messages and social media content (including social media activity in and outside of work)
<b>Religious belief harassment</b>	Behaviour which has the purpose or effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive	Inappropriate gestures, mimicking, derogatory comments based upon religion or belief, making jokes or derogatory comments regarding religious dress (e.g. skull cap, turban, hijab), criticism of religious practices e.g. for taking time off

Type	Description	Examples
	environment for that person due to their religion or belief	to observe religious holidays, offensive name calling, assault, excluding from social functions or events due to religion or belief, display of offensive material relating to religion or belief, sending offensive emails, text messages and social media content relating to religion or belief (including social media activity in and outside of work).
<b>Equality-related conflict</b>	<p>The Council recognises that people have the right to observe different religions and beliefs and will make reasonable provisions to help employees practice their religion or belief e.g. through flexible working hours and providing a quiet area for prayer.</p> <p>Practicing a religion or belief at work in a way that may cause offence or treats people differently because of their protected characteristic is unacceptable and may also be unlawful.</p>	<p>An employee shares a workstation with a gay man who openly discusses his relationship with another man. The employee tells the gay colleague that her religion regards such behaviour as sinful and contrary to the laws of her God. Such a comment may be discriminatory towards the gay man.</p> <p>Some individuals may be guided by their religion or culture not to shake hands as a greeting. To avoid causing offence individuals should ensure that they greet all people in the workplace in the same way, irrespective of their race, gender, age, religion, sexual orientation etc.</p> <p>A counsellor declines to provide a service to a same-sex couple on the grounds that such relationships are immoral according to his religion. Such behaviour conflicts with the Council's statutory duty to eliminate discrimination and promote equality and is not acceptable.</p>
<b>Age harassment</b>	Behaviour which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person due to their age	Inappropriate gestures, mimicking, the display of material which is offensive in relation to age, excluding from social functions or events due to age, ostracising, making derogatory comments, ridiculing or name calling in relation to age, telling jokes and banter which are based on age, questioning ability based on age stereotypes, sending offensive emails, text messages and social media content relating to age (including social media activity in and outside work).

<b>Type</b>	<b>Description</b>	<b>Examples</b>
<b>Sexual orientation harassment</b>	Behaviour which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person due to their sexual orientation or perceived sexual orientation	Inappropriate gestures, mimicking, the display of material which is offensive in relation to sexual orientation, Homophobic abuse, threats, insults, ridiculing or name calling, jokes relating to sexual orientation, banter or derogatory comments in relation to sexual orientation, intrusive or inappropriate questioning, , , criticism or chiding on the grounds of belief (religious or other),ostracising, excluding from social events due to sexual orientation or perceived sexual orientation, sending offensive emails, text messages and social media content relating to sexual orientation (including social media activity in and outside work).
<b>Harassment related to gender identity or gender reassignment</b>	Behaviour which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person due to their gender identity or gender reassignment, to include non binary and gender neutral.	Inappropriate gestures, mimicking, the display of material which is offensive in relation to gender identity or gender reassignment, ostracising, excluding from social functions or events due to gender identity or gender reassignment, making derogatory comments, ridiculing or name calling in relation to gender identity or gender reassignment, telling jokes and banter in relation to a person's gender identity or gender reassignment, sending offensive emails, text messages and social media content relating to gender identity or gender reassignment (including social media activity in and outside work), deliberately or persistently 'misgendering' a trans person, deliberately or persistently 'deadnaming' (calling someone by their birth name after they have changed their name), threats or insults.
<b>Bullying/Singling out</b>	Bullying often results from a misuse of management power, but it can also be the misuse of any form of individual power, such as physical strength, personality or age or collective power through strength of numbers. More than a strong or authoritarian management style, it is destructive rather than constructive, it is criticism of a person rather	Ostracising/freezing out, withholding essential information, resources or training, setting impossible tasks or deadlines, over demanding requirements, needlessly changing priorities or objectives, unreasonable allocation of duties, deliberate wrongful attribution of blame, shouting, swearing, abuse, nicknames, malicious gossip, public reprimanding or humiliation, belittling, sarcastic or patronising comments, persistent reminders of past failures, excessively tight supervision,

Type	Description	Examples
	than their mistakes, it publicly humiliates rather than privately corrects them and it results in them feeling threatened or compromised.	unnecessary phone calls to someone's home, hitting or grabbing a person, pushing, jostling, practical jokes, initiation ceremonies, damaging or stealing property.
<b>Victimisation</b>	Where a person is subjected to a detriment because he/she has brought proceedings, given evidence or information, or complained about the behaviour of someone who has been harassing, discriminating against, or in some other way intimidating them.	A worker helps a colleague with a sexual harassment grievance against another worker. Because of this, their manager marks them down at their annual appraisal on the basis they are 'not very loyal'.

### Taking action or making a grievance:

**If you are personally subject to behaviour** which is against these standards:

- Discuss it with the person concerned to try to resolve the issue informally and discuss the matter with your manager.
- If you do not feel that this is possible or appropriate, or you are unsatisfied with the response you may raise a grievance through the Council's [employee grievance procedure \(module13, chp1, HR Handbook\)](#)

We will take your grievance seriously and investigate it. Disciplinary action may be taken if the allegation is proven.

**If you witness behaviour which is against these standards:**

- Firstly try to resolve the matter informally with the person concerned.
- If you do not feel that this is possible or appropriate you should raise the matter with a senior manager such as your Head of Service or Director.

### Responsibilities

The Council takes discriminatory, unacceptable or offensive behaviour extremely seriously. To ensure this, different people have different responsibilities:

**The Council will:**

- Review, revise, implement and monitor our policies and procedures.

**Elected members will:**

- Support the principles and practice of equality and diversity policies.
- Ensure that Council services are available to all members of the community.
- Treat all workers and customers with dignity and respect.

**The Chief Executive will:**

- Ensure the Council's commitments are communicated effectively.
- Require that senior management observes its responsibilities to ensure that behaviour towards staff does not involve any form of harassment or discrimination.

**Human Resources will:**

- Provide specialist advice and arrange training for managers and staff.
- Set guidelines for implementing employment aspects of equalities and diversity policies.

**Senior managers will:**

- Communicate the Council's commitment to equalities and diversity to all staff.
- Ensure that they and their staff comply with the Council's standards of behaviour.
- Ensure that all managers apply policies and practices fairly and consistently.
- Provide services that are available to all members of the community.
- Take speedy and appropriate action to deal with unacceptable or offensive behaviour.

**All managers will:**

- Treat all those working for the Council and customers with dignity and respect.
- Be alert to and take action to correct unacceptable behaviour within the workplace
- Ensure all workers and volunteers are aware of the standards of behaviour that the Council expects of them.
- Make sure all workers and volunteers know how to raise issues.
- Support workers if they witness unacceptable behaviour by customers by explaining politely but firmly that such behaviour is unacceptable.
- Deal with any grievances or allegations which come to their attention appropriately, effectively and confidentially, respecting the rights of all relevant parties.
- Ensure that people who make a grievance are appropriately supported in doing so.

**Everyone who works for the Council is responsible for:**

- Understanding the standards of behaviour that the Council expects of them.
- Making sure that their own conduct does not fall below those standards of behaviour.
- Standing up to behaviour that they find unacceptable.
- Supporting colleagues who are being harassed, bullied, victimised, or being discriminated against.

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End

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## Appendix C: Standards of appearance at work

How you look and dress at work has an impact on how people view the Council and inappropriate dress can suggest that staff have little regard for their service delivery or their customers.

It is therefore important that staff are clear about what is expected from them in how they dress for work.

### Standards of appearance

The Council expects all staff to:

- Have a high standard of appearance and personal hygiene.
- Choose professional and appropriate clothing for the work you are doing.
- Avoid any clothing with political or offensive messages.
- Display a visible Council identification badge when at work, unless your Head of Service has agreed that you do not have to wear one.

Staff working in an office environment are expected to

- Wear formal or informal office dress, depending on their work that day.
- Wear formal office dress when meeting visitors or people from other organisations.
- Wear suitable footwear, both in terms of appearance and in ensuring their safety and wellbeing.

Staff issued with uniform or protective clothing officers are expected to:

- Wear only protective clothing or uniform authorised or owned by the Council.
- Keep their clothing clean, presentable and in good repair.
- Prevent anyone else from wearing their uniform or protective clothing.
- Return their protective clothing to the Council when they leave.
- Make any alterations for religious or health reasons only after agreement with their manager.
- Avoid wearing their Council clothing outside work hours, except when they are travelling to and from work.

### What you can expect from the Council

Staff can expect the Council to have a flexible and professional approach to the standards of dress at work which recognises that:

- Different types of dress (e.g. protective clothing, uniforms or formal business wear) are needed or appropriate for different types of work.
- Our employees come from a large range of backgrounds, cultures and ages with different preferences and styles of dress.
- Adjustments may sometimes be necessary due to health, disability, cultural or religious considerations.
- In some circumstances casual clothing may to be worn at work, for example:
  - When attending work social events or preparing for accommodation moves/housekeeping.
  - When participating in exercise before and/or during the working day, bringing a change of clothing, as appropriate
  - Where there is a local agreement that the use of casual clothing and/or sportswear improves accessibility with service users.
  - When attending some off site training courses.

If we consider that your appearance is not acceptable, we will tell you. If you do not make the improvement required we may then follow our disciplinary procedures, which you can find on the Council's [HR Handbook](#), module 11, Chpt 2

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End





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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 Mayor and Cabinet model.
- 1.2 This constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that decisions are taken efficiently and transparently, and that those who make the decisions are accountable to local people. Some of these procedures are legal requirements while others are how the Council has chosen to conduct its business.
- 1.3 This part of the Constitution is a guide to the basic principles of how the Council works and what decisions can be made and by whom. Whilst it provides an overview it nevertheless forms part of the constitution and should be read as such and in connection with all other parts.
- 1.4 Part 2 of the Constitution (the Articles) sets out the rules and framework which govern the operation of the Council, and Parts 3 to 6 provide further details on responsibility for functions, procedure rules, codes and protocols for specific parts of the decision-making structure.
- 1.5 The Mayor, all elected and co-opted members and officers of Croydon Council are governed by the Constitution.

#### 2 HOW THE COUNCIL WORKS

2.1 The Council is led by a Mayor who is elected directly by the people of the Borough of Croydon. The Council is made up of the Executive (the Mayor and Cabinet), the Full Council and staff employed by the Council. The Executive makes decisions on those functions which are not reserved for the Full Council to decide or delegate to others. Article 4 of the Constitution sets out the functions which are reserved to the Full Council. Staff employed by the Council are responsible for the day to day operational and managerial decisions made on behalf of the Council.

##### **Full Council**

2.2 Full Council comprises the Mayor together with the 70 Members (also referred to as Councillors), each of whom is elected for a 4 year term and who represent the 28 wards of the Borough which is set out in Article 2 of the Constitution. The overriding duty of Councillors is to the whole community but they have a special responsibility to the constituents of their ward, including those who did not vote for them. The role, rights and duties of Councillors are also set out in Part 2, Article 2 of the Constitution.

All Councillors and the Mayor meet together as the Full Council. These meetings are open to the public and the press and are also broadcast live on the Council's webcast facility, except when there are items on the agenda which require the public to be excluded for that item.

2.3 The Council (or 'Municipal') Year begins in May each year with an Annual Meeting that appoints a new **Civic Mayor, and Deputy Civic Mayor for a one year term. It also makes appointments** to Committees, Sub-Committees, Working Parties and Outside Bodies for that Municipal Year. The Meeting receives the Mayor's scheme of delegation, including any executive appointments to Outside Bodies.

2.4 The Civic Mayor is also the Chair of Council. This role is a ceremonial one and therefore does not include making decisions on behalf of the Council. The postholder is a councillor and cannot be a member of the Executive.

2.5 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.

2.6 Although the Mayor shall make proposals in relation to the Budget and Policy Procedure Rules 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. Specific procedures apply where the Council does not agree to the Mayor's proposals in respect of the budget and policies and strategies in the Policy Framework. These are set out in the Budget and Policy Framework Procedure Rules, Part 4C of this Constitution.

2.7 At Ordinary Meetings of the Full Council, the Mayor 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.

2.8 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.

**How decisions are made** 2.9 Decisions are taken either by Full Council, the Mayor, members of the Executive (either individually or collectively with the Mayor), committees, or officers, according to rules set out in this constitution.

2.10 The Mayor makes proposals to the Council about its main policies and budget. Once they are agreed the Mayor is responsible for putting those policies into effect. Within that framework, the Mayor is responsible for all decisions which are not the responsibility of the Council or any of its committees by law. The Mayor can either personally take these decisions, delegate them to other individual councillors on the Executive, take them collectively with Executive colleagues, or delegate them to a committee of the executive or officers of the authority.

2.11 Some decisions, due to legislation, or as a matter of local choice, can only be taken by Full Council. In some cases, Full Council can delegate these decisions to committees of councillors or specified officers.

2.12 Each year at its Annual Meeting, the Council adopts a scheme of delegation which sets out details of those decisions which the Council makes itself, and those which it delegates to committees, employees, and joint arrangements it has with other authorities.

2.13 Having presented a scheme of delegation for executive decisions to the Annual Meeting of the Council in each year, the Mayor is entitled to amend the delegations they have made during the course of the year, and any such amendments will be incorporated into the scheme of delegation.

2.14 Part 3 of the Constitution sets out the responsibilities of different parts of the Council for different decisions and Part 4 of the Constitution sets out the procedures for those decisions such as the procedures for public access to information.

#### **Conduct and behaviour**

2.15 The Mayor and the 70 Councillors have committed to follow a Code of Conduct to ensure high standards in the way they undertake their duties. Compliance with the Code of Conduct is overseen by the Ethics Committee. The Code of Conduct is included in Part 5 of this constitution.

### **3 THE MAYOR AND CABINET**

#### **Roles and functions.**

3.1 The Mayor is the primary decision maker and is given executive functions. The Mayor must create a Cabinet of councillors and may delegate executive powers to them. Together the Mayor and Cabinet form the Executive.

3.2 The Mayor will carry out the following roles:

i) be the Council's principal public spokesperson;

- ii) give overall political and strategic direction to the Council;
- iii) appoint the Cabinet and Deputy Mayor from within the Cabinet;
- iv) decide on the scheme of delegation for executive functions;
- v) chair meetings of the Cabinet; and
- vi) represent the Council on external bodies (where the function of the outside bodies relates to executive functions of the Council) and appoint Members to outside bodies).

### **Mayor as a Member of the Council.**

3.3 The Mayor is a Member of the Council and is to be treated as a Member of the Council or a Councillor for the purposes of such laws as are specified by the Secretary of State in regulations and orders. Except where stated or is obvious from the context, references in this constitution to Members or Councillors include the Mayor. In particular, the Mayor:

- i) is subject to the same rules about qualification and disqualification as any other Councillor;
- ii) must follow the rules about disclosure of interests and comply with the Members' Code of Conduct set out in Part 5 of this Constitution;
- iii) must act in the interests of the borough as a whole;
- iv) may be a Member of, attend and speak at any meeting of the Council, its Committees and Sub-Committees, except the Ethics and Scrutiny and Overview Committees. The Mayor may only speak at a Scrutiny and Overview Committee when invited to do so and may not vote at those meetings;
- v) if a member of a political group, will be taken into account when calculating seat allocations on Committees and Sub-Committees of which they are a member, if they have to reflect the political composition of the Council as a whole in accordance with the Local Government and Housing Act 1989;
- vi) is subject to the Members' Allowance Scheme as set out in Part 6 of the Constitution;
- vii) will attend Full Council meetings to answer questions from Members and the public as set out in the Council's Procedure Rules;
- viii) is subject to the same rules about casual vacancies as apply to all Councillors.

### **Deputy Mayor**

- 3.4 At the first meeting of the Council after their election, the Mayor will inform the Council which Member of the Cabinet will act as Deputy Mayor.
- 3.5 The Deputy Mayor will hold office until the end of the Mayor's term of office unless they are no longer a Member of the Council or the Executive, resign as Deputy Mayor, or are removed by the Mayor from the office of Deputy Mayor.
- 3.6 If for any reason the Mayor is unable to act, or the office of Elected Mayor is vacant, the Deputy Mayor will act in their place until a new Mayor is elected or again able to act. If the Mayor is unable to act or the office is vacant at the same time as the Deputy Mayor is unable to act or the office of Deputy Mayor is vacant, then the Cabinet must act in the Mayor's place, or arrange for a Member of the Cabinet to do so.
- 3.7 The Mayor may remove the Deputy Mayor from office at any time by serving a notice in writing to the Chief Executive. The notice must also appoint a new Deputy Mayor in order to be effective. The removal and appointment will take effect immediately on receipt of the notice by the Chief Executive. A change of Deputy Mayor must be reported by the Mayor to the next meeting of the Cabinet and the next meeting of the Full Council.

#### **Other Cabinet Members**

- 3.8 The Mayor appoints at least two and no more than 9 Cabinet Members from the 70 Councillors to work with them. Together they are described as the Executive. The Cabinet need not be politically proportionate. Members of the Cabinet will hold office until:
- a) they are removed from office by the Mayor who must give written notice of any removal to the Chief Executive. The removal will take effect immediately on receipt of the notice by the Chief Executive;
  - b) they are no longer councillors; or
  - c) they are disqualified from being Councillors under the Localism Act 2011.
- 3.9 Details of the responsibilities and functions allocated by the Mayor to the Cabinet as a whole or to individual Cabinet Members are set out fully in the Mayor'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 Mayor 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.
- 3.10 The Executive has to make decisions which are in line with the Council's Budget and Policy Framework. If it wishes to make a decision which is outside the Budget and Policy Framework, this must be referred to the Council as a whole to decide.

- 3.11 The Mayor is responsible, in consultation with others, for shaping the plans and strategies which form the Council's Budget and Policy Framework and recommending them to the Council; and for taking decisions on executive matters within that framework. The Mayor gives political direction to the Chief Executive and Corporate Directors in relation to the way in which services are managed within the budgets allocated to them. The Mayor may establish one or more Cabinet Committees to exercise specified executive functions.
- 3.12 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.
- 3.13 Certain decisions made by the Executive are defined as "Key Decisions" as defined in Article 13 and the Access to Information Procedure Rules in Part 4B of the Constitution. In summary, these are decisions to incur significant expenditure or savings or which have a significant impact on communities in two or more wards in the borough. When major decisions are to be discussed or made, these are published in the Forward Plan as far as they can be anticipated and at least with 28 days' notice before the decision is taken.

#### **4 THE CIVIC MAYOR**

- 4.1 Although the title of Mayor may only be used by the Elected Mayor, on appropriate ceremonial occasions the Chair of the Council may bear the title of Civic Mayor.
- 4.2 The Council has decided, in agreeing its Executive Arrangements, that the Civic Mayor will be the first citizen of the Borough and will perform the majority of civic and ceremonial duties for the Borough. The Mayor will perform those functions as the Council's representative where they relate to the promotion of, or business of, the Council. Any future change to these arrangements will be a matter for the Council to determine.
- 4.3 The Civic Mayor and the Deputy Civic Mayor will be elected by Council annually. Their responsibilities are set out in Article 5 of this Constitution.

#### **5 HOW THE COUNCIL IS SCRUTINISED**

- 5.1 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.

- 5.2 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.
- 5.3 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 Executive or a Cabinet Member but not yet implemented. This is known as ‘Call-In’ and requires the Executive to consider further comments raised by a scrutiny committee or Full Council before they are implemented.
- 5.4 Any Councillor except the Mayor or a Cabinet Member is eligible to be appointed to the Scrutiny and Overview Committee or any of its Sub-Committees.
- 5.5 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.
- 5.6 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.
- 5.7 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.
- 5.8 The Council will seek to ensure parity of esteem between Executive and Scrutiny: the rights of the Scrutiny and Overview function to information

to support delivery of its role are set out in the Council's Access to Information Procedure Rules and Protocol.

- 5.9 The Constitution recognises that the separation of the executive from the overview and scrutiny function, and the responsibility of the Council for approval of policy and budget creates opportunities for conflict which, if not managed, could undermine effective decision making. To minimise any potential for tension between these roles, the Council has established processes to resolve conflict between them. They are set out in the Constitution, Part 4, Budget and Policy Procedure Rules.

## **6 NON-EXECUTIVE COMMITTEES**

- 6.1 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.

## **7 SHADOW CABINET**

- 7.1 The Shadow Cabinet comprises the Leader of the largest group of which the Mayor is not a member and up to nine other Members nominated by the same political Group. 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.

## **8 PARTNERSHIPS**

- 8.1 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.

## **9 SCHEME OF MEMBERS' ALLOWANCES**

- 9.1 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.
- 9.2 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.
- 9.3 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.

## **10 COUNCIL STAFF**

- 10.1 The Council employs officers to give professional advice to the Executive and Councillors, to implement decisions taken and to manage the day to day delivery of services.
- 10.2 The Head of Paid Service is a statutory role that every Council must have. This person is responsible for managing all Council staff and decides how the Mayor, Executive and Councillors should be supported by staff.
- 10.3 There are other statutory posts including an officer who has responsibility for ensuring that the Council takes sound financial decisions (the Corporate Director, Resources) and an officer who is responsible for ensuring that all the decisions taken by the Council are lawful (Monitoring Officer). There are also statutory officers with responsibility for Children's Services, Adult Services and Public Health.

## **11. CITIZENS' RIGHTS**

- 11.1 Citizens of Croydon have a number of rights in dealing with the Mayor, the Executive and the Council. These are set out in Part 2, Article 3 of the Constitution.

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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 Councillors 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 of the Council

### 2.1 Composition and eligibility

- (a) **Composition.** The Council shall comprise the Elected Mayor and 70 Councillors. The Mayor will be elected by the voters of the whole Borough and Councillors 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 as follows:

Park Hill and Whitgift	One member
Addiscombe East Kenley New Addington North New Addington South Norbury and Pollards Hill Norbury Park Old Coulsdon Purley Oaks and Riddlesdown Selhurst Selsdon and Addington Village Selsdon Vale and Forestdale Shirley South	Two members
Addiscombe West Bensham Manor Broad Green Coulsdon Town Crystal Palace and Upper Norwood Fairfield Purley and Woodcote Sanderstead Shirley North South Croydon South Norwood Thornton Heath Waddon West Thornton Woodside	Three Members

(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 Mayor or Councillor.

**2.2 Election and terms of Councillors**

The regular election of Councillors and the elected Mayor shall be held on the first Thursday in May every four years. The terms of office of the elected Mayor and Councillors 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 Councillors.**

(a) **Key roles.** All Councillors 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 governance, 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.
- (iv) The Mayor and Councillors will make all decisions in accordance with the law and having taken and considered proper professional advice

## 2.4 **Conduct**

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

## 2.5 **Allowances**

The Mayor and Councillors 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 Executive 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 Executive 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 the Mayor and Councillors 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 Mayor (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 Mayor 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 Civic Mayor and noting the appointment of the Deputy Civic Mayor;
- (e) receiving reports from the Mayor setting out the composition and responsibilities of the Cabinet and the current scheme of delegations;
- (f) agreeing and amending the terms of reference for non-executive Committees, deciding on their composition and making appointments to them; [The Monitoring Officer 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 Mayor or the Monitoring Officer, after consultation with the Mayor may make appointments to outside bodies as necessary during the year. In respect of Non-Executive appointments the General Purposes Committee or the Monitoring Officer after consultation with the Chair of the General Purposes 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 and Disciplinary Committee and Independent Panel 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 and Disciplinary 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 Mayor 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;
- (q) conflict resolution under the Budget and Policy Framework Procedure Rules (Part 4C of this Constitution) and
- (r) 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 Mayor 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 Corporate Plan;
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 Chair of the Council/ The Civic Mayor

### 5.1 Role and functions of the Chair of the Council

The Chair of the Council shall be elected by the Council annually and shall be entitled, on appropriate ceremonial occasions, to bear the title of Civic Mayor. They shall have the following roles and functions:

- (a) The Civic Mayor shall be the ceremonial representative of the Council, taking precedence at civic events.
- (b) The Chair of the Council, or in their absence the Deputy Chair, 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 Chair of the Council 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 Councillors 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 Chair of the Council spans full Council elections the Chair shall, unless they resign or become disqualified, continue in office and remain as a Member of the Council until their successor becomes entitled to act as Chair of the Council notwithstanding that they do not seek or achieve re-election as a Councillor.

In a year when the term of office of the Deputy Chair of Council spans full Council elections the Deputy Chair of Council shall, unless they resign or

becomes disqualified, continue in office until their successor becomes entitled to act as Deputy Chair, but shall not remain as a Member of the Council unless they achieve re-election as a Councillor.

### **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, they 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 they 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) hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations;
- (f) make reports or recommendations on matters affecting the area or its inhabitants;
- (g) question and gather evidence from any other person and conduct research and consultation in the analysis of policy issues and possible options;
- (h) 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;

- (i) 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;
- (k) recommend that a key decision made by the Executive but not yet implemented be reconsidered by the Executive;
- (l) 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;
- (m) receive the reports and recommendations of its Sub- Committees;
- (n) report annually to the Council on its work;
- (o) 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**

Section 10 of the Local Government Act 2000 defined executive arrangements as arrangements by a Council for and in connection with the creation and operation of an Executive. The Executive is made up of the Elected Mayor and between 2 and 9 other Councillors, one of whom is appointed as the Deputy Mayor. The Executive carry out all of the Council's functions which are not the responsibility of any other part of the Authority, whether by law or under the Constitution. The term 'Executive' may refer to the Executive meeting as a whole (see 'Cabinet'), any Sub-Committee of the Executive, or a single member of the Executive, or an officer to the extent that any of these is responsible for the exercise of a particular executive function by delegation.

### 7.2      **Form and composition of Cabinet**

The Cabinet shall consist of between 2 and 9 Members of the Full Council appointed by the Mayor, one of whom shall be the Statutory Deputy Mayor.

### 7.3      **Elected Mayor**

1.      The Elected Mayor ('the Mayor') is elected by the voting public of Croydon for a 4 year term and is responsible for all of the Council's Executive functions.

### 7.4      **Cabinet Committees**

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

### 7.5      **Deputies to Cabinet Members**

The Mayor 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 Mayor of the Council.

### 7.6      **Proceedings of the Cabinet**

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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 and Disciplinary Committee</b>	6 Members
<b>Appeals Committee</b>	5 Members
<b>Audit and Governance Committee</b>	10 Members including 1 independent Chair (non-voting co-optee) and 1 independent non-voting co-optee
<b>Ethics Committee</b>	6 Members + 2 independent non- voting co-optees
<b>General Purposes Committee</b>	8 Members
<b>General Purposes Urgency Sub Committee</b>	3 Members drawn from the membership of the General Purposes Committee
<b>Health and Wellbeing Board</b>	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) Corporate Director Adult Social Care & Health (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-

<u>Committee</u>	<u>Membership</u>
	voting)
<b>Licensing Committee</b>	12 voting members (+ pool of 10 reserve Members)
Licensing Sub-Committee (ad hoc)	3 voting members drawn from Membership of Licensing Committee
<b>Mayoralty &amp; Honorary Freedom Selection Sub-Committee</b>	5 Members
<b>Pension Board</b>	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>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, Civic Mayor or their deputies).
- (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 Mayor 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 Mayor 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 Mayor 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 Mayor 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 Mayor 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 Mayor 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 Mayor 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) **Statutory Officers.**

The Council is required to appoint a number of officers to undertake specific duties by statute. These are known as ‘Statutory Officers’. In addition, the Council has a number of important duties which it designates to certain officers. These are called ‘Proper Officer’ roles as defined by section 270(3) of the Local Government Act 1972.

The Council has designated in the table below the following statutory officer positions to the Chief Executive and Corporate Directors of the Council.

In the event of any Officers mentioned below being for any reason unable to act or of any of their posts being vacant, the Chief Executive or in their absence, the Monitoring Officer, and in the absence of both, the Corporate Director Resources, shall nominate an Officer to act in their stead.

The Council designates the following posts as shown:

Legislation	Designation	Post
Section 4, Local Government and Housing Act 1989	Head of Paid Service	Chief Executive

Section 5, Local Government and Housing Act 1989	Monitoring Officer	Monitoring Officer
Section 151 Local Government Act 1972 (and section 114, Local Government Finance Act 1988)_	Chief Finance Officer	Corporate Director Resources
Section 6, Local Authority Social Services Act 1970	Director of Adult Social Care and Caldicott Guardian	Corporate Director Adult Social Care and Health
Section 18 Children Act 2004	Director of Children's Services and Caldicott Guardian	Corporate Director Children Young People and Education
Section 73A National Health Service Act 2006 as amended by Section 30, Health and Social Care Act 2012	Director of Public Health	Director of Public Health

Functions of the statutory officers are set out in Part 3 of this Constitution.

### 12.3 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.

### 12.4 Conduct

Staff shall comply with the Officer Code of Conduct and the protocol on Staff-Councillor Relations as set out in Parts 5J and 5B of this Constitution.

### 12.5 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 Mayor, the Cabinet - Cabinet Committees - Cabinet Member - delegations to Chief Officers.

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 Mayor, 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 is 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 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 Mayor and Cabinet**

Subject to article 13.8, the Mayor 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 Corporate Director Adult Social Care & Health 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.

#### **13.10 Requirements for decision-making**

Requirements for decision-making are set out in the Protocol for Decision Making at Part 5A of this Constitution.

# 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 Director of Legal Services 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 Director of Legal Services 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 Director of Legal Services, or other person authorised by the Director of Legal Services (including by electronic means).

The Common Seal of the Council shall be kept in a safe place in the custody of the Director of Legal Services. 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 (including by electronic means) which in the opinion of the Director of Legal Services should be sealed. The affixing of the Common Seal shall be attested by the Director of Legal Services, a Deputy Director of Legal Services or some other person so authorised by the Director of Legal Services. 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 Mayor, Cabinet, General Purposes 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)    Unless the change relates only to the operation of Scrutiny and Overview Committee or Sub-Committees, any resolution of the Full Council to approve a change will have no effect without the written consent of the Mayor.
- (c)    Provision exists within the remit of the General Purposes Committee to approve changes on the grounds of urgency. The Mayor 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 Monitoring Officer is authorised, after consultation with the Mayor or Committee Chair, to make any necessary amendments to the Constitution consequent on legislation or a decision of the Council, the Mayor, the Cabinet or a Committee.
- (d)    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.
- (e)    The Monitoring Officer 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.
- (f)    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 (Part 4A of this Constitution)

- (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 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 Monitoring Officer may give a copy of this Constitution to every Member at an appropriate time.
- (b) The Monitoring Officer 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 Mayor 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

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## PART 3 - RESPONSIBILITY FOR FUNCTIONS

Local Authority Functions are split between Executive Functions which are the responsibility of the Mayor and Executive and then Non-Executive Functions which are the responsibility of Council and its Committees. These functions derive from specific legislation and cannot be the responsibility of the Executive. The Council is required to set out where there are delegations of Council functions to Committees and officers.

This part of the Constitution sets out which parts of the Council are responsible for carrying out particular functions. Functions fall into three categories:

- i) Council functions (sometimes referred to as non-executive functions). These functions may be exercised by the Council itself or by a Committee, Sub-Committee or officer. Where a matter is delegated to a Committee or Sub-Committee, it will be set out in the Terms of Reference for that Committee/Sub-Committee in section 2 below.
- ii) Executive functions. The Mayor may decide to arrange for these functions to be delegated to the Executive (Mayor and Cabinet), a Committee of the Executive, a single Executive (Lead) Member or an officer.
- iii) Local choice functions. These are functions which the Council can choose to discharge either through a Committee/Sub-Committee or the Executive. They may also be delegated to officers. Where the Council discharges local choice functions these must comply with all relevant local acts connected to the London Borough of Croydon.

### 1 RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

The Council has determined that all local choice functions (set out in the table below) contained in Schedules 2 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.

<b>Function</b>
The determination of any appeals against any decision of the Council
The appointment of review boards under regulations made under Section 34(4) Social Security Act 1998 (determination of claims and reviews)
Making arrangements for appeals against exclusions of pupils from maintained schools
Making arrangements for admissions appeals under Section 94(1) (1A) and (4) School Standards and Framework Act 1998

Making arrangements for appeals by governing bodies under Section 95(2) School Standards and Framework Act 1998 in respect of children who have been excluded from 2 or more schools
Functions relating to contaminated land
Functions relating to the control of pollution or the management of air quality
The service of an abatement notice in respect of a statutory nuisance (Section 80 Environmental Protection Act 1990)
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the area
The inspection of the area to detect any statutory nuisance (Section 79 Environmental Protection Act 1990)
Investigation of complaints relating to existence of statutory nuisance
Obtaining information under Section 330 Town and Country Planning Act 1990 as to interests in land
Obtaining particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976
Making agreements for the execution of highways works
Appointments to any office (save employment with the Council) and to any body (or committee or sub committee of such a body) save the Council itself or a joint committee of two or more authorities and the revocation of any such appointment
<p>It will be the responsibility of the Executive to make the following appointments:-</p> <p>Local Government Association;</p> <p>London Councils and all its subsidiary bodies;</p> <p>One Croydon Alliance</p> <p>The Place Committee (sub-committee of South West London Integrated Care Board)</p> <p>and any other bodies, which in the opinion of the Monitoring Officer, are of a similar nature. The making of all other appointments will be a non-executive responsibility.</p>
The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities

## 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 a Corporate Director.

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

## 2.1 **Appointments and Disciplinary Committee** (Membership 6.)

1. To carry out interviews and recommend to Council appointments to the roles of Corporate Directors and the Chief Executive (Head of Paid Service) 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 Audit and Governance Committee

The function in respect of voting on salary packages upon appointment

3. Consideration of disciplinary action, as defined within the Staff Employment Procedure Rules in Part 4 of the Constitution, which could result in dismissal and any action short of 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 Executive when consideration is being given to dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer. The Appointments and Disciplinary Committee shall consider the matter in accordance with the processes and procedures approved by Ethics Committee for this purpose from time to time. Where Appointments and Disciplinary Committee recommends dismissal it shall 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 and the views of the Independent Panel.
4. 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;

## 2.2 **Appeals Committee**

(Membership 5: Members who shall not be members of Appointments and Disciplinary Committee but must include at least one member of the Executive).

Purpose

1. To hear appeals against any action short of dismissal taken by the Appointments and Disciplinary Committee against the Head of Paid Service, Monitoring Officer or Chief Finance Officer.

## 2.3 **Audit and Governance Committee**

(Membership 7 including independent, suitably qualified Chair who may not be a

Member or officer of the Council and one independent, suitably qualified co-optee)

### Purpose

The Audit and Governance Committee provides an independent and high level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards. The Committee's purpose is to:

1. provide independent assurance to the Council of the adequacy of the risk management framework and the internal control environment;
2. oversee internal and external audit, helping to ensure that efficient and effective assurance arrangements are in place;
3. provide independent review of the Council's governance, risk management and control frameworks
4. oversee the financial reporting and annual governance processes and
5. provide independent scrutiny of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment.

### Governance, risk and control

1. To monitor the effective development and operation of the Council's risk management arrangements, the control environment and associated anti-fraud, whistleblowing and anti-corruption, strategies, actions and resources. To consider a quarterly report on whistleblowing activity in the Council.
2. To monitor progress in addressing risk-related issues reported to the committee. To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
3. To consider the Council's framework of assurance, including the Statement on Internal Control, and ensure that it adequately addresses the risks and priorities of the Council. To review the Council's corporate governance arrangements against the good governance framework and consider the local code of governance. To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances.
4. To review the governance and assurance arrangements for significant partnerships or collaborations. To ensure appropriate arrangements are in place in relation to any subsidiary bodies controlled by the Council.
6. To consider the effectiveness of the Council's policies, standards and processes for transparency, ensuring that they meet Government requirements and take into account best practice.
7. To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.

8. To approve the internal audit charter.

#### Internal audit

9. To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations. To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit. To periodically review safeguards to limit such impairments.
10. To review (but not direct) internal audit's risk-based strategy, plan and resource requirements, the approach to using other sources of assurance and any work required to place reliance on those other sources. To approve significant interim changes to the risk-based internal audit plan and resource requirements.
11. To review summary internal audit reports and the main issues arising and seek assurance that action has been taken where necessary. To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
12. To receive the annual report of the Head of Internal Audit and make recommendations as appropriate to management, Cabinet and/or Full Council. To consider reports from the head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services and make recommendations as appropriate to management, Cabinet and/or Full Council.
13. To advise and recommend on effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
14. To contribute to the Quality Assurance Improvement Programme and in particular to the external quality assessment of internal audit.
15. To provide free and unfettered access to the Committee Chair for the head of internal audit, including the opportunity for a private meeting with the Committee.

#### External audit

16. To consider the external auditor's annual assessment of its independence and review any issues raised by Public Sector Audit Appointments Ltd.
17. To make recommendations to Council relating to the appointment of the external auditor.
18. To consider the reports of external audit and inspection agencies and make recommendations as appropriate to management, Cabinet and/or Full Council. To review the external auditor's opinion and reports to Members, and monitor management action in response to the issues raised by external

audit.

19. To comment on the scope and depth of external audit work and ensure it gives value for money.

#### Financial reporting

20. To review the annual statement of accounts and specifically to consider whether appropriate accounting policies and the CIPFA Financial Management Code have been followed, and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.

#### Accountability and escalation

21. To report to the full Council on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of the Council's governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions.
22. To make an annual report to the full Council on the Committee's performance in relation to its terms of reference and the effectiveness of the Committee in meeting its purpose.

### **2.4 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' Code 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), Other Registrable Interests (ORIs) or Non-Registrable Interests (NRIs) 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 and Disciplinary 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.

## **2.5 General Purposes Committee** (Membership 8)

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.
12. Appointments to outside bodies, subsequent to the Annual Council Meeting. [Note: The Monitoring Officer, after consultation with the Chair of the General Purposes Committee or (in respect of Executive appointments) the Mayor, 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 Mayor, and referral of any proposals to full Council for approval. Periodic review of the Constitution.
- 4 The Authority's Consultation requirements with the staff side.

- 5 Consideration and recommendation to Full Council of the Pay Policy Statement as required.
- 6 The function in respect of voting on severance packages of staff above such specified threshold as may, from time to time, be updated by statutory guidance.
- 7 The function of deciding, in respect of severance packages, whether the Council wishes to vote on a severance package above the specified threshold.
- 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.
9. Receive reports relating to the Council's use of powers under the Regulation of Investigatory Powers Act 2000.
10. Any matter not reserved to the Council or delegated to another Committee and related to a non-executive function.
11. 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 Mayor, the Chief Executive or a Corporate Director, action as a matter of urgency.
12. Any protocol concerning the exercise of relevant delegated powers of the Committee.

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

(Membership of 3 drawn from the Membership of the General Purposes Committee and constituted as and when necessary by the Monitoring Officer)

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

- 2.6 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), Corporate Director Adult Social Care & Health (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
- 2.7 Licensing Committee** (Membership 12. A further 10 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 3 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 Monitoring Officer)

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.

## **2.8 Civic Mayoralty and Honorary Freedom Selection -Committee** (Membership 5)

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

- a) The Civic 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.

**2.9 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.

**2.10 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:

2.10.1 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.

2.10.2 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.

2.10.3 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.

**2.11 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 & Sustainable Regeneration, 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 & Sustainable Regeneration 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 & Sustainable Regeneration;
  - b) The Director of Planning & Sustainable Regeneration 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 & Sustainable Regeneration 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. Meetings of the Planning Committee shall ordinarily conclude by 10pm. In the event that there is remaining business by 9.55pm the Chair shall interrupt the meeting and call for a vote of Members present on whether the meeting shall continue for a further 30 minutes. If Members decide that the meeting shall not continue, or if there is remaining business after the additional period of 30 minutes, any item on the agenda that has not started to be considered by the Committee is delegated to the Director of Planning & Sustainable Regeneration to determine along the lines set out in the Committee report unless the meeting has already voted (on a two thirds majority) to defer or adjourn the non-determined item earlier in the meeting.

**2.12 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 & Sustainable Regeneration 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 & Sustainable Regeneration;
  - b) The Director of Planning & Sustainable Regeneration 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 & Sustainable Regeneration 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. Meetings of the Planning Sub-Committee shall ordinarily conclude by 10pm. In the event that there is remaining business by 9.55pm the Chair shall interrupt the meeting and call for a vote of Members present on whether the meeting shall continue for a further 30 minutes. If Members decide that the meeting shall not continue, or if there is remaining business after the additional period of 30 minutes, any item of the agenda that has not started to be considered by the Committee is delegated to the Director of Planning & Sustainable Regeneration to determine along the lines set out in the Committee report.

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

- 3.1 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.

- 3.2 The Mayor 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.
- 3.3 The Mayor will provide the Monitoring Officer with a list ('the Executive Scheme of Delegation') setting out who of the following are responsible for particular Executive functions:
- Mayor
  - the Mayor and Cabinet collectively; or
  - an individual Cabinet Member; or
  - a committee of the Cabinet; or
  - an officer; or
  - a ward councillor in accordance with Section 236 of the Local Government and Public Involvement in Health Act 2007; or
  - through joint arrangements.
- The Mayor may revoke any delegations at any time.
- 3.4 If the Mayor amends the Executive Scheme of Delegation the Mayor must provide the Monitoring Officer with an updated scheme within five working days.
- 3.5 In the event that the Mayor wishes to delegate executive decision-making powers to an individual Cabinet Member or Members; or to a ward councillor in accordance with Section 236 of the Local Government and Public Involvement in Health Act 2007, they will first need to take advice from the Monitoring Officer as to the appropriate rules that will need to be in place to govern the exercise of such powers before they are so exercised.

#### **4. CORPORATE DIRECTORS**

- 4.1. **The Council may appoint such officers as it considers appropriate for the discharge of its functions.** The following posts shall be Corporate Directors for the purposes of this Constitution **and which form the Corporate Management Team together with the Chief Executive and Assistant Chief Executive:**

Corporate Director /DCS Children, Young People & Education  
 Corporate Director/DASS Adult Social Care & Health  
 Corporate Director Sustainable Communities, Regeneration & Economic Recovery  
 Corporate Director Resources  
 Corporate Director Housing

The statutory officers are detailed in Article 12 of this Constitution.

#### **Delegations to the Chief Executive and Corporate Directors**

- 4.2. The Chief Executive has delegated to them 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 Mayor by Statute or this Constitution.



- 4.3 The Chief Executive and the Corporate Directors may exercise any functions of the Council or the Executive which have been delegated to any other officer and may delegate decisions or functions to one or more officers in any of the Council's Directorates, except when prohibited to do so by this Constitution or by law.
- 4.4 Until the Council decides otherwise the Chief Executive is appointed the Proper Officer for the purpose of all statutory provisions, whether existing or future, in respect of which no express Proper Officer appointment has, for the time being, been made.
- 4.5 The Corporate and Officer Schemes of Delegation are made under Section 101 of the Local Government Act 1972 and all other powers enabling such delegation. They delegate all the powers and duties necessary for the discharge of the Council's functions and not specifically reserved to the Mayor or the Mayor and Cabinet, the Council or a Committee or Sub-Committee of Council to the Officers. The delegations include:
- All functions powers and duties of the Authority, whether under any specific legislation identified in the scheme or not.
  - All powers incidental to Section 101 of the Local Government Act 1972 including the application of the incidental powers under Section 111 of the Local Government Act 1972 and including management of the human and material resources made available for the service areas unless specifically reserved to Council, a Committee or Sub-Committee of the Council or to the Mayor, the Mayor and Cabinet or a Cabinet Sub-Committee.
- 4.6 The Corporate and Officer Schemes of Delegations do not delegate:
- Any matter reserved to the Council by law or by Council's Constitution.
  - Any matter which is a function which cannot by law be discharged by an officer.
  - Any matter which is specifically excluded from delegation by this Scheme or by resolution of Council, a Committee or a Sub-Committee (in the case of a Council function), or the Mayor, Mayor in Cabinet or cabinet sub-Committee (in the case of an executive function)
  - Any matter where an Officer has declined to exercise delegated powers and instead reports to the Mayor, Executive or appropriate Committee.
- 4.7 This delegation is subject to:
- 4.7.1 the relevant Procedure Rules set out in this Constitution and such protocols as may be approved by a Committee or Sub-Committee from time to time and deposited with the Monitoring Officer;
  - 4.7.2 all Policies of the Authority;
  - 4.7.3 any consequent expenditure being included in the Council's Revenue Budget or approved Capital Programme;
  - 4.7.4 the requirements of the Tenders and Contracts and Financial Regulations;
  - 4.7.5 compliance with any legal requirements and the provisions of any statutory codes of conduct or statutory guidance;

- 4.7.6 the approval of the Director of Legal Services to the instigation and conduct and settlement of legal proceedings and to the engagement of any lawyer to act for the Council;
- 4.7.7 compliance with any legal requirements and the provisions of any statutory codes of conduct or statutory guidance;
- 4.7.8 the approval of the Chief People Officer 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.);
- 4.7.9 the approval of the Appointments and Disciplinary 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.

4.7.10 any instructions given by the Chief Executive.

4.8 Officers exercising delegated powers should also have regard to:

- any legal advice given by the Director of Legal Services
- any financial advice given by the Corporate Director Resources.
- any appropriate technical or other advice given by a suitably qualified Council officer.
- all other parts of this Constitution.

4.9 In exercising any delegated function, the following principles apply:

- Corporate Directors must ensure that this Scheme is fully implemented, monitored, maintained and regularly reviewed and any changes required to Directorate Schemes are reported to the Monitoring Officer.
- Corporate Directors and Directors may further delegate their powers to officers within their Directorate or withdraw powers provided that
  - a) such action is in writing, is subsequently included in the Directorate's Officer Scheme of Delegation and the Monitoring Officer is notified in writing.
  - b) any such delegation, while being as near to the point of service delivery as possible, is only to officers within their Directorate that hold the appropriate level of responsibility.

4.10 The Corporate and Directorate Schemes of Delegations will be superseded in any case where a Council or Mayoral decision expressly delegates any of the powers in this Scheme to a specific officer or officers whether for a single event, decision or transaction or permanently.

4.11 Where it is considered that in exercising a delegated power or duty a departure in policy, procedure or a significant change in financial practice is likely to be involved, the decision maker shall consult with the Director of Legal Services and/or the Corporate Director, Resources as appropriate, who shall, if necessary, refer the matter to the Mayor, the Mayor in Cabinet or the appropriate Council Committee/Sub-Committee.

- 4.12 Where any function is delegated to an officer, that officer may choose not to exercise that function and may instead refer a matter to Council, the Mayor, the Mayor in Cabinet, a Cabinet Sub-Committee or relevant Council Committee as appropriate with the agreement of the appropriate Corporate Director. The criteria that officers may have to consider when determining whether to exercise a function could include-
- Whether the decision may incur a significant social, economic reputational or environmental risk.
  - The likely extent of the impact of the decision both within and outside of the borough.
  - Whether the decision is likely to be a matter of political controversy.
  - The extent to which the decision is likely to generate substantial public interest.
- 4.13 If at any time, the Authority acquires a new duty, power or function, in the absence of any Member decision with regard to delegation, the Chief Executive and the Corporate Director with responsibility for the relevant service shall be deemed to have full delegated authority to discharge the duty, power or function on the authority's behalf unless it is expressly reserved to the Council, a Council Committee or Sub-Committee or the Mayor/Mayor in Cabinet either by law or in this Constitution.
- 4.14 Any function or power which may be discharged by a Corporate Director, may also be discharged by any person(s) formally "acting-up" into that post or an "interim" post holder or who is deputising (whether on a full, part time or on an ad hoc basis) for that post or occupies a successor post following any reorganisation, restructure or similar process.
- 4.15 The Mayor, Mayor in Cabinet, a Cabinet Sub-Committee or a Council Committee/ Sub-Committee may reserve to themselves decisions delegated to officers, by giving notice to the officer holding the delegated power or to the Chief Executive of their intention to do so.
- 4.16 References in the Corporate and/or Officer Schemes of Delegations to any statute, statutory instrument, regulation, rule, circular, agency or other agreement or any such matter in respect of which a power or duty is delegated shall be deemed to include any modification or re-enactment of the same as may be made from time to time.
- 4.17 The Mayor's delegation of Executive functions is contained in Part 6C of this Constitution. The Council's Scheme of Delegation to Officers is contained within this section of the Constitution (Responsibility for Functions) and the Mayor's Scheme of Delegation.

## **Functions of Statutory Officers and members of the Corporate Management Team**

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

- 4.18 The Chief Executive is appointed as Head of Paid Service under Section 4 of the Local Government and Housing Act 1989 to carry out the Council's statutory obligations to report to the Council as appropriate with regard to the way in which the overall discharge by the Council of its different functions is co-ordinated, the number and grades of staff required for the discharge of these functions, the way in

which these people are organised and managed, and the way in which they are appointed under that Act.

4.19 This post is responsible for the corporate and overall strategic management of the Council as a whole and is responsible for establishing a framework for management direction, style, culture and standards and for monitoring the performance of the Council. Its overriding responsibility is to the Council and not to the Mayor, any party-political group, or other grouping of Members. It must report to and provide information for the Executive, the full Council, the Scrutiny and Overview Committee and other Committees. The political neutrality of the office holder must be respected at all times.

#### 4.20 **Working with the Mayor.**

The Chief Executive works closely with the Mayor to assist in the development of the Mayor's strategic policy and to ensure that such is then put into practice and, in that regard, will:

- (i) Strategic direction. Ensure that the Mayor and Council's priorities and goals can be implemented in a timely, efficient and innovative way through focused strategies, projects and programmes.
- (ii) Policy advice. Act as the principal policy adviser to the Mayor and Members and will secure the best professional advice on all relevant matters in respect of the Council's functions and services. In consultation with the Monitoring Officer and Chief Finance Officer, the Chief Executive will take action 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.
- (iii) Partnerships (internal). Develop a professional partnership with the Mayor and Members to ensure that the Council's vision, goals and core values are made reality and to provide a clear sense of direction, optimism and purpose and marshal the resources of the whole organisation to this end.
- (iv) Partnerships (external). Assist the Mayor in partnership working by taking the lead in developing effective partnerships at management level with other public agencies, private companies and local community organisations to achieve better public services and improved results for local people.

#### 4.21 **Emergency or Extreme Urgency.**

- (i) The Chief Executive may exercise any executive function in cases of **emergency or extreme urgency** whether or not reserved to the Mayor, subject to complying with any statutory requirements and following the exercise of such power will provide a written report to the Mayor setting out the decision taken and the reason for it including the reasons for emergency or extreme urgency.
- (ii) The Chief Executive may exercise any non-executive function in cases of emergency or extreme urgency whether or not reserved to the Council, subject to complying with any statutory requirements and following the exercise of such power will provide a written report to the Council setting out the decision

taken and the reasons for it, including the reasons for emergency or extreme urgency.

#### **4.22 Ensuring overall correctness of decision making.**

- (i) The Chief Executive is also responsible for ensuring that all decisions made by the Mayor and the reasons for them are made public and will ensure that Council Members are aware of decisions made by the Mayor and of those made by officers who have delegated executive responsibility.
- (ii) If the Chief Executive considers that any proposal, decision or omission raises a significant concern it must be reported in writing by the Monitoring Officer to the Mayor in relation to an executive function or to the Council in relation to a non-executive function. Such a report will have the effect of immediately stopping the proposal or decision being implemented until the report has been considered. The report must be considered within 21 days at a meeting of either Council or the Mayor/Mayor in Cabinet as appropriate.
- (iii) As soon as practicable after either the Council or the Mayor/Mayor in Cabinet has considered this report, it shall prepare and publish a report that will include;
  - (a) what action it has taken in response to the report;
  - (b) what action it proposes to take in response to the report and when it proposes to take that action;
  - (c) the reasons for taking that action, or the reason for not taking any action.

The exercise of this function needs to be considered in conjunction with the Monitoring Officer ensuring lawfulness and fairness of decision making and the Chief Finance Officer to ensure lawfulness and financial prudence of decision-making.

#### **4.23 Management Structure.**

The Chief Executive will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers.

~~4.18.1 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.~~

#### **4.24 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.

#### **4.25 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.

### **Functions of the Monitoring Officer**

- 4.26 The Monitoring Officer is appointed under the provisions of s5 of the Local Government and Housing Act 1989 to be the Council's Monitoring Officer and to carry out the Council's statutory functions under that Act in respect of matters of legality, conduct, and probity. A Monitoring Officer Protocol is included at Part 5C of this Constitution.

#### **Maintaining and interpreting the Constitution.**

- 4.27 The Monitoring Officer shall maintain an up-to-date version of the Constitution including making such changes as envisaged by paragraph 15.02 of the Articles and shall ensure that it is widely available on the Council's website for Members, staff and the public to consult. The Monitoring Officer will monitor and review the operation of the Constitution and may make recommendations to ensure that the aims and principles of the Constitution are given full effect. The Monitoring Officer will advise as to the construction or application of the Constitution and will consult with the Chief Executive and Chief Finance Officer as required.

#### **Ensuring lawfulness and fairness of decision-making.**

- 4.28 After consulting with the Chief Executive and the Chief Finance Officer, the Monitoring Officer shall report to the Full Council, or the Leader Mayor 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. The report must be considered within 21 days at a meeting of either Council or by the Mayor/Mayor in Cabinet as appropriate.
- 4.29 As soon as practicable after Council or the Mayor/Mayor in Cabinet has considered the Monitoring Officer's report, it shall prepare and publish a report that will include:
- (i) what action it has taken in response to the report;
  - (ii) what action it proposes to take in response to the report and when it proposes to take that action;
  - (iii) the reasons for taking that action, or the reasons for not taking any action.

(The exercise of this function needs to be considered in conjunction with the function of the Chief Executive to ensure lawfulness and fairness of decision making and the function of the Chief Finance Officer to ensure lawfulness and financial prudence of decision-making).

### **Supporting the Ethics Committee.**

- 4.30 The Monitoring Officer shall contribute to the promotion and maintenance of high standards of conduct through provision of support to the Ethics Committee, in particular by:

**Receiving reports.** Receiving and having regard to recommendations from the Ethics Committee regarding Member conduct.

**Register of Interests.** Establishing and maintaining a Register of Interests of Members and Co-opted Members of the Council.

**Conducting investigations.** The Monitoring Officer shall conduct investigations into matters referred by the Ethics Committee including investigations required in accordance with the agreed arrangements for dealing with an alleged breach of the Code of Conduct by a Member, conducting or arranging for that investigation to be carried out and shall make reports and recommendations in respect of them to the Ethics Committee.

### **Dispensations where Disclosable pecuniary interests exist.**

- 4.31 The Monitoring Officer shall consider applications for a grant of a dispensation for a Member with a Disclosable Pecuniary Interest (DPI), Other Registrable Interest (ORI) or Non-Registrable Interest (NRI) in the following circumstances:

- (i) That so many Members of the decision-making body have DPIs, ORIs or NRIs in a matter that it would impede the transaction of the business; or
- (ii) 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; or
- (iii) That the dispensation is in the interests of persons living in the Borough; or
- (iv) That, without a dispensation, no Member of the Cabinet would be able to participate in consideration of this matter; or
- (v) That it is otherwise appropriate to grant a dispensation.

And may refer the dispensation request in relation to grounds (i) and (iv) above to the Ethics Committee to advise on or express a view should the Monitoring Officer consider it appropriate to do so. In respect of grounds (ii), (iii) and (v) above granting dispensations is a matter reserved to the Ethics Committee after consultation with the Independent Person. **The Monitoring Officer will report at least annually to Ethics Committee on any dispensations granted.** **Proper Officer for Access to Information.**

- 4.32 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.

**Advising whether decisions are within the Budget and Policy Framework.**

- 4.33 The Monitoring Officer shall advise whether decisions of the Council, a Committee, or Sub-Committee, the Mayor, the Cabinet, or Cabinet Committee or an Officer under their allocated or delegated powers are in accordance with the budget and policy framework.

**Providing advice.**

- 4.34 The Monitoring Officer shall provide advice on the scope of powers and authority to take decisions, maladministration, probity and Budget and Policy Framework issues to the Mayor and all Members.

**Restrictions on functions.** The Monitoring Officer cannot be the Chief Finance Officer or the Chief Executive but will liaise as appropriate with the Head of Paid Service in the discharge of their functions as Monitoring Officer.

**Functions of the Corporate Director of Resources as Chief Finance Officer**

- 4.35 The Corporate Director, Resources has the statutory responsibilities defined in section 151 of the Local Government Act 1972 and section 114 of the Local Government Finance Act 1988 as the Council's Chief Finance Officer to ensure the proper administration of the financial affairs of the Authority including:
- Leading development and implementation of the financial strategy necessary to deliver the Council's strategic objectives sustainably;
  - Promoting and delivering good financial management;
  - Leading the coordination and facilitation of a culture of efficiency and value for money
  - Implementation and maintenance of a framework of financial controls and procedures for managing financial risks;
  - Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
  - Providing financial information for decision makers (in conjunction with Senior Managers);
  - Ensuring that the annual statement of accounts is prepared in accordance with appropriate financial standards and within the statutory deadlines.
  - Preparing the revenue budget and capital programme relating to the General Fund and the Housing Revenue Account and Parking Places Reserve Account
  - Providing information and advice to those who officially scrutinise and review the authority.

**Ensuring lawfulness and financial prudence of decision-making.**

- 4.36 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.

- 4.37 Such a report will have the effect of immediately stopping the proposal or decision being implemented until such time as the report has been considered. Once Members have received the Monitoring Officer's report, the report must be considered within 21 days at a meeting of either Council or the Mayor as appropriate.
- 4.38 As soon as practicable after Council or the Mayor/Mayor in Cabinet has considered the report, it shall prepare and publish a report that will include:
- (i) what action it has taken in response to the report;
  - (ii) what action it proposes to take in response to the report and when it proposes to take that action;
  - (iii) the reasons for taking that action, or the reasons for not taking any action. The exercise of this function needs to be considered in conjunction with the function of the Monitoring Officer to ensure lawfulness and fairness of decision making and the function of the Chief Executive to ensure lawfulness and financial prudence of decision-making.

#### **Administration of financial affairs.**

- 4.39 The Chief Finance Officer shall have responsibility for the administration of the financial affairs of the Council, including:
- Determining the accounting procedures and records for the authority.
  - Maintaining a regular review of the Financial Regulations and issuing updates as necessary.  
Setting and monitoring compliance with financial management standards
  - Reporting breaches of the Financial Regulations to the Audit and Governance Committee and the external auditor.

#### **Contributing to corporate management.**

- 4.40 The Chief Finance Officer shall contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

#### **Providing advice.**

- 4.41 The Chief Finance Officer shall provide advice on the scope of powers and authority to take financial decisions, financial impropriety, probity and budget and policy framework issues to the Mayor and all Members and shall support and advise the Mayor and all Members and staff in their respective roles.

#### **Give financial information.**

- 4.42 The Chief Finance Officer shall provide requisite financial information to the media, members of the public and the community.

#### **Assets and disposals.**

4.43 The Chief Finance Officer is:

- (i) required to issue guidelines on best practice for the disposal of land based assets and to approve the purchase or sale of land if it has been declared surplus by the Mayor/Mayor in Cabinet and if authority to do so has been delegated to him/her;
- (ii) authorised to recommend to the Mayor/Mayor in Cabinet for acceptance, disposals which are proposed to be less than the unrestricted market value as defined by the General Disposal Consent (England) 2003 and/or where State Aid issues may arise. The report shall make the level of undervalue explicit and the report will need to set out the well-being benefits to be derived and provide a statement that the wellbeing “value” matches or exceeds the value foregone. Where a sale is pursuant to Section 123 Local Government Act 1972, Section 32 Housing Act 1985 or Section 25 Local Government Act 1988, consent of the Secretary of State may be sought as necessary, unless the sale falls within the General Housing Consents 2013 issued pursuant to powers contained in sections 32, 33 and 34 Housing Act 1985, 133 of the Housing Act 1988, which permit certain disposals to occur without the need to secure express consent.
- (iii) authorised to accept a late offer for land/property, with the prior agreement of the Director of Legal Services, if to do so, would ensure that the Council secures best consideration, provided other bids have not been opened.

#### **Restrictions of Functions.**

4.44 The Chief Finance Officer cannot be the Monitoring Officer.

#### **The Corporate Resources portfolio**

4.45 The Corporate Resources portfolio currently includes: Finance, Internal Audit, Insurance, Anti-Fraud and Risk, Treasury Management and Pensions, Commercial Investment and Property and Legal Services. These functions can be varied at any time by the Chief Executive, who may also allocate to the role additional functions and responsibilities.

#### **The Director of Legal Services**

4.46 The Director of Legal Services is authorised to:

- (i) institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where such action is considered to be necessary to protect the Council’s interests and may designate nominated officers to carry out this function on their behalf.
- (ii) consult with and instruct counsel, solicitors and other experts for legal proceedings, public inquiries, and other matters involving the Council, and

the negotiation and settlement of legal disputes on behalf of the Council, the Mayor, Mayor and Cabinet, Committees of the Council or officers and arrangements for their representation in any court, public inquiry or other forum where formal representation is considered to be proper, including the incurring of such fees in respect thereof as may be appropriate.

- (iii) sign any document that is necessary to any legal procedure or proceedings on behalf of the Council, or to authorise another to sign, unless any enactment otherwise authorises or requires, or the Council has given specific authority to some other person.
- (iv) sign contracts (and similar documents where intended to have legal binding effect) on behalf of the Council, where any required authority or approval of the Mayor/Mayor and Cabinet, a Committee or a Sub-Committee has been obtained, or where such authority has been delegated to another officer of the Council and that officer has requested the Director of Legal Services to do so.
- (v) keep the Common Seal of the Council in a safe place. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which should be sealed. The affixing of the Common Seal will be attested by the Director of Legal Services or any other duly authorised person.
- (vi) authorise officers to appear on behalf of the Council in proceedings in the magistrate' courts, pursuant to section 223 of the Local Government Act 1972.
- (vii) authorise officers to appear on behalf of the Council in any proceedings in the county court in relation to the recovery of possession of a house belonging to the Council or the recovery of any rent, mesne profits, damages or other sum claimed in respect of the occupation by any person of such a house, pursuant to section 60 of the County Courts Act 1984.
- (viii) contribute to the corporate management of the Council, in particular through the provision of professional legal advice.

### **Functions of the Corporate Director, Adult Social Care and Health**

4.47 The Corporate Director, Adult Social Care and Health is the Statutory Director of Adult Social care under s 6 of the Local Authority Social Services Act 1970 as amended by s18 of the Children Act 2004 and is responsible for the delivery of those local authority social services functions listed in Schedule 1 of the Local Authority Social Services Act 1970 (as amended), other than those for which the Director of Children Young People and Education is responsible, and the public health functions contained in the Health and Social Care Act 2012. The function includes the role of Caldicott Guardian.

4.48 The Corporate Director, Adult Social Care and Health is responsible for

implementing and ensuring compliance with any statutory guidance issued by the Department of Health or other Government department and is currently required to:-

- Assess local needs and ensure availability and delivery of a full range of local authority services;
- Give professional leadership, including workforce planning;
- Lead the implementation of standards;
- Manage cultural change;
- Promote local access and ownership and drive partnership working;
- Deliver an integrated whole systems approach to supporting communities; and
- Promote social inclusion and wellbeing.

4.49 The Adult Social Care and Health portfolio currently includes Adult Social Care and Health and Integrated Commissioning. These functions can be varied at any time by the Chief Executive, who may also allocate to the role additional functions and responsibilities.

### **Functions of the Corporate Director, Children, Young People and Education**

4.50 The Corporate Director, Children, Young People and Education is the Council's Statutory Director of Children's services under s 18(7) of the Children Act 2004 with statutory duties to discharge the education and children's social care functions of the local authority including those detailed as follows:

- (a) education functions conferred on or exercisable by the Council;
- (b) functions conferred on or exercisable by the Council which are social care functions so far as those functions relate to children;
- (c) the functions conferred on the authority under sections 23C to 24D of the Children Act 1989 (so far as not falling within paragraph (b));
- (d) the functions conferred on the authority under sections 10 to 12, 12C, 12D and 17A of the Children Act 2004;
- (e) any functions exercisable by the Council under section 75 of the National Health Service Act 2006 on behalf of an NHS body, so far as those functions relate to children;
- (f) the functions conferred on the Council under Part 1 of the Childcare Act 2006;
- (g) the role of Caldicott Guardian; and
- (h) any function conferred on the authority under section 2 of the Childcare Act 2016.

4.51 The Children, Young People and Education portfolio currently includes Children's Social Care; Education and Partnership, and Youth and Children's Commissioning. These functions can be varied at any time by the Chief Executive, who may also allocate to the role additional functions and responsibilities.

## **Functions of the Corporate Director, Sustainable Communities, Regeneration and Economic Recovery**

- 4.52 The Sustainable Communities, Regeneration and Economic Recovery portfolio currently includes responsibility for discharging all the Council's duties, powers and functions in the following areas:- Property and Major Programmes; Growth, Economic Development and Regeneration; Planning and Building Control; Public Realm (including Highways, Trading Standards and Environmental Health); Community Safety; Sports, Leisure, Libraries and Culture. These functions can be varied at any time by the Chief Executive, who may also allocate to the role additional functions and responsibilities.
- 4.53 The Corporate Director, Sustainable Communities, Regeneration and Economic Recovery is authorised to consider and determine any applications for licenses not specifically reserved to the Licensing Committee under the Constitution and all applications for licences where no objections have been received.

## **Functions of the Corporate Director, Housing**

- 4.54 The Housing portfolio currently includes responsibility for discharging all the Council's duties, powers and functions in relation to:
- i) properties held within the Council's Housing Revenue Account and properties held within the Council's General Fund and used as temporary accommodation;
  - ii) homelessness
- These functions can be varied at any time by the Chief Executive, who may also allocate to the role additional functions and responsibilities.
- 4.55 The Corporate Director Housing is authorised to approve any sale or lease of land pursuant to the Right to Buy or the Right of Enfranchisement under the Housing Act 1985, the Leasehold Reform Act 1967 or The Leasehold Reform Housing and Urban Development Act 1993 subject to compliance with the relevant statutory procedures.

## **Functions of the Assistant Chief Executive**

- 4.56 The Assistant Chief Executive portfolio currently includes responsibility for discharging all the Council's duties, powers and functions in the following areas:- HR and Organisational Development, IT, Customer Services, Public Health, Information Management, Freedom of Information and Subject Access Requests, Registrars, Elections, Mayoral Support, Coroner and Policy, Partnerships and Projects. These functions can be varied at any time by the Chief Executive, who may also allocate to the role additional functions and responsibilities.

### **The Director of Public Health**

- 4.57 The Director of Public Health is the statutory Director of Public Health under section

73 of the National Health Service Act 2006 as amended by s30 of the Health and Social Care Act 2012.

# 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 at any point during the meeting, 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, and/or interpretation of these Council Procedure Rules relating to the meeting . 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 or other registrable interest not already recorded on their register of interests or subject to a pending notification and any non-registrable interests as appropriate at the beginning of the meeting or as soon as the relevant item of business is reached. These disclosures and disclosures of non-registrable interests 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 Chair, Deputy Chair, Mayor, Cabinet Member, 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 Chair or another Member to chair the meeting if the Chair 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 refer an item of business to the Mayor (and/or Cabinet as appropriate) or a Committee;
- 6 permit the withdrawal of a motion or a question;
- 7 suspend specific Procedure Rules for the purpose stated in the Motion provided that at least one half of the whole Council are present;
- 8 proceed to the next item of business or put to a vote the matter under debate;
- 9 adjourn the debate or the meeting;
- 10 exclude the public from the meeting under statutory provisions for that purpose;
- 11 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. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chair on the matter will be final.
- 1.16 A Member may seek to make a personal explanation at any time during the course of another Member’s speech if they have been referred to by name or position, by declaring “point of personal explanation”, in which case the Chair shall ask the Member speaking to give way. A personal explanation may only relate to the statement made by the other Member in their speech. The ruling of the Chair on the admissibility of a personal explanation and the time allowed for any personal explanation will be final.
- 1.17 A Member may seek leave from the Chair to clarify a point made in an earlier speech by that Member if it appears from comments made in a subsequent speech that the earlier speech by the Member had been misunderstood. The ruling of the Chair on the admissibility of, and the time allowed for, any clarification will be final.

## **Voting**

- 1.18 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.
- 1.19 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.
- 1.20 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.
- 1.21 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.
- 1.22 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 Monitoring Officer 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 Monitoring Officer 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 Civic Mayor, Deputy Civic Mayor who shall be the Vice Chair of the Council meeting, other Members holding an Office of Special Responsibility; receipt of the Mayor's scheme of delegation; 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. The meeting will also receive a statement from the Mayor reflecting on the previous year and outlining their priorities for the year ahead; the Leader of the Opposition will be invited to respond. No other business shall be transacted at the Annual Meeting unless in the opinion of the Chair or the Monitoring Officer there is business that the Council is required urgently to consider before the next Ordinary Meeting.
- 2.4 The Chair shall determine the order of business for the meeting.

#### **Annual 'state of borough' debate**

The Chair of the Council may call a State of the Borough debate annually on a date and in a form to be agreed with the Mayor. The Chair will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the State of the Borough debate. Council Procedure Rules may be suspended by the Chair on the advice of the Monitoring Officer to ensure maximum flexibility. The debate will be chaired by the Chair. The results of the debate will be:

- i) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- ii) considered by the Mayor in proposing the budget and policy framework to the Council for the coming year.

#### **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.
- 2.9 Substitute Members may attend meetings in that capacity only
- i) to take the place of the ordinary Member for whom they are the designated substitute for that meeting;
  - ii) where the ordinary Member will be absent for the whole of the meeting.
- 2.10 A substitute is appointed after notification has been received by the relevant Democratic Services Officer by the start of the meeting.

### **Mayor, Cabinet and Shadow Cabinet**

- 2.11 The Mayor and up to nine other members of the Cabinet shall comprise 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 of which the Mayor is not a Member ('the 'Opposition') 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 Committee may agree on behalf of the Council and occasionally as the Chair shall direct during each Council Year.
- 3.2 Unless the Chair 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 Chair or the General Purposes Committee. Ordinary Council Meetings shall conclude by 9.30 p.m. The Council Tax Meeting shall conclude by 9.35 p.m.
- 3.3 In the event that the meeting has lasted for three hours the Chair shall interrupt the meeting and call for a vote of Members present on whether the meeting shall continue for a further 30 minutes.

3.4 If Members decide that the meeting shall not continue, or if there is remaining business after the additional period of 30 minutes, the Chair will decide if any of the remaining business is of sufficient importance to warrant an adjournment of the meeting and, if so, will declare the meeting adjourned to such date and time (prior to the next ordinary meeting of the Council) as they may direct at the time or afterwards.

3.5 With the exception of business so specified

the Chair shall put to the vote without further debate all outstanding Executive and Committee reports and motions on the agenda;

1) The Chair shall then close the meeting.

3.6 The date and time of any Special or Extraordinary Council Meeting may be determined by the Chair or the General Purposes Committee. On occasions when a Special or Extraordinary Meeting is on the same date as an Ordinary Meeting, the Chair or General Purposes Committee may determine the arrangements for a shortened Ordinary Council Meeting.

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

3.7 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 Chair, the Mayor, Head of Paid Service and/or Returning Officer;
6. Croydon Question Time: Public Questions from the public gallery
7. The Croydon Debate:
  - a) Borough Petition Debate;
  - b) Local Petition Debate.
8. Recommendations of the Executive or Committees referred to the Council for decision (if any);
9. Recommendations deferred for Debate;
10. Mayor and Cabinet Questions
11. 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.)

12. Council Debate Motions;
13. Any other relevant business specified in the Agenda, included at the discretion of the Chair or required by law;
14. Any exempt or confidential business where the Public are excluded from the meeting.

### **Agendas and Minutes**

- 3.8 The Monitoring Officer 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.
- 3.9 The Monitoring Officer 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.
- 3.10 The disclosure of any disclosable pecuniary interest, other registrable interest and/or non-registrable interest shall be recorded in the minutes of the meeting.
- 3.11 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**

- 3.12 Up to 5 minutes shall be available at each Ordinary Council Meeting for announcements by the Chair or other Member chairing the meeting; the Mayor; the Head of Paid Service; and/or the Returning Officer, and Monitoring Officer, 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**

- 3.13 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.
- 3.14 **Petitions: General requirements for all Petitions and Croydon Debate items**
  - 3.14.1 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.
  - 3.14.2 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

3.14.3 Petitions shall not be received or debated by the Council at the Annual or Council Tax Meeting.

3.14.4 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.

3.14.5 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.

3.14.6 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 Monitoring Officer 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.

3.14.7 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.

3.14.8 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.

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

3.15.1 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.

3.15.2 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.

3.15.3 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.

3.15.4 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.

3.15.5 Borough Petitions:

3.15.5 (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.

3.15.5(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.

3.15.6 Local Petitions

3.15.6(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.

3.15.6(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**

- 3.16 The Croydon Question Time item shall not be taken at the Annual Council Meeting or at the Council Tax Meeting.
- 3.17 The Croydon Question Time item shall comprise Mayor and Cabinet Questions and Public Questions at meetings.

### **Public Questions:**

- 3.18 Public questions can be asked of the Mayor 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.
- 3.19 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 the Mayor and any supplementary questions permitted under Paragraph 3.23.
- 3.20 A question may only be asked if notice has been given by delivering it in writing or electronic mail to the Chief Executive no later than midday of the 7<sup>th</sup> working day before the day of the meeting. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put.
- 3.21 At any one meeting no person may submit more than 1 question and no more than 1 question may be asked on behalf of one organisation.
- 3.22 Questions should be limited to a maximum of 100 words. The Chair, in consultation with the Monitoring Officer, may reject a question if it:
  - is not a matter for which the Council has a responsibility or which affects the Borough;
  - is defamatory, frivolous or offensive;
  - is substantially the same as a question which has been put at a meeting of the Council in the past 6 months; or
  - requires the disclosure of confidential or exempt information;
  - is submitted by a questioner who does not live, work or own property in the Borough, or;
  - relates to a current planning or licensing application or any 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;
  - relates to anticipated or ongoing litigation, conciliation or mediation or any

employment or personnel related issues or disputes;

- does not comply with the Code of Recommended Practice on Local Authority Publicity (2011);
- relates to a named member of staff.

If necessary, the Monitoring Officer shall provide guidance for members of the public and staff on the above.

- 3.23 Copies of all questions to be asked will be circulated to all Members and will be made available to the public attending the meeting.
- 3.24 Questions will be asked in the order notice of them was received, except that the Chair may group together similar questions. The questioner will read out the question as it appears upon the agenda. A copy of the intended response from the Mayor, Member of the Executive or relevant Chair of a Regulatory Committee to whom the question is put shall be provided to the questioner at the start of the meeting, to enable them to prepare a supplementary question to ask, if they so wish, with the Chair's permission. If a questioner who has submitted a written question is unable to attend the meeting, a copy of the answer given will be provided to them following the meeting.
- 3.25 The Chair, in consultation with the Monitoring Officer, may reject a supplementary question on any of the grounds in 3.21 above or if the question takes the form of a speech. All questions shall be put and answered without discussion.
- 3.26 Any question asked by a Member of the public together with the answer given shall be recorded in the minutes of the meeting.

### **Mayor and Cabinet Questions:**

- 3.27 This item is to enable Members to ask questions of the Mayor and Cabinet on issues of policy. Any questions of a purely factual or of a detailed nature may be noted at the discretion of the Chair and, if so, shall receive a written response within 3 weeks following the meeting. The responses shall be published on the Council's website.
- 3.28 The Chair, in consultation with the Monitoring Officer, may reject a question if it:
- is not a matter for which the Council has a responsibility or which affects the Borough;
  - is defamatory, frivolous or offensive;
  - is substantially the same as a question which has been put at a meeting of the Council in the past 6 months; or
  - requires the disclosure of confidential or exempt information;
  - relates to a current planning or licensing application or any 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;
  - relates to anticipated or ongoing litigation, conciliation or mediation or any employment or personnel related issues or disputes;
  - relates to a named member of staff.
- If necessary, the Monitoring Officer shall provide guidance for members and staff on the above.

- 3.29 The Mayor 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 Mayor, shall be 15 minutes. The first two minutes of the Mayor's 15 minute slot may be used by the Mayor to make any announcements.
- 3.30 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.
- 3.31 Representatives of political groups may give advance notice to the Monitoring Officer 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 Chair to call to ask a question of each Member of the Cabinet, including the Mayor. After those Members have been called, the Chair 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.
- 3.32 The Mayor 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**

- 3.33 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
- 3.34 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.
- 3.35 No Member Petitions shall be received at Annual Council or the Council Tax meeting.
- 3.36 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.
- 3.37 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.
- 3.38 A copy of the wording of any Petition to be submitted to the Council must be delivered to the Monitoring Officer, 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;

- 3.39 The Mayor 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 Mayor or the Leader of the Opposition under this item.
- 3.40 The wording of the motion shall be contained on the notice submitted to the Monitoring Officer. Such notices shall be received by the Monitoring Officer no later than noon of the seventh 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.
- 3.41 The Monitoring Officer shall be entitled to clarify the wording of motions or amendments prior to committing the motion or amendment to the agenda and shall be entitled to amend the wording of a motion or amendment in consultation with the proposer prior to the meeting to clarify, correct or make sense of the particular wording. Such clarification will always be required if a motion:
    - is not a matter for which the Council has a responsibility or which affects the Borough;
    - is defamatory, frivolous or offensive;
    - is substantially the same as a question which has been put at a meeting of the Council in the past 6 months; or
    - requires the disclosure of confidential or exempt information;
    - relates to a current planning or licensing application or any 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;
    - relates to anticipated or ongoing litigation, conciliation or mediation or any employment or personnel related issues or disputes;
    - relates to a named member of staff.
- 3.41 The Monitoring Officer shall consult the Chair if agreement on such clarification or amendment cannot be reached and the Chair may direct that the motion or amendment shall not be included in the summons.
- 3.42 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.
- 3.43 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.
- 3.44 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.

- 3.45 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.
- 3.46 Any Motion, which is listed, if not moved at the meeting shall be deemed to have fallen.
- 3.47 For the purposes of these rules, a Political Group shall be as defined by statute.
- 3.48 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**

- 3.49 In accordance with 2.03 the Annual report of the Scrutiny and Overview Committee shall be received at the Annual Council meeting.
- 3.50 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.
- 3.51 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.
- 3.52 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**

- 3.53 In accordance with 2.03 the Annual reports shall be received at the Annual Council meeting.
- 3.54 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.
- 3.55 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.
- 3.56 Any Member, except the secunder of the report, may ask the Chair or

Vice- Chair (as appropriate) not more than two questions on each paragraph of the report.

- 3.56 (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.
- (ii) The overall time available for this item will be ten minutes.

### **Recommendations from Executive and Committees**

- 3.57 The Mayor or Chair of the Committee making a recommendation from Executive or a Committee may exercise a right to introduce the recommendation; in so doing the Mayor or Chair of the Committee shall speak for a maximum of 3 minutes.
- 3.58 The recommendation shall be seconded and shall immediately be put to the vote unless moved to debate or deferred debate.
- 3.59 Any Member supported by a seconder, may ask that a recommendation be debated immediately and the recommendation shall be debated. The time available for Council to debate recommendations shall be no more than 21 minutes. In the event that the amount of time available to debate the recommendation prior to 9.30pm to debate the recommendation is less than 21 minutes, the Chair shall confirm that the Debate has been deferred.
- 3.60 The proposer of a Debate on a Recommendation 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 six speakers (including the proposer) called to speak in respect of each Recommendation.
- 3.61 At the conclusion of a Debate on a Recommendation it shall be put to the vote.
- 3.62 No more than one recommendation shall be the subject of debate at any one time.
- 3.63 In the event that any Executive, 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.
- 3.64 Save for the rules in respect of recommendations from Executive and Committees at 3.57 to 3.63, the rules in respect of Council Meetings in this section 3 do not apply in the event that the Council is being asked to consider a Budget or Policy proposal of the Executive within the meaning of the Budget and Policy Framework Procedure Rules at Part 4C of this Constitution. When considering a Budget or Policy proposal of the Executive within the meaning of the Budget and Policy Procedure Rules at Part 4C of this Constitution, the rules of that Part must be applied.

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

- 3.65 The rules in respect of recommendations from Executive and Committees at 3.57 to 3.63 do not apply to any recommendations contained in the Annual Report of the Scrutiny and Overview Committee.

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

- 3.66 Any Member supported by a seconder, may ask that a recommendation be deferred for debate and the recommendation shall immediately stand deferred.

### **Executive and Committee Recommendations referred back to Executive or Committee**

- 3.67 Should a Member move the referral back of a recommendation from Committee or the Executive for amendment or any other reason, the Member shall indicate in writing to the Chair their intention by way of the form of any amendment proposed to the recommendation, or the reason for the recommendation to be referred back to the Executive or relevant Committee for further consideration the later of 7 days prior to the meeting or within 24 hours of receiving the relevant report.
- 3.68 The time allowed for consideration of each Executive or Committee recommendation that is the subject of a referral back 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 member of the Executive 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.
- 3.69 If a Member simply seconds the motion they shall be deemed to have reserved the right to speak until later in the debate.
- 3.70 In the event that the amount of time available for the referral back debate prior to 9.30pm is less than 21 minutes, the Chair shall confirm that the referral back debate has been deferred.

### **Delegation of decision on recommendations**

- 3.71 In any circumstance where the Council decides not to take a decision on a recommendation, it may delegate that decision to such party as it sees fit consistent with its legal obligations

### **Suspension of Council Procedure Rules**

- 3.72 All of these Rules except for Paragraph 3.3 may be suspended by motion on notice or without notice by a simple majority vote. Suspension can only be for the duration of the meeting.

## **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 Chair 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 Chair, the Mayor, Head of Paid Service and/or Returning Officer;
6. Council tax and Budget report
  - Questions to the Mayor 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 Mayor and Cabinet Member for Finance**

- 4.3 This report will contain the recommendations of the Mayor on the Council tax and Budget to Council
- 4.4 This item is to enable Members to ask questions of the Mayor 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 Chair 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 Mayor 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 Mayor shall be 15 minutes. The first three minutes of the Mayor's 15 minute slot may be used by the Mayor 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 Monitoring Officer 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 Chair to call to ask a question. After those Members have been called, the Chair 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 Mayor 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 Mayor or other Cabinet Member to wind up the debate. The Mayor, 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
  - i) Council by resolution;
  - ii) Chair;
  - iii) Monitoring Officer, Chief Executive and/or the Chief Finance Officer;
- 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 Chair 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 Chair 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 Mayor, 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 Chair shall determine the order of business in respect of any Special Council Meeting.

# 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 Monitoring Officer 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 Monitoring Officer 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 Monitoring Officer shall make each such report available to the public and press and open to inspection as soon as the report is completed and sent to the Mayor and/or councillors as applicable.

## **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 Corporate 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 in breach of the obligation of confidence.

#### **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 Monitoring Officer 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: Mayor, 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 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 Nothing in these Rules prohibits the disclosure of a document, should it be appropriate to do so in the opinion of the Proper Officer, in which all confidential and exempt information or the advice of a political adviser or assistant has been redacted. Disclosure with one or more redactions would not be appropriate where, as a result of redacting information, the document or copy provided would be misleading or not reasonable comprehensible.

13.5 For the purposes of these Rules:

13.5.1 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.

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

13.5.3 Subject to 13.5.4,

- 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.

13.5.4 Paragraphs 13.5.1 - 13.5.3 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.

13.5.5 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;

13.7 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.

The public must be excluded from a meeting during an item of business whenever the decision-making body passes a resolution to that effect where it is likely, in view of the nature of the item of business, that if members of the public were present during that item, exempt information (as defined in Appendix 1) or confidential information would be disclosed to them in breach of the obligation of confidence. Such a resolution must:

- (i) identify the proceedings, or the part of the proceedings to which it applies; and
- (ii) state by reference to the descriptions at Appendix 1 the description of exempt information giving rise to the exclusion of the public.

The public may only be excluded under the provisions in rule 14 for part or parts of the meeting during which it is likely that confidential information or exempt information would be disclosed in breach of the obligation of confidence.



Without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting, the Executive and its Committees do not have the power to exclude members of the public from a meeting while it is open to the public.

While a meeting of the Executive or one of its Committees is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.

The Council must ensure that members of the public are aware that a meeting is to be broadcast where the Council or a person attending the meeting for the purpose of reporting proceedings intends to use facilities to record or broadcast the proceedings.

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

The Monitoring Officer 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 Monitoring Officer 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 Monitoring Officer 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 Monitoring Officer 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 Monitoring Officer 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.

The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer and their nominees are entitled to attend any meeting of the Executive and its Committees.

## **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 Chair of Council, or
- (c) if neither the Chairman of the Scrutiny and Overview Committee nor the Chair of Council is able to act, the Deputy Chair of Council.

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 Monitoring Officer 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 Monitoring Officer 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**

Executive decisions will only be deemed to have been made when they have been recorded and publicised in accordance with this Constitution.

As soon as reasonably practicable after any meeting of a decision-making body at which an executive decision was made, the Monitoring Officer 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 Monitoring Officer 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 Monitoring Officer 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 Corporate 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 Monitoring Officer 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 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 Monitoring Officer 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 Monitoring Officer 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 Chair of Council; or
- (c) where there is no Chairman of the Scrutiny and Overview Committee or Chair of Council, the Deputy Chair 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 Monitoring Officer 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 Mayor 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 Mayor 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 Mayor and/or Cabinet shall submit a report to the next available meeting of the Council. The report shall set out the date of the decision, particulars of the decision, the individual or body making the decision and if the Mayor is of the opinion that it was not a key decision, the reasons for that opinion. There should also be details of any alternative decisions that were considered and why they were rejected and the names of any member who has declared a conflict of interest in relation to the decision (if any). 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 Mayor shall submit to Council quarterly a 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 Monitoring Officer 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.



# 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 Executive to implement it.

### 2 Process for developing the Budget and Policy Framework

- (a) The Executive shall be responsible for the preparation of proposed plans, strategies or budgets that form part of the Budget and Policy Framework. For the purposes of these rules, 'plan or strategy' means:
- i) A plan or strategy specified in Article 4 (Appendix); or
  - ii) A plan or strategy for the control of the Council's borrowing or capital requirement; or
  - iii) Any other plan or strategy whose adoption or approval is a matter for determination by the Council by virtue of Regulation 146 5(1) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

The Budget shall mean:

- i) The identification and allocation of financial resources for the following financial year(s) by the Full Council including:
  - Revenue Budgets;
  - Capital Budgets;
  - The Council Tax base;
  - The Council Tax level;
  - Borrowing requirements;
  - Prudential indicators;
  - The Medium-Term Financial Strategy; and
  - The level of Uncommitted Reserves.
- ii) Any resolution of Full Council identified as a budgetary decision causing the total expenditure financed from Council Tax, grants and corporately held reserves to increase above that stated in the approved budget.

- (b) In respect of the adoption of plans and strategies comprising the Budget and Policy Framework the Scrutiny and Overview Committee shall have not less than four weeks to respond to the initial proposals referred to it unless the Mayor considers that there are special factors that make this timescale inappropriate.
- (c) The Mayor shall publish in advance a timescale for the Budget. The Chair of Overview and Scrutiny Committee will also be notified. The timescale will be subject to variation dependent on the timing of the Local Government Finance Settlement and the information available. This will be advised upon by the Chief Finance Officer.
- (d) It is open to the Scrutiny and Overview Committee to comment on the policy proposals and the Executive will take any response from the Scrutiny and Overview Committee into account in drawing up proposals for submission to the Council. The Executive's report to the Full Council will reflect how they have taken into account the recommendations of the Scrutiny and Overview Committee and/ or their reasons for not doing so.
- (e) The Full Council will consider the proposal and may by simple majority:
  - i) adopt the proposal or approve submission to the relevant Secretary of State (where that is required); or
  - ii) object to the proposal and instruct the Executive to reconsider in the light of those objections.

The instruction to the Executive will allow at least 5 working days for the Executive to either submit a revised proposal or to respond to the objections in relation to the original proposal, giving reasons for the response. In the event that sub-paragraph 2(e) has been recommenced, the proposal having not reached either outcome at sub-paragraph 2(h), the Executive must give particular consideration to whether a revised proposal is required.

- (f) If it accepts the recommendation of the Executive without amendment, the Council may make a decision, which has immediate effect.
- (g) The decision shall be publicised and a copy shall be given to the Executive.
- (h) Where the Council has objected to the proposal in accordance with sub-paragraph (e)(ii) above, the Full Council will, within 7 clear working days of receipt by the Chief Executive of the response of the Executive, consider that response and may either:
  - i) Approve the proposal: by a simple majority of those voting, approve the original or revised proposal for adoption or submission to the Secretary of State; or
  - ii) Make amendments: by a two thirds majority of those voting,

amend or modify the revised or original proposal.

In the event that neither outcome is achieved, the Chief Finance Officer will advise the Council of the minimum decisions and resolutions the Council must make at that meeting as required to comply with statutory requirements and:

- (i) If a decision on the Proposal is not identified by the Chief Financial Officer as required to be made at that meeting, the proposal fails and the process at sub-paragraph 2(e) must be recommenced; or
- (ii) If a decision on the Proposal is identified by the Chief Financial Officer as required to be made at that meeting, there will be no time limit on the length of the meeting and the Council shall continue to meet until it has reached a final decision on the matter.

The decision shall then be made public and may be implemented immediately;

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 Executive or Corporate 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) Once the Mayor's budget proposals are noted by the Cabinet prior to the period for consideration by the Overview and Scrutiny Committee, the political groups and/or any member of the Council, can choose to prepare an alternative budget or amendments. The Finance function will specifically assign a senior finance officer to each political group to support this exercise.
- (b) Consistent information will be made available to all groups but discussions and requests for supplementary information within the groups are confidential to that group. If similar requests are made by more than one group, officers will take steps to ensure there is no duplication of effort, whilst maintaining group confidentiality.
- (c) The alternative budgets / amendments produced must have the effect of providing the Council with a "balanced budget" as determined by the Chief Finance Officer, following which a budget motion can be submitted for presentation to Full Council.
- (d) Failure to comply with the process outlined in paragraphs 3a) – c) will not in any way invalidate the budgetary process and this convention is not enforceable by the Council or any Political party in any manner.
- (e) Any motions to amend the Executive's budget proposals will only be permissible if it has been

- (j) Provided to the Chief Finance Officer at least 7 working days prior to the Council's Budget Meeting; and
  - (ii) Certified by the Chief Finance Officer at least 2 working days prior to the Council's Budget Meeting as being reasonably calculated and sufficiently deliverable as to be robust and sustainable in the medium term and continue to ensure that reserves are maintained at an adequate level which protects the Council's financial standing.
- (f) Where, the Executive 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, then the dispute resolution process set out in paragraph 2 will apply.

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

- (a) Subject to the provisions of paragraph 6 (virement) below, the Executive or Corporate 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 Executive or Corporate 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.

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

- (a) The Executive 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 Chair of the Council will be sufficient. In the absence of both the Chair of the Scrutiny and Overview Committee and the Chair of the Council, the consent of the Deputy 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 Executive 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 Executive, 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 Executive with a copy to every Councillor. Regardless of whether the decision is delegated or not, the Executive must 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 Executive 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 Mayor and Cabinet together comprise the Executive. Decisions will be taken wherever possible following open discussion and trying to achieve consensus. These arrangements are therefore built around allowing the opportunity for debate whilst maintaining the clarity of strong personal leadership and personal responsibility for decisions.

The Mayor will determine a scheme of delegations (set out in Part 3 of this constitution) which may provide for Executive decisions to be made by:

- i. The Mayor, personally;
- ii. the Executive as a whole;
- iii. a Committee of the Executive;
- iv. an individual member of the Cabinet personally;
- v. the Chief Executive;
- vi. a Corporate Director;
- vii. joint arrangements;
- viii. another local authority.

Key Decisions (as defined in Part 4B – Access to Information Procedure Rules in this Constitution) may only be taken by the Mayor, the Executive, an Executive Committee, the Chief Executive in case of urgency, or by a Cabinet Member or officer using powers as specifically delegated by the Mayor.

#### 1.2 Delegation by the Mayor

- (a) At the annual meeting of the Full Council, the Mayor will provide to the Full Council details of a written scheme of delegations which they have made for inclusion in Part 3 of this Constitution. The scheme of delegations will include the following information about Executive functions in relation to the coming year:

- (i) the names and wards of the Members appointed to the Cabinet by the Mayor;
- (ii) the name of the Deputy Mayor, the extent of any delegations to them and the circumstances in which the Deputy may act in the place of the Mayor;
- (iii) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- (iv) the Terms of Reference and Constitution of such Executive Committees as the Mayor appoints and the names of Executive Members appointed to them;
- (v) the nature and extent of any delegation of Executive functions to any other authority or any Joint Arrangements and the names of those Executive Members appointed to any Joint Committee for the coming year; and
- (vi) the nature and extent of any delegation to Officers with details on the limitation on that delegation and the title of the Officer to whom the delegation is made.

### 1.3 Sub-delegation of Executive Functions

- (a) Where the Mayor, Executive, Cabinet, an Executive Committee or an individual Cabinet Member is responsible for an executive function, they may delegate further to a joint Committee or an Officer.
- (b) If the Mayor delegates functions to the Executive or Cabinet, then the Executive or Cabinet may delegate further to a Committee of the Executive or to an Officer.
- (c) Unless the Mayor directs otherwise, a Committee of the Executive to whom functions have been delegated by the Mayor may delegate further to an Officer.
- (d) 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.
- (e) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated the function.

### 1.4 Amendment of delegations by the Mayor

- (a) The Mayor may amend the scheme of delegation at any time during the year. To do so, the Mayor must give written notice to the Monitoring

Officer and to the person, body or Committee concerned. The notice must set out the amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any person, body or Committee or the Executive as a whole.

- (b) The Monitoring Officer will inform all Councillors of the change(s) made and any reasons given by the Mayor as soon as practicable.
- (c) Subject to the provisions for the removal of Cabinet Members from office, as set out in Part 1 of this Constitution, the change in delegation will take effect when the Monitoring Officer is notified.
- (d) The Monitoring Officer will report the change to the next available meeting of the Full Council and amend Part 3 of the Constitution accordingly.

### **1.5 The Council's Scheme of Delegation**

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.

Portfolio descriptions of Cabinet Members are set out within the Scheme of Delegation at Part 6C of this Constitution and on the Council's website ([www.croydon.gov.uk](http://www.croydon.gov.uk)).

Executive decisions will be made in accordance with the Protocol for Decision-Making at Part 5B of this Constitution.

Appendix 1 sets out the protocol to be followed by the appropriate decision maker in regard to approval of contractual and property transaction matters.

### **1.6 Disclosable Pecuniary Interests, Other Registrable Interests and Non Registrable Interests and Conflicts of Interest**

Executive 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.

Where the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Member or an Officer; should a conflict of interest arise, the function will be exercised by the person or body by whom the delegation was made.

### **1.7 Meetings of the Executive**

- (a) The Executive shall meet on the dates as determined annually by the Mayor. As Chair of the Executive, the Mayor may convene such

additional meetings of the Executive as are necessary to enable the efficient conduct of business, and may cancel or re-schedule meetings as necessary.

- (b) Meetings of the Executive 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.
- (c) It is a matter for the Mayor how Executive meetings are run. However, the Mayor shall generally adopt the principles applicable to all meetings to ensure sufficient debate and input to each item before a decision is taken.
- (d) In the event that the meeting has lasted for three hours and business remains outstanding, the Chair shall interrupt the meeting and call for a vote of Members present on whether the meeting shall continue for a further 30 minutes. If Members decide that the meeting shall not continue, or if there is remaining business after the additional period of 30 minutes, the Chair will decide if any of the remaining business is of sufficient importance to warrant an adjournment of the meeting and, if so, will declare the meeting adjourned to such date and time (prior to the next ordinary meeting of the Executive) as they may direct at the time or afterwards. With the exception of business so specified the Chair shall put to the vote without further debate all outstanding business on the agenda. The Chair shall then close the meeting.
- (e) Meetings of the Executive 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.
- (f) 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.

## 1.8 Quorum

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

## 1.9 Decisions taken by the Mayor and Cabinet

- (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) Where executive decisions are delegated to a Committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to the Executive as a whole.
- (c) All decisions taken individually by the Mayor alone or by individual members of the Executive, must be based on written reports. Those reports must contain all service, corporate, legal and financial implications. Individual decisions may only be made by the Mayor or individual members of the Executive in the presence of the Chief Executive, Chief Finance Officer or Monitoring Officer or their nominee (unless they waive that requirement) and the proper officer whose responsibility it is to record the decision.
- (d) Executive decisions taken by individuals will be recorded on a form for that purpose.
- (e) As soon as practical in each municipal year the Executive will seek to establish a programme of business for the remainder of the year to the extent that it is possible to do so and will publish all planned executive decisions on the corporate forward plan. Items for consideration by the Executive may be rescheduled as necessary during the course of the year.

#### 1.10 Recommendation to Council

Any recommendation of the Mayor, Executive, Cabinet and Executive Committee referred to the Full Council for approval may be made within the Business Report of the Mayor 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 Executive 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 Mayor. If the Mayor is absent then the Statutory Deputy Mayor 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 Executive the following business shall be conducted although the Leader shall have the power to determine the content and order of business:

- i) consideration of the minutes or decision record forms of the last meeting;
- ii) declarations of interest, if any;
- iii) matters referred to the Executive (whether by an Overview and Scrutiny Committee or by the Full Council) for reconsideration by the Executive in accordance with the provisions contained in the Scrutiny and Overview Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- iv) consideration of reports from Overview and Scrutiny (Sub) Committees; and
- v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

### **Placing items on the Executive agenda**

- 2.6 The Mayor may put on the agenda of any Executive meeting any matter which they wish, whether or not authority has been delegated to the Executive, a Committee of it or any Member or Officer in respect of that matter.

- (a) The following may require the Monitoring Officer to include items on the agenda for Executive meetings:
  - (i) The Mayor;
  - (ii) Any Member of the Executive;
  - (iii) The Full Council;
  - (iv) Scrutiny and Overview Committee;
  - (v) The Chief Executive, the Monitoring Officer and/or the Chief Finance Officer.

- (b) The Monitoring Officer will consult with the Mayor to ensure that the agenda is manageable in length. Only exceptionally shall more than two items from the Full Council or Scrutiny and Overview Committee be placed on the same agenda.

### **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 Executive or Executive 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 Mayor or Chair of a Executive 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 an Executive 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 Mayor and their delegations as approved by the Mayor are set out in Section 3 of these Rules.

## **3 COMMITTEES OF THE EXECUTIVE**

- 3.1 The Mayor may establish one or more Executive Committees to exercise specified delegated executive functions.. In addition the Mayor may from time to time establish ad hoc committees on a time-limited basis.

## PROTOCOLS OF THE EXECUTIVE

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

This Protocol applies to the Corporate Director/ DCS Children, Young People & 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 Corporate Director/DCS Children, Young People & 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 Corporate Director/DCS Children, Young People & 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 Mayor 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:

# 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 as 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 the Monitoring Officer in consultation with the Group Whips and the Chair of Scrutiny and Overview Committee following receipt of a notice of resignation to the Monitoring Officer.

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 co-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 6.30p.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 In the event that a meeting of a Scrutiny and Overview Committee scheduled to start at 5pm or later has lasted for three hours the Chair shall interrupt the meeting and call for a vote of Members present on whether the meeting shall continue for a further 30 minutes.
- 3.8 If Members decide that the meeting shall not continue, or if there is remaining business after the additional period of 30 minutes, the Chair will decide if any of the remaining business is of sufficient importance to warrant an adjournment of the meeting and if so will declare the meeting adjourned to such date and time (prior to the next ordinary Committee meeting) as they may direct at the time or afterwards.

3.9 Rules 3.2 to 3.8 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 at any point during the meeting, 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.

6.3 The work programme will be guided throughout the year by a Scrutiny Work Programming Group, which will meet regularly to consider the work programme, and bring forward changes and refinements based on information on the management of council, and other services provided to scrutiny members on a regular basis.

6.4 The membership of the Scrutiny Work Programming Group will consist of the three Scrutiny Chairs plus the Vice-Chairs from each of the three Sub-Committees. The Group will be chaired by the Chair of the Scrutiny and Overview Committee.

6.5 The Scrutiny Work Programming Group will plan detailed scrutiny activity throughout the year within a framework set by the Scrutiny and Overview Committee at the start of each council year, having regard to the available officer and other resources.

- 6.6 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. **The Scrutiny Work Programming Group will both look ahead to emerging strategic issues for the Council and consider urgent developing issues relevant to the remit of Scrutiny and Overview including performance.**
- 6.7 **Any changes made to the work programme as a result of the work of the Scrutiny Work Programming Group will be reported to the next available meeting of the Scrutiny and Overview Committee.**

## **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 Scrutiny Work Programming Group will consider such requests when planning detailed scrutiny activity throughout the year.**
- 7.3 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 forgoing, 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, setting out the recommendation to be considered



and the outcomes which the Committee considers will act as evidence that the recommendation has been successfully implemented.

- 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 Mayor or Executive for response shall be made by way of a report summarising the matter, setting out the recommendation to be considered and the outcomes which the Committee considers will act as evidence that the recommendation has been successfully implemented. As part of its notice of recommendations, the Scrutiny and Overview Committee or Sub-Committee will require that the Mayor or Executive, where it rejects a recommendation, provides reasons for doing so.
- 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 and shall be considered prior to any agenda item to which it relates. 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 respond 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 Scrutiny and Overview Committee and Sub-Committees will monitor progress in implementation of recommendations to the Council and the Cabinet.
- 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 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.
- 8.9 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.
- 8.10 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.

- 8.11 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
- 8.12 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 Where Scrutiny and Overview Committee or a Sub-Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at meetings.
- 10.3 Any investigations conducted by the Scrutiny and Overview Committee or a Sub-Committee are to be conducted in accordance with the following principles:
- (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 10.4 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 Call-in of executive decisions may take place in any circumstances but ordinarily should only be used where there is evidence which suggests that:
- (i) The decision maker did not take the decision in accordance with the principles set out in the Protocol for Decision Making (Part 5A of this Constitution); or
  - (ii) The decision maker acted contrary to the policy framework; or
  - (iii) the decision maker acted not wholly in accordance with the Council's budget; or
  - (iv) the decision maker failed to consider relevant evidence when taking a decision; or

the decision would not be in the interests of the borough's residents and a preferable alternative decision could be adopted.

- 11.5 Any request shall be made on a pro-forma, available from democratic services, which should be submitted to the Monitoring Officer 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.
- 11.6 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 voting 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.

- 11.7 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

- 11.8 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.

- 11.9 The referral shall be considered at the next scheduled meeting of the Scrutiny and Overview Committee unless, in the view of the Monitoring Officer, this would cause undue delay. In such cases the Monitoring Officer 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.
- 11.10 If the proposer/ supporters who initiated the Call-in want a person/s who is a Member or an officer of the authority to appear as a witness, then the permission of the Chair of Scrutiny and Overview Committee (who will agree with the appropriate Director) must be sought at least 5 clear working days prior to the date of the Call-in meeting, or with the permission of the Chair of Scrutiny and Overview Committee within 3 working days in exceptional circumstances in order to allow for members/ officers to be called.
- 11.11 At the meeting, the referral will 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 decision-maker for reconsideration, setting out in writing the nature of the concerns. The decision-maker shall then reconsider the decision, amending the decision or not, before making a final decision.
- 11.12 Where the Scrutiny and Overview Committee or Sub-Committee is of the opinion that an Executive decision is, or if made would be, contrary to or not wholly in accordance with the Budget and Policy Framework, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer. In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be presented to the Executive with a copy to every member of the Council.
- 11.13 The Executive must meet to decide what action to take in respect of the Monitoring 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 relevant Scrutiny and Overview Committee or Sub-Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- 11.14 The Scrutiny and Overview Committee may refer the decision to the Council if it considers that the decision taken by the Mayor 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 shall meet within 10 working days of the request by the Scrutiny and Overview Committee. 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.
- 11.15 If the Scrutiny and Overview Committee decides that no further action is necessary then the decision may be implemented.

- 11.16 If the Council determines that the decision was within the Budget & 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.
- 11.17 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.
- 11.18 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.
- 11.19 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 at least annually in a report to Council from the Mayor.

## **12. COUNCILLOR CALL FOR ACTION**

- 12.1 The Monitoring Officer will place an item on the agenda of the Scrutiny and Overview Committee at the request of any Member where that item refers to a "Councillor Call for Action". This must be a matter which is relevant to the functions of the Scrutiny and Overview Committee and is not:
- (i) A local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters);
  - (ii) A matter of any description specified in an order made by the Secretary of State for the purposes of Section 9FC of the Local Government Act 2000
- 12.2 The Committee will, at that meeting, discuss the matter and decide whether to make a report or recommendation to the relevant decision maker.
- 12.3 In deciding whether to exercise its powers in relation to a Councillor Call for Action the Scrutiny and Overview Committee may have regard to any powers exercisable by the member under Section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by councillors) and any representations by the member as to why it is appropriate for the Committee to exercise its powers.

- 12.4 If the Committee decides not to exercise its power in relation to the matter, it must notify the member of its decision and the reason for it.
- 12.5 Subject to provisions relating to confidential and exempt information in place from time to time, the Committee must give the referring member a copy of any report and/or recommendations it provides to the Chief Executive.
- 12.6 When the Scrutiny and Overview Committee makes a report and/or recommendations to the Council or to the Executive under the Councillor Call for Action, the Committee may publish its report and/or recommendations and must give notice in writing to the Council or the Executive requiring the Council or the Executive, within 2 months of receipt by the Council or Executive of the report/ recommendations or (if later) the notice:
- (i) to consider the report or recommendations;
  - (ii) to respond to the Scrutiny and Overview Committee indicating what (if any) action it intends to take;
  - (iii) if the Scrutiny and Overview Committee has published its report/ recommendations to publish its response; and
  - (iv) if the Scrutiny and Overview Committee provided a copy of its report/ recommendations to a member referring a matter to it, to provide a copy of the response to that member.
- 12.7 It shall be the duty of the Executive or Council served with a notice to respond to comply with the notice within 2 months of receipt of the report/ recommendations or, if later, the notice.

### **13 MEMBERS AND OFFICERS GIVING ACCOUNT**

- 13.1 Where Scrutiny and Overview Committee or Sub-Committee considers decisions or actions taken in connection with the discharge of any council function falling within its terms of reference, it may require any member of the Mayor and executive, the head of paid service and / or any Corporate Director or director to attend before it to explain in relation to matters within their remit:
- (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement council policy; and / or
  - (iii) the performance of their duties;
- and it is the duty of those persons to attend if so required.
- 13.2 The Chair of Scrutiny and Overview Committee and/or Sub Committee, in consultation with the spokespersons of the other political groups represented will decide whether any member of the Mayor and executive, the head of paid service and / or any Corporate Director or director should be required to attend a Scrutiny and Overview Committee or Sub Committee under this provision, and the proper officer will be advised accordingly.

- 13.3 The proper officer shall inform the relevant member(s) of the Mayor and executive, head of paid service and / or any Corporate Director or director of the requirement to attend a Scrutiny and Overview Committee or Sub Committee in writing giving at least 15 clear working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the commission. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 13.4 Only Members of the Scrutiny and Overview Committee or Sub Committee may ask questions of the Mayor/ executive member or officer called to give account.
- 13.5 Where, in exceptional circumstances, the relevant member(s) of the Mayor and executive, the head of paid service and / or any Corporate Director or director is unable to attend on the required date, then the Scrutiny and Overview Committee or Sub Committee shall in consultation with the relevant member(s) of the Mayor and executive, the head of paid service and / or any Corporate Director or director arrange an alternative date for attendance to take place within a maximum of 5 clear working days from the date of the original request. In setting the dates the proper officer will take into account exceptional circumstances.

#### **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**

1. To scrutinise:
  - 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.

12.4

**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 Local Government Act 2000 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, with the exception of the role of Independent Chair of Audit and Governance Committee, which is a four year term. 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 Monitoring Officer 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 Monitoring Officer 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 and Audit and Governance 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. Council will appoint an Independent Chair of Audit and Governance Committee for a four-year term. When meeting to recruit an Independent Chair of Audit and Governance Committee, the role of Chair of Appointments and Disciplinary Committee shall not be held by the Cabinet Member with responsibility for finance.
- 2.4 With the exception of Audit and Governance Committee, 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 Monitoring Officer. In the event of the absence of a Chair and Vice-Chair from a Committee or

Sub-Committee, the representative of the Monitoring Officer 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 Monitoring Officer 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 Monitoring Officer.
- 2.7 The Monitoring Officer 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 Committee, and the Committee shall resolve that a named Member be appointed to the vacancy.
- 2.8 The Monitoring Officer 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 In the event that a meeting of a non-executive committee (not including Planning or Planning Sub Committee, Licensing or Licensing Sub Committee) has lasted for three hours the Chair shall interrupt the meeting and call for a vote of Members present on whether the meeting shall continue for a further 30 minutes.
- 3.6 If Members decide that the meeting shall not continue, or if there is remaining business after the additional period of 30 minutes, the Chair will decide if any of the remaining business is of sufficient importance to warrant an adjournment of the meeting and if so will declare the meeting adjourned to such date and time (prior to the next ordinary Committee meeting) as they may direct at the time or afterwards.
- 3.7 With the exception of business so specified, the Chair shall put to the vote without further debate all outstanding reports on the agenda.
- 3.8 The Guillotine procedure for Planning and Planning Sub Committee is set out at section 6.8 of Part 4K – Planning and Planning Sub Committee Procedure
- 3.9 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 Monitoring Officer 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 Monitoring Officer 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 and Disciplinary 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 and Disciplinary Committee and Licensing Sub-Committees shall be as printed in the Council diary. Each Committee or Sub-Committee or the Monitoring Officer 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. A point of order may only relate to an alleged breach of these Non-Executive Committee Procedure Rules or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling on the Chair on the matter will be final.

9.7 A Member may seek to make a personal explanation at any time during the course of another Member’s speech if they have been referred to by name or position, by declaring “point of personal explanation”, in which case the Chair shall ask the Member speaking to give way. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood. The ruling of the Chair on the admissibility of a personal explanation and the time allowed for any personal explanation will be final.

9.8 A Member may seek leave from the Chair to clarify a point made in an earlier speech by that Member if it appears from comments made in a subsequent speech that the earlier speech by the Member had been misunderstood. The ruling of the Chair on the admissibility of, and the time allowed for, any clarification will be final.

## **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 If a demand is made at a meeting by the required number of Members, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered in to the minutes. The required number of Members is:

- (a) one third of the Members entitled to vote at the meeting; or
- (b) where the authority is divided into Political Groups, in accordance with the Local Government and Housing Act 1989, the number of seats on the Committee or Sub-Committee allocated to the second largest Political Group among the Members of the Council, whichever is the less.

10.4 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 and other registrable 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 and to declare any non-registrable interest. 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.

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

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

### 1 Departmental Schemes

- 1.1 This Constitution includes a range of delegations. Corporate 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 Corporate Director as their departmental scheme, which shall be deposited with the Monitoring Officer.
- 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 Corporate Director to decide what is reasonable in the context of their Department's needs and staffing structure. It would not be unreasonable for a Corporate Director to delegate the entirety of his/her 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 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 Director of Legal Services.
- 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 Director of Legal Services 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 Corporate 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 Mayor, 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 Mayor/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:

# **Part 4.1 of the Council Constitution**

## **Tenders and Contracts Regulations 2019**

These Regulations form part of the Constitution 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 at or above the Low Value Threshold .
- 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 at or over the Low Value Threshold 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 Commercial Investment as Chair of the Contracts and Commissioning Board;

- h. Ensure that any third party participating in the procurement or supervising a Council Contract agrees, in writing, to comply with these Regulations as if they were Officers of the Council;
  - i. Approve the award and spend of written quotations under the Low Value Threshold in consultation with the Head of Strategic Procurement, and in accordance with Regulation 11 to ensure value for money.
  - j. Ensure their contract managers have kept contract documentation in line with Croydon's document retention policy and uploaded onto the Council's contract management system.
- 5.2** 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.
- 6. Declaration of Interest:**
- 6.1** Any Officer must declare to their Director or Corporate Director any personal interest in a matter they are dealing with, including one, which may impinge on their impartiality to apply these Regulations.
- 6.2** No Member, Officer or agent of the Council shall improperly use his or her position to obtain any personal or private benefit from any contract entered into by the Council.
- 6.3** It is a requirement that all officers and external advisors complete the Declaration of Confidentiality and Interest Form and comply with the Council's Code of Conduct prior to any involvement in drafting of Council's Tender Documents, Quotations or any involvement in evaluation of tenders and the management of the contract. This is to ensure that the Council's procedures including confidentiality are complied with in accordance with these Regulations.
- 6.4** In the event that a conflict of interest arises during the life of the contract, all Council officers must notify their Director or Corporate Director, in writing, as soon as is reasonably practicable. This not only includes personal conflicts, but also extends to any suspected/known conflicts of interests in relation to any internal or external matters/personnel

## **Section 2 – Make or Buy**

### **7. Pre Procurement**

- 7.1** Any new commissioning of services including existing services where the contract is due to end, must consider the Make or Buy decision, in line with the Council's' Commissioning Framework and guidance in the Procurement and Contract Management Handbook. The Director responsible must submit a

report to CCB for agreement to the proposed outcome for values at or over the Low Value Threshold .

- 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 at or above the Low Value Threshold. 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 Head of Strategic Procurement & Governance. 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. For the purposes of approvals and other requirements of these Tenders and Contracts 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 at or above the Low Value Threshold and to the satisfaction of the Strategic Procurement Manager for spend below the Low Value Threshold, 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 Procurement below the Low Value Threshold**

**11.2.1** For all contracts with an estimated value of below the Low Value Threshold the following thresholds apply:

<b>Contract Value</b>	<b>Procedure</b>	<b>Approval</b>
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 and up to Low Value Threshold	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 Commercial Investment 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 (Low Value Threshold and above)**

**11.3.1** For all contracts with an estimated value at or above the Low Value Threshold, 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.

<b>Approval Required</b>	<b>Chair of CCB Approval</b>	<b>Cabinet Member Approval</b>	<b>Cabinet Approval</b>
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	Low Value Threshold up to £500,000	Over £500,000 up to £5,000,000	Over £5,000,000
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**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 the Low Value Threshold any waivers must be signed by the relevant Director of the service area in consultation with either the Head of Strategic Procurement or Sourcing Managers of the Central Buying Team.

**19.2** Over and above this, the Director of Commercial Investment (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 at or above the Low Value Threshold 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 a Corporate Director such report shall also be provided to the relevant Corporate 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 the Low Value Threshold .
- 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 at or above the Low Value Threshold 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 Head of Strategic Procurement & Governance 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 rationale for the percentage split between cost and quality 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 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 at or 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 Commercial Investment 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.

- I. 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 Contractor's 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 Director of Legal Services.

**24.2** The Director of Legal Services or other person authorised by the Director of Legal Services ('Authorised Signatory') must sign every written contract valued at or above £100,000 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 or above £100,000 if specifically authorised in writing to do so by the Director of Legal Services.

**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 of 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 Head of Strategic Procurement & Governance 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 Head of Strategic Procurement and Governance 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 Senior Procurement Governance Officer.

**26.6** In exceptional circumstances, the Director of Commercial Investment following advice from the Head of Strategic Procurement and Governance may approve the delegation of the opening of tenders received via the Council's e-tendering portal to the Senior Procurement Systems Officer or a Procurement 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 Head of Strategic Procurement and Governance 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 at or above the Low Value Threshold 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 Strategic Procurement Manager prior to departmental review by; the lead Director, the Head of Litigation and Corporate Law, the Director of Finance, and Chief People Officer. 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 the Low Value Threshold 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 the Low Value Threshold 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 awarded by a decision of the nominated Cabinet Member under Regulation 28.4c will be reported to the subsequent Cabinet meeting on a quarterly basis.
- 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 Director of Legal Services 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 Director of Legal Services.
- 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 the Low Value Threshold (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 Head of Strategic Procurement & Governance 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 £ at or above the Low Value Threshold, 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 or above the Low Value Threshold 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 procurement activity. This may include a variety of roles including Strategic Procurement Manager.
<b>Call-off Contracts</b>	Contracts selected and awarded from an existing Framework Agreement or DPS.
<b>Chair of CCB</b>	The Director of Commercial Investment.
<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 responsible for the Council's Tenders and Contracts Regulations
<b>Central Buying Team</b>	The Council's central Buying Team within the Procurement Division responsible for all goods & services procurement below the Low Value Threshold
<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>Corporate Director</b>	The Chief Executive; <b>or</b> A head of one of the following departments or any successor to them: Corporate Director Resources; Corporate Director Sustainable Communities, Regeneration & Economic Recovery; Corporate Director Children, Young People & Education; Corporate Director Adult Social Care & Health; Corporate Director Housing; Assistant Chief Executive; Executive Director of Gateway, Strategy & Engagement; who under their scheme of authorisations can exercise the powers referred to in these Regulations.
<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: <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>
<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> Corporate 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. i. Criteria used in the SQ are referred to as 'selection criteria'. ii. 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 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>Audit Committee</b>	The 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> Audit Committee 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 Threshold</b>	£177,898 <sup>1</sup> (such figure to be adjusted in line with periodic changes to the threshold applicable to Supplies and Services in the PCR 2015)
<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 Corporate 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

<sup>1</sup> This figure applies to all Contracts regardless of whether for goods, services or works

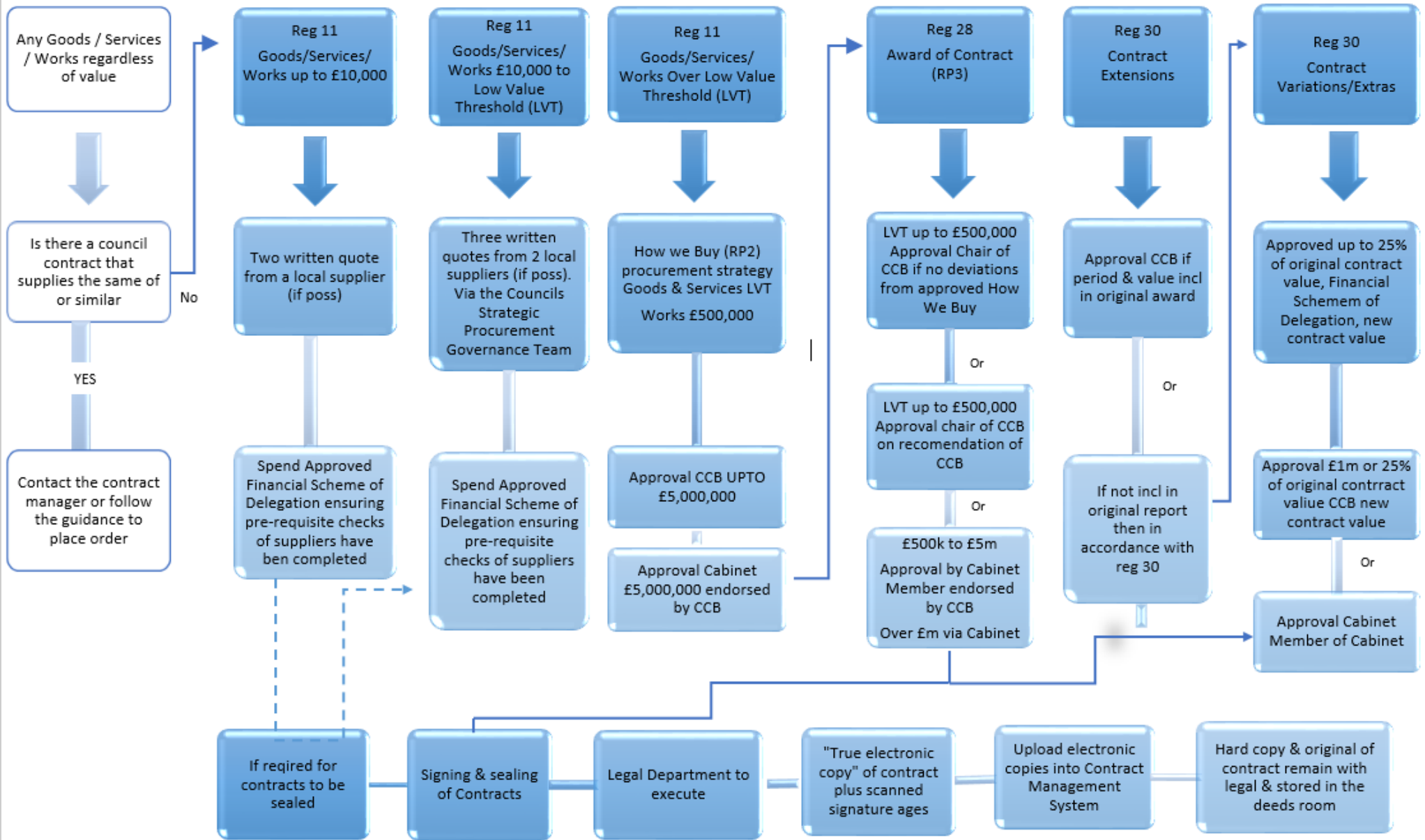
	technical specification of how the service is to be provided.
<b>Parent Company Guarantee</b>	Parent Company Guarantees are provided by either the contractor's immediate parent or other holding company and operate as a guarantee to ensure a Contract is properly performed and completed. In the event of a contractor default, the parent is obliged to remedy the breach.
<b>PCR 2015</b>	The Public Contracts Regulations 2015 and any superseding 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 Corporate Director Resources 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

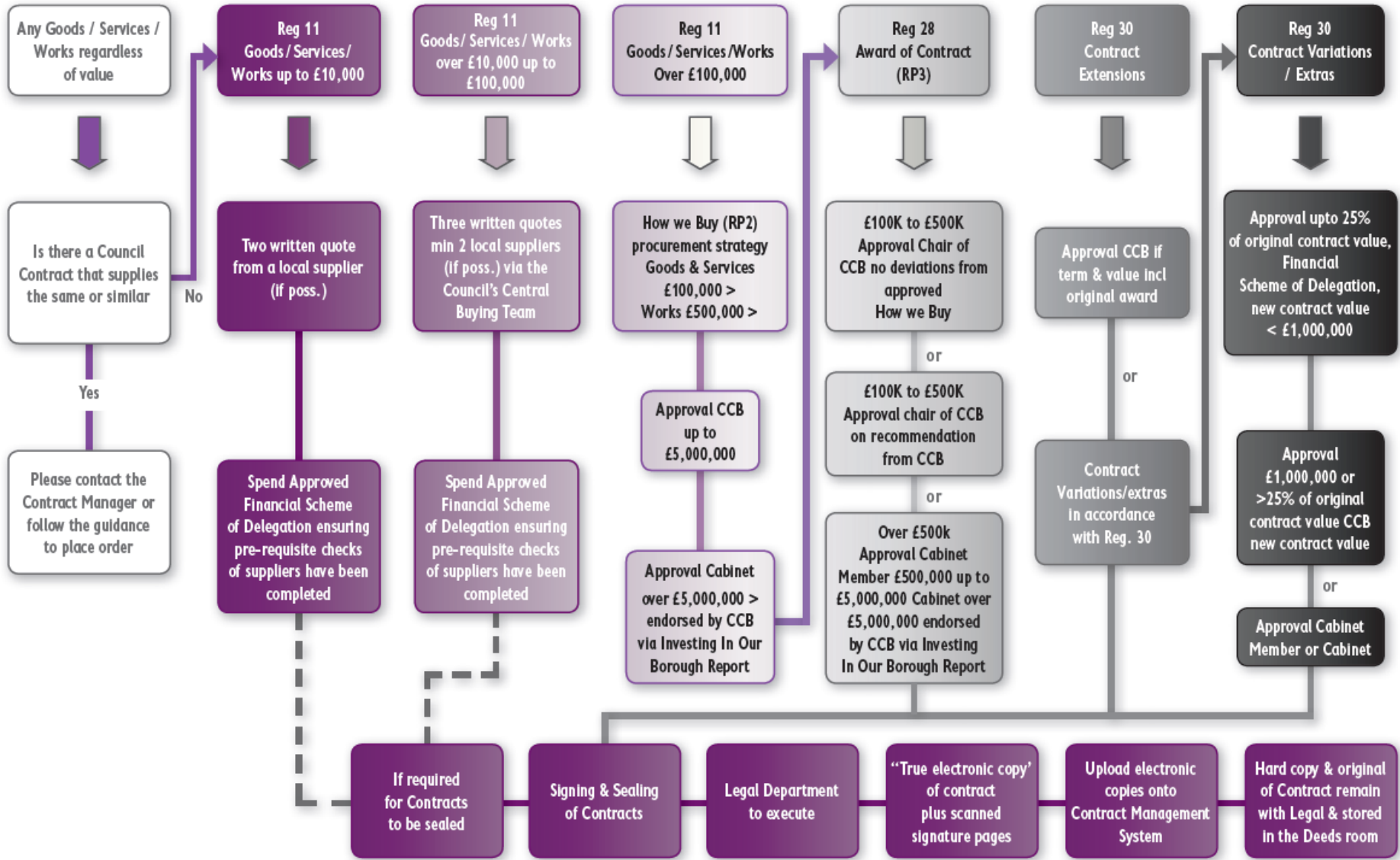
	<p><b>2. either turnover or balance sheet total.</b></p> <table border="1"> <thead> <tr> <th>Company category</th> <th>Employees</th> <th>Turnover</th> <th>Balance sheet total</th> </tr> </thead> <tbody> <tr> <td>Medium-sized</td> <td>&lt; 250</td> <td>≤ € 50 m</td> <td>≤ € 43 m</td> </tr> <tr> <td>Small</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> <p>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.</p>	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
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														
<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 Approvals Flowchart – Appendix B

March 2022





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# 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) of the Local Government and Housing Act 1989

- 1.2 Subject to paragraphs 1.3, 3.1 and 4.1 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 proposes 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 a Corporate Director, except where a Corporate 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, Monitoring Officer and Chief Finance Officer**

- 3.1 (1) Where a committee or sub-committee is discharging, on behalf of the Authority, the function of the appointment of the Head of Paid Service, Monitoring Officer or Chief Finance Officer 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, Monitoring Officer or Chief Finance Officer at least one Member of the Executive must be a member of that committee or sub-committee.

### 3.2 Appointment of a Chief Officer

- (1) Paragraph 1.2 shall not apply to the appointment of Chief Officers, including the Head of Paid Service, Monitoring Officer and Chief Finance Officer. For such appointments the function will usually be carried out by the Appointments and Disciplinary 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 (including the Chief Finance Officer and Monitoring Officer) for up to six months subject to the notification requirements in 3.4 below and notifying that temporary appointment to the next meeting of full Council.

### 3.3 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 Mayor 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 Mayor to the proper officer; and
  - (c) either -
    - (i) the Mayor has, within the period specified in the notice

under sub-paragraph (b)(iii), notified the appointor that neither he/she nor any 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 Mayor; or
- (iii) the appointor is satisfied that any objection received from the Mayor 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:

4.1.1 the Head of Paid Service;

4.1.2 the Chief Finance Officer;

4.1.3 the Monitoring Officer.

4.2 Where a 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.

4.3 Consideration of disciplinary action which could result in dismissal or any disciplinary action short of dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer will be the responsibility of the Appointments and Disciplinary Committee set up for this purpose. The Appointments and Disciplinary Committee shall include at least one Member of the Executive when consideration is being given to dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.

4.4 Any such Appointments and Disciplinary Committee shall consider the matter in accordance with the processes and procedures approved by Ethics Committee for this purpose. and prepare a written report including its recommendations.

4.5 Where the recommendation of the Appointments and Disciplinary Committee falls short of dismissal, the action shall be taken by the Committee itself.

4.6 Where the Appointments and Disciplinary Committee recommends dismissal, the matter will be referred to the Independent Panel who will prepare an independent report and recommendations to Full Council for consideration and final determination Council.

- 4.7 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 and Disciplinary Committee and Independent Panel;
  - b) the conclusions of any investigation into the proposed dismissal; and
  - c) any representations from the relevant officer.
- 4.8 Where the Appointments and Disciplinary Committee has made a proposal to dismiss a statutory officer, a hearing by the Council will fulfil the appeal function. The decision of the Council will be final.
- 4.9 Where the Appointments and Disciplinary Committee takes action short of dismissal, the statutory officer may appeal to the Appeals Committee.
- 4.10 Suspension: The Head of Paid Service, Chief Finance Officer or Monitoring Officer may be suspended by resolution of the Appointments and Disciplinary Committee on normal pay while a disciplinary investigation and disciplinary proceedings are conducted into alleged misconduct or gross incapability.
- 4.11 Provisional / Urgent Suspension: Where it is not possible to convene the Appointments and Disciplinary Committee at short notice, the Chief People Officer (or officer in that role), having taken legal and HR advice and in consultation with the Chair of Appointments and Disciplinary Committee may temporarily suspend the Head of Paid Service, Chief Finance Officer or Monitoring Officer for up to ten days pending the Appointments and Disciplinary Committee being convened to consider suspension under paragraph 4.10 above.
- 4.12 (a) Provisional / Urgent Suspension of Non-Statutory Chief Officers: In exceptional circumstances, the Chief People Officer (or officer in that role), having considered both legal and human resources advice, may temporarily suspend a Non-Statutory Chief Officer for up to ten days pending full initial assessment of the allegations against the Non-Statutory Chief Officer by the Chief Executive or their nominated representative.
- 4.13 Suspension in accordance with paragraph 4.11 and 4.12 and 4.8 (a) shall be exercised within the following parameters:
- a) that the decision maker take both HR and legal advice in advance of exercising such power;
  - b) that the suspension does not itself constitute disciplinary action nor does it imply guilt;
  - c) that the officer is suspended on normal pay;
  - d) that Appointments and Disciplinary Committee identify any protocols necessary for the management of the suspension;
  - e) that the officer is notified of the reason for the suspension and has the

- right to present information before the decision is taken;
- f) that the suspension be reviewed by the Appointments and Disciplinary Committee on a monthly basis;
- g) where further relevant information arises, the Chief People Officer will consult with the Chair of Appointments and Disciplinary Committee and may lift the suspension and reinstate the officer;
- and
- h) in the case of paragraph 4.8 - that an Appointments and Disciplinary Committee is convened to consider whether to exercise the power of suspension within paragraph 4.5 within, if practical, 10 working days following the decision to provisionally suspend.

#### 4.14 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 the Mayor and 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 Mayor on behalf of the Executive to the proper officer; and
  - c) either -
    - (i) the Mayor 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

- (3) (iii) the dismissor is satisfied that any objection received from the Mayor within that period is not material or is not wellfounded. Where the dismissor is satisfied that a material objection has been raised under this procedure, the Appointments and Disciplinary Committee will be reconvened to consider the objection and satisfy itself as to whether any of the objections are both material and well-founded.

#### 4.15 **Independent Panel**

In respect of the Head of Paid Service, the Chief Finance Officer and Monitoring Officer, an Independent Panel constituting at least two Independent Persons as appointed by the Ethics Committee from time to time will advise the Council on any recommendation from Appointments and Disciplinary Committee to dismiss the officer. Following any disciplinary hearing the outcome of which is a proposal to dismiss, the Independent Panel's views must be reflected specifically in the Report to full Council setting out the Appointments and Disciplinary Committee's recommendations. The full Council shall have regard to the recommendations of General Purposes Committee and the Independent Panel in reaching its decision on the matter.

#### 4.16 **Appeals Committee**

When considering appeals against action short of dismissal, the Committee will:

- i) consider the report of the Independent Investigator and any other relevant information considered by Appointments and Disciplinary Committee;
- ii) listen to the statutory officer state their case;
- iii) conduct any further investigation it considers necessary to reach a decision
- (iv) take a decision either to confirm the action or to impose no sanction or a lesser sanction.

4.17 The decision of the Appeals Committee will be final.



# 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.
- 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, other registrable interest or non-registrable interest, they may only participate in any discussion of or vote on any matter in which they have a disclosable pecuniary interest, other registrable or non-registrable 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, other registrable or non-registrable interest, the Member may only participate in any discussion of or vote on any matter in which they have a disclosable pecuniary, other registrable or non-registrable 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 Planning Committee and Planning Sub-Committee shall ordinarily conclude by 10:00pm. In the event that there is remaining business

at 9.55pm the Chair shall interrupt the meeting and call for a vote of Members present on whether the meeting shall continue for a further 30 minutes.

- 6.9 At a meeting of the Planning Committee, if Members decide that the meeting shall not continue, or if there is remaining business after the additional period of 30 minutes, any item of the agenda that has not started to be considered by the Committee is delegated to the Director of Planning and Sustainable Regeneration 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.
- 6.10 At a meeting of the Planning Sub-Committee, if Members decide that the meeting shall not continue, or if there is remaining business after the additional period of 30 minutes, any item of the agenda that has not started to be considered by the Committee is delegated to the Director of Planning and Sustainable Regeneration to determine along the lines set out in the Committee report.

### **Role of the Committee Chair**

- 6.11 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.
- 6.12 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.



- 6.13 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.
- 6.14 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**

- 6.15 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
- 6.16 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 Monitoring Officer may make such consequential changes as are necessary to take such changes into account

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# ~~CONSTITUTION OF THE LONDON BOROUGH OF CROYDON~~

## ~~Part 4 - PROCEDURE RULES~~

### ~~PART 4.0 REMOTE MEETINGS PROCEDURE RULES~~

~~These Procedure Rules clarify the Council's temporary legal powers to hold meetings via telephone audio conference, video conference or other electronic means to avoid convening public gatherings during the COVID 19 public health emergency.~~

~~In any instance where these Remote Meetings Procedure Rules conflict with other Procedure Rules or other sections of the Constitution these Procedure Rules prevail until 7 May 2021.~~

#### ~~1A Access to Information~~

~~For all purposes of the Constitution, the terms "notice", "summons", "agenda", "report", "written record" and "background papers" when referred to means a document that is:~~

~~(a) "open to inspection" which shall include for these and all other purposes being published on the website of the Council; and~~

~~(b) 'to be published, posted or made available at offices of the Authority' shall include publication on the website of the Council.~~

#### ~~2A Remote Access to Meetings~~

~~(a) For all purposes of the Constitution the term "meeting" is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to:~~

~~(i) "place" is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers; and~~

~~(ii) "open to the public" includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend the meeting in person; and~~

~~(b) If the Chair is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chair shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chair. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.~~

### **3A Members in Remote Attendance**

~~(a) A Member in remote attendance is present and attends the meeting, including for the purposes of the meeting's quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:~~

- ~~(i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Members in attendance.~~
- ~~(ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and~~
- ~~(iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.~~

~~(b) A Member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in (a) above are not met. In such circumstance the Chair may, as they deem appropriate;~~

- ~~(i) adjourn the meeting for a short period to permit the conditions for remote attendance of a Member contained in (a) above to be re-established;~~
- ~~(ii) count the number of Members in attendance for the purposes of the quorum;  
or~~
- ~~(iii) continue to transact the remaining business of the meeting in the absence of the Member in remote attendance.~~

### **4A Remote Attendance by Members of the Public**

~~(a) A member of the public entitled to attend the meeting in order to exercise a right to speak at the meeting is in remote attendance at any time if all three of the following conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:~~

- ~~(i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, Members in attendance;~~
- ~~(ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and~~
- ~~(iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.~~

~~(b) A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for~~



~~remote attendance contained in Standing Order 4A(a) above are not met. In such circumstance the Chair may, as he or she deems appropriate:~~

- ~~(i) adjourn the meeting for a short period to permit the conditions for remote attendance contained in Standing Order 4A(a) above to be re-established;~~
- ~~(ii) suspend consideration of the item of business in relation to the member of public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the member of the public's remote attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or~~
- ~~(iii) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.~~

### **5A Remote Voting**

~~Unless a recorded vote is demanded (where this is permitted in the Constitution), [which must be confirmed by the requisite number of Members confirming the demand verbally when requested by the Chair,] the method of voting will be at the Chair's discretion and will be by one of the following methods:~~

- ~~(a) by use of the electronic voting system[s] for Remote Voting and voting in the Chamber or where an electronic voting system is not working correctly or is unavailable;~~
- ~~(b) by the affirmation of the meeting if there is no dissent [by assent]; or~~
- ~~(c) the Chair will take the vote by roll-call and the number of votes for or against the motion or amendment or abstaining from voting will be recorded.~~

### **6A Members excluded from the meeting**

~~Where a Member is required to leave the meeting, the means of remote attendance and access is to be severed whilst any discussion or vote takes place in respect of the item or items of business which the member or co-opted member may not participate.~~

## **Part 40 (i) REMOTE MEETINGS PROTOCOL**

### **Introduction and Application of the Remote Meetings Procedure Rules**

This Protocol and accompanying Remote Meetings Procedure Rules ('Procedure Rules') set out rules and guidance for the conduct of any remote meeting of the Council, and its various Committees and Sub-Committees, held under the provisions of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 ('the Regulations').

This Protocol and Procedure Rules should be read in conjunction with the Council's Standing Orders and Procedure Rules within the Constitution. The Regulations, made under section 78 of the Coronavirus Act 2020, apply notwithstanding any other legislation or current or pre-existing standing orders or any other rules of the Council governing meetings and remain valid until 7 May 2021. This means that, wherever there is a conflict, the Regulations take precedence in relation to any remote meeting.

The effect of the Regulations on the Council's Constitution is to insert what are, in effect, a set of rules for the Council when it wishes to hold meetings remotely, either wholly or partially. The Regulations exist only on a temporary basis, having effect between 4 April 2020 and 7 May 2021.

This Protocol and Procedure Rules in no way precludes the Scrutiny and Overview Committee, General Purposes and Audit Committee, Planning Committee and Planning Sub-Committee, Licensing Committee or the Chair of the Licensing Sub-Committee from determining additional or different procedure rules or protocols under provisions in Article 16.2 of the Constitution and/or the Licensing Protocol.

This Protocol is an immediate response to the Regulations and is based on the information available at this point. This document may need to be updated and reviewed in due course.

This Protocol includes the Procedural Rules highlighted in red boxes.

### **Contents**

~~Section 1 – How will notice of Meetings and papers be provided?~~

~~Section 2 – How will remote access to Meetings be provided?~~

~~Section 3 – Attendance by Members at Remote Meetings and Management of Remote Meetings.~~

~~Section 4 – Remote Attendance of the Public.~~

~~Section 5 – Meeting Procedures & Voting.~~

~~Section 6 – Declaration of Interests.~~

~~Section 7 – Exclusion of Public and Press.~~

~~Section 8 – Public Access to Meeting Documentation following the meeting.~~

~~Section 9 – The Annual Meeting.~~

## **~~1 How will notice of Meetings and papers be provided?~~**

~~1.1 The proper officer will give the requisite notice to the public of the time of the meeting, and the agenda, together with details of how to join the meeting which will be available on the Council's website~~

~~1.2 Members will be notified of a remote meeting by e-mail and all agenda papers will be available on the Council's website and via the agenda software or other electronic means as appropriate.~~

~~1.3 The 'place' at which the meeting is held may be at a Council building or may be where the organiser of the meeting is located or may be an electronic or a digital or virtual location, a web address or a conference call telephone number; or could be a number of these combined. The meeting may also be held in a meeting room or Chamber with a proportion of the membership and any participating public additionally attending remotely.~~

## **~~2 How will remote access to Meetings be provided?~~**

~~2.1 Members and members of the press and public will be encouraged to use any video conferencing facilities provided by the Council to attend a meeting remotely.~~

~~2.2 If this is not possible, attendance may be through an audio link or by electronic means as referred to in Regulation 5(6)(c) of the Regulations.~~

~~2.3 Remote access for members of the public, press facilities and Members who are not attending to participate in the meeting, will be provided through webcasting, live audio streaming, or others means.~~

~~2.4 It is important to note that the public accessing the meeting by remote means, as described here, is different from the public attending to 'exercise a right to speak'. A technological failure removing the ability for the public to access the meeting by remote means renders the whole meeting incapable of proceeding. A member of the public who attends to exercise their right to speak and is unable to do so will only affect their item and will be dealt with at the discretion of the Chair as set out in Rule 4A(b).~~

## **~~3 Attendance by Members at Remote Meetings and management of Remote Meetings~~**

~~3.1 Any Member participating in a meeting remotely must, when they are speaking, be able to be heard (and ideally seen) by all other Members in attendance, and the public must, in turn, be able to hear (and ideally see) those other Members participating.~~

~~3.2 In addition, a Member must be able to be heard (and ideally seen) by, and in turn hear, any members of the public entitled to attend the meeting and who exercise a right to speak at the meeting.~~

~~3.3 The Chair will normally confirm at the outset and at any reconvening of a committee or cabinet meeting that they can see and hear all participating members (this is unlikely to be practical for a meeting of full council). Any Member participating remotely should also confirm at the outset and at any reconvening of the meeting that they can see and hear the proceedings and the other participants~~

~~3.4 The attendance of those members at the meeting will be recorded by the Democratic Services Officer.~~

~~3.5 The normal quorum requirements for meetings as set out in the Council's Constitution will also apply to a remote meeting.~~

~~3.6 In the event of any apparent failure of the video, telephone or conferencing connection, the Chair should immediately determine if the meeting is still quorate:~~

- ~~• if it is, then the business of the meeting will continue; or~~
- ~~• if there is no quorum, then the meeting shall adjourn for a period specified by the Chair, expected to be no more than fifteen minutes, to allow the connection to be re-established.~~

~~3.7 Should any aspect of an individual's remote participation fail, the Chair may call a short adjournment of up to approximately five minutes to determine whether the connection can quickly be re-established, either by video technology or telephone in the alternative. If the connection is not restored within that time, the meeting should continue to deal with the business whilst this happens, providing the meeting remains quorate and the public are able to hear. In certain situations it may be possible to reorder the Agenda to allow the technological issue to be resolved~~

~~3.8 In the event of connection failure, the remote Member(s) will be deemed to have left the meeting at the point of failure and if the connection cannot be re-established to those Member(s) before the end of the meeting, then the presumption will be that the meeting should continue to deal with the item/s.~~

~~3.9 If the connection is successfully re-established, then the remote Member(s) will be deemed to have returned at the point of re-establishment.~~

~~3.10 If a connection to a Member is lost during a regulatory meeting, the Chair will stop the meeting to enable the connection to be restored. If the connection cannot be restored within a reasonable time, the meeting will proceed, but the Member who was disconnected will not be able to vote on the matter under discussion as they would not have heard all the facts. A Member who disconnects and re-connects to the meeting due to technological issues is still 'present throughout' as long as any matters discussed during his/her absence are repeated.~~

~~3.11 Etiquette at the meeting is referred to further below.~~

~~3.12 The requirements set out in the Local Government Act 1972 section 85 which provide that "if a member of a local authority fails throughout a period of 6 consecutive months from the date of his last attendance to attend any meeting of the authority he shall unless the failure was due to some reason approved by the authority before the expiry of that period cease to be a member of the authority"~~

continue to apply in relation to all “meetings of the authority” (which covers Committees and Sub-Committees, joint committees, joint boards or other bodies where the functions of the Council are discharged or that were appointed to advise the Council on any matter relating to the discharge of Council functions) including where these meetings are held remotely.

#### **4 Remote Attendance of the Public**

4.1 Any member of the public participating in a meeting remotely in exercise of their right to speak at Council or in regulatory or other meetings must meet the same criteria as members of the Council. Members of the public attending a meeting remotely must, likewise, when they are speaking be able to be heard (and ideally be seen) by all other Members in attendance, and the remote participant must, in turn, be able to hear (and ideally see) those other members participating be so heard and, where practicable, be seen by any other members of the public attending the meeting. If a member of the public exercising a right to speak is not able to access the remote meeting platform they may exercise their right to speak through audio means.

4.2 A process for determining access to the meeting will be conducted, which will include requiring advance notification from members of the public wishing to attend remotely. For those items of business, an invitation to participate in the remote technology will then be sent out in advance.

4.3 Alternatively, where it is not possible to provide a technological solution, standing orders will be produced that replace existing public speaking rights with public participation by receipt of representations in writing only. Submissions, petitions or questions received from the public can then be read out by the Chair or a supporting officer.

4.4 The Democratic Services Officer or meeting facilitator (see below) is able to mute the member of the public once they have spoken, and remove them from the remote meeting on the instruction of the Chair, in order to maintain the good administration of the meeting or to retain order.

4.5 Wherever possible a breakdown of the technology should not disadvantage the member of the public in remote attendance

#### **5 Meeting Procedures**

5.1 A meeting facilitator, who may be the Democratic Services Officer will be enlisted. Their role is to control the video, telephone or conferencing technology employed for remote access and attendance and to administer the public and Member interaction, engagement and connections on the instruction of the Chair.

5.2 Individual meeting Chairs will be consulted on how they would best like to manage debate in meetings and how Members should indicate that they wish to speak. The preferred method will be made clear at the start of the meeting. This may include the use of technological solutions where they are available. Chairs will be supported by officers where necessary.

~~5.3 In respect of key committees and at Cabinet meetings, it will assist the meeting if those Members who wish to speak on a particular item could indicate their wish to speak to the Chair and to the Democratic Services Officer in advance of the start of the meeting where possible. Political groups are also encouraged to co-ordinate this activity wherever possible in respect of full Council/Authority meetings and other meetings likely to result in a high number of requests to speak. This is particularly important if Members are unable to participate via video conference.~~

~~5.4 The Chair will follow the rules set out in the Constitution when determining who may speak, as well as the order and priority of speakers and the content and length of speeches in the normal way.~~

~~5.5 The Chair, at the beginning of the meeting, will explain the protocol for member and public participation and the rules of debate. The Chair's ruling during the debate will be final.~~

~~5.6 Members are asked to adhere to the following etiquette during remote attendance at a meeting:~~

- ~~• Committee members are asked to join the meeting no later than fifteen minutes before the start to allow themselves and the meetings facilitator or Democratic Services Officers the opportunity to test the equipment.~~
- ~~• Any camera (video feed) should show a non-descript background or, where possible, a virtual background and members should be careful to not allow exempt or confidential papers to be seen in the video feed.~~
- ~~• Type their name on joining the meeting in full, e.g., "Cllr Joanne Smith" (where the technological solution employed by the authority enables this).~~
- ~~• All Members to have their video turned off and microphones muted when not talking.~~
- ~~• Individual meeting Chairs will indicate their preferred method for Members to signify a wish to speak at the start of each meeting. Only speak when invited to by the Chair.~~
- ~~• Only one person may speak at any one time.~~
- ~~• Turn on the microphone and also the video feed (if available or unless speaking to a diagram, presentation slide or drawing), then state your name before you make a comment.~~
- ~~• When referring to a specific report, page, or slide, mention the report, page, or slide so that all members have a clear understanding of what is being discussed at all times.~~

~~5.7 Where members of the public are exercising speaking rights at the meeting via remote attendance, the Chair will as part of their introduction explain the procedure for their participation which will reflect those relevant elements of the above. Members of the public must adhere to this procedure otherwise they may be excluded from the meeting.~~

~~5.8 When the Chair is satisfied that there has been sufficient debate and (if the rules of the meeting require) there is a proposer and seconder for the item being discussed the Chair will progress to making a decision. Unless a Recorded Vote is~~

~~called, the method of voting will be at the Chair's discretion and will be by one of the following methods:~~

- ~~• a vote by electronic means; or~~
- ~~• an officer calling out the name of each member present with:
  - ~~• members stating 'for', 'against', or 'abstain' to indicate their vote when their name is called;~~
  - ~~• the Democratic Services Officer clearly stating the result of the vote and the Chair then moving onto the next agenda item;~~~~
- ~~• by the general assent of the meeting.~~

~~5.9 Details of how Members voted will not be kept or minuted unless a Recorded Vote is called. Where a Recorded Vote is requested the Chair will ask members in turn to signify verbally whether or not they support that request.~~

## **~~6 Declaration of Interests~~**

~~6.1 Any Member participating in a remote meeting who declares a disclosable pecuniary interest, or other declarable interest, in any item of business that would normally require them to leave the room, must also leave the remote meeting. Their departure will be confirmed by the Democratic Services Officer or meeting facilitator, who will invite the relevant Member by link, email or telephone, to re-join the meeting at the appropriate time.~~

## **~~7 Exclusion of Public and Press~~**

~~7.1 There are times when council meetings are not open to the public, when confidential, or "exempt" issues (as defined in Schedule 12A of the Local Government Act 1972) are under consideration. Where the technology is available, the Democratic Services Officer or meeting facilitator will ensure that there are no members of the public in remote attendance or remotely accessing the meeting are able to hear or see the proceedings once the exclusion has been agreed by the meeting.~~

~~7.2 Each Member and officer in remote attendance must ensure and verbally declare that there are no other persons present who are not entitled to be (either hearing or seeing) consideration of such items, and/or recording the proceedings.~~

~~7.3 Any Member or officer in remote attendance who failed to disclose that there were in fact persons present who were not so entitled would likely be in breach of the Members' or Officers' (as relevant) Code of Conduct responsibilities.~~

~~7.4 The public webcast will be stopped when considering such matters.~~

## **~~8 Public Access to Meeting Documentation following the meeting~~**

~~8.1 Members of the public may access minutes, decision and other relevant background documents through the Council's website. The definition of access to information and available to the public is the same as at Rule 1A of the Procedure Rules.~~

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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 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.

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# 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, Corporate 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 Corporate Directors are designed to help ensure the effective discharge of the Monitoring Officer's functions:
  - a) The Monitoring Officer is entitled to attend the Corporate 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) Corporate 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 Ombudsman including the giving and receiving of relevant information whether confidential or otherwise.
- i) The Monitoring Officer shall in their sole discretion and having regard to principles of administrative law 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), other registrable interests (ORIs) or non-registrable interests (NRIs) in a matter that it would impede the transaction of the business; or
  - ii. 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; or
  - iii. That the dispensation is in the interests of persons living in the Borough; or
  - iv. That, without a dispensation, no Member of the Cabinet would be able to participate in consideration of this matter; or
  - v. That it is otherwise appropriate to grant a dispensation.

And may refer the dispensation request in relation to grounds (i) and (iv) above to the Ethics Committee to advise on or express a view should the Monitoring Officer consider it appropriate to do so. In respect of grounds (ii), (iii) and (v) above granting dispensations is a matter reserved to the Ethics Committee after consultation with the Independent Person.

- j) The Monitoring Officer shall ensure that all information provided to them will be processed lawfully in accordance with the Data Protection Legislation.

- 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 vices 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 all Members, in whatever capacity they are acting, 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 delegation 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 Monitoring Officer 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 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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<b>REPORT TO:</b>	<b>GENERAL PURPOSES AND AUDIT COMMITTEE</b> <b>3 March 2022</b>
<b>SUBJECT:</b>	<b>Anti-Fraud Update Report 1<sup>st</sup> April 2021 – 31 December 2021</b>
<b>LEAD OFFICER:</b>	<b>Malcolm Davies, Head of Anti-Fraud, Risk &amp; Insurance</b>
<b>CABINET MEMBER</b>	<b>Councillor Callton Young</b> <b>Cabinet Member for Resources and Financial Governance</b>
<b>WARDS:</b>	<b>All</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT:</b>	
<p>The work of the Anti-Fraud service helps the Council to improve its value for money by strengthening financial management and further embedding risk management. Improving value for money ensures that the Council delivers effective services contributing to the achievement of the Council’s vision and priorities. The detection of fraud and better anti-fraud awareness contribute to the perception of a law-abiding Borough.</p>	
<b>FINANCIAL SUMMARY:</b>	
<p>The budget provision for the Anti-Fraud service for 2020/21 was £328,107 and the service was delivered within budget.</p>	
<b>FORWARD PLAN KEY DECISION REFERENCE NO: N/A</b>	

**For general release**

<b>1.</b>	<b>RECOMMENDATIONS</b>
1.1	<p>The Committee is asked to:</p> <ul style="list-style-type: none"> <li>• Note the Anti-fraud activity of the Corporate Anti-Fraud Team for the period 1 April 2021 – 31 December 2021 and the corresponding period 1 April 2020 – 31 December 2020</li> </ul>

## 2. EXECUTIVE SUMMARY

- 2.1 This report details the performance of the Council’s Corporate Anti-Fraud Team (CAFT) and includes details of the team’s performance together with an update on developments during the period 1 April 2021 – 31 December 2021 and a comparison with the same period in 2020.

## 3. DETAIL

### Performance 1 April 2021 to 31 December 2021

- 3.1 The CAFT comprises 8 staff (8.43 FTEs), including two tenancy and two corporate investigators, an Intelligence Officer, two financial investigators and a team leader position. The CAFT investigates allegations of fraud or corruption which affect the Council’s business. In addition, the team generates an income by providing a services to other London Boroughs. Statistics related to the other councils that CAFT supports are not included in the figures below.
- 3.2 The team has begun to return to the full range of duties and many of the ways of working it deployed before last year’s lockdowns, including visiting residents and businesses and face to face interviewing within the civic centre. There is still a backlog of investigations casework and we do still experience delays in progressing cases through the courts, who are still experiencing their own delays. This continues to have an impact on the team’s ability to conclude some investigations.
- Performance targets for the team have been reduced slightly from the previous year to reflect a reduced workforce and to ensure they remain SMART.
- 3.3 There are local performance indicators that relate to the Council’s anti-fraud work. The two indicators shown in table 1 below detailing the number of successful outcomes and their value. Table 2 shows a breakdown of *all* cases investigated/closed by the team irrespective of outcome.

Table 1 – Key performance indicators

	20/21 to Q3 PERFORMANCE	ANNUAL TARGET 21/22	21/22 to Q3 PERFORMANCE
Successful Outcomes	86	100	104
Identified Overpayments & Savings	£769,728	£850,000	£790,868

Table 2 - Breakdown of Total Cases actioned from 1 April 2021– 31st December 2021 compared to the same period in 2020/21

2020/21	2021/22
Blue badge 29	Blue badge 17
Corp - mandate fraud 4	Corp. Other 4
Council tax rebate 6	Council tax rebate 20



Covid19 discretionary grant 1 Covid19 small business grant 6 Financial investigation other 29 Financial investigation - trading standards 18 Housing application 10 Housing illegal sub-let 1 Housing non-occupation 7 Housing other housing fraud 8 Housing right to buy 3 Housing succession 1 National fraud initiative 2018/19 9 No recourse to public funds 1 Schools 2 Single person discount fraud 3 Staff - internal misconduct 7	Covid19 additional restriction grant 8 Covid19 discretionary grant 4 Covid19 small business grant 14 Direct payments 1 Financial investigation other 21 Financial investigation - trading standards 3 Housing application 15 Housing illegal sub-let 16 Housing non-occupation 7 Housing other housing fraud 3 Housing right to buy 5 Housing succession 4 National fraud initiative 2018/19 2 No recourse to public funds 4 Safeguarding 3 Single person discount fraud 4 Staff - internal misconduct 6
<b>Total 145</b>	<b>Total 161</b>

### 3.4 Case Study:

#### **‘Deprivation of Assets’ by family in respect of care costs case study.**

***Deprivation of assets occurs where a person tries deliberately to avoid or reduce their liability to pay for care and support costs by depriving themselves of either capital or income. This can involve giving away assets to others or selling them at an under value. A deprivation can occur either before or after Croydon Council begins to provide a service.***

BS was an 84 years old resident at a Croydon nursing home since July 2020, having transferred there from another Croydon care facility. She was initially funded by the NHS under a Continuing Health Care package, with Croydon Council Adult Social Care stepping in subsequently once eviction for non-payment of care fees was threatened.

After referral to the Croydon Anti-Fraud Team it was established that BS had owned a property and that it was sold by her family in 2019 but that this had never disclosed in any financial assessment to the Council (or NHS). The property, a four bedroom Semi in Croydon was jointly owned by BS and her daughter but after the sale BS’s 50% share of the property was kept by the family and not declared to Croydon Council.

Investigations by the Anti-Fraud Team revealed that BS did not know what had happened to her money and wanted us to find out so she could use it to stay at the

care home. It soon became apparent that the money from the sale of the property had been divided up by the daughter and given to BS's children and grandchildren. Based on the information obtained, BS's capital from the property sale was £150,000 and as such she should have been self-funding.

The family were approached following an eviction notice being served by Care Home for non-payment and initially paid the outstanding fees. This again stopped and a further eviction notice was served with the family refusing to pay. Croydon Council then stepped in to pay for the care in the interim but sadly BS died earlier this month. BS never found out what really happened to her money but the outstanding nursing fees from the care home (£8k) and historical fees from the previous care facility (c. £70k) are being recovered from the family via the civil recovery route following the outcome of the anti-fraud investigation.

#### **4. INVESTIGATIONS**

4.1 Fraud investigations relate to a broad section of service areas within the Councils including:

- Environmental enforcement
- Trading Standards - trademark and rogue trader cases
- Planning – enforcement cases
- Licensing
- Internal cases
- Safeguarding cases
- Business rates evasion by fraud
- Financial investigations

4.2 Investigators, including the financial investigators, are experiencing significant delays in legal proceedings due to Covid. This has resulted in constant adjournments as the courts juggle with their own backlogs but has, to some extent, impacted on both case closure and case progression for the team.

4.3 Due to some recent staff turnover/gaps in the team, some interim anti-fraud management support has been brought in from Lambeth LB's anti-fraud team to support the Croydon team. This arrangement is working particularly well and builds on previous joint work with Lambeth and will be kept under review.

#### **5. LOCAL GOVERNMENT TRANSPARENCY CODE**

5.1 Members will be aware of the Local Government Transparency Code 2015 which requires Councils to publish data about various areas of their activities. Included in the 2020/21 code is detail on Counter Fraud work, most of this information has always been reported to committee; however below are some

additional areas which we are required to make public. The figures detailed below for the period from 1 April to 31 March 2021:

Number of occasions the Council has used powers under the Prevention of Social Housing Fraud Act	2
Total number of employees undertaking investigations and prosecutions relating to fraud	9
Total number of full-time equivalent employees undertaking investigations and prosecutions of fraud	8.4
Total number of employees undertaking investigations and prosecutions of fraud who are professionally accredited counter fraud specialists	8
Total number of full-time equivalent employees undertaking investigations of and prosecutions who are professionally accredited counter fraud specialists	7.4

## **6. FINANCIAL AND RISK ASSESSMENTS**

- 6.1 The net budget provision for the anti-fraud service for 2021/22 is £328,107 and the service is on target to be delivered within budget.
- 6.2 There are no further risk assessment issues than those already detailed within the report.

(Approved by: Nish Popat, Interim Head of Finance, Resources)

## **7. COMMENTS OF THE SOLICITOR TO THE COUNCIL**

- 7.1 The Head of Litigation and Corporate Law comments on behalf of the interim Director of Legal Services and Deputy Monitoring Officer that the Corporate Director of Resources and Chief Finance Officer has a statutory responsibility under the Local Government Act 1972 section 151 to make arrangements for the proper administration of the Council's financial affairs. This includes the prevention, detection and investigation of fraud and corruption and where appropriate, the prosecution of offenders.
- 7.2 The Council also has a duty under the Crime and Disorder Act 1998 section 17 to do all it can to prevent crime and disorder.
- 7.3 The Anti-Fraud and Corruption Strategy is part of a framework of policies designed to support the Council with complying with these responsibilities to minimise losses due to fraud and corruption. The Strategy cross-references other Council policies and strategies including the Members' Code of Conduct; Officers' Code of Conduct; Whistle-blowing Policy; Financial Regulations, Contract and Tender Regulations and the Nolan Principles of Public Life which also support the Council with its responsibilities to prevent, detect and investigate fraud and corruption.

(Approved by: Sandra Herbert, Head of Litigation and Corporate Law on behalf of the interim Director of Law and Governance and Deputy Monitoring Officer)

## **8. HUMAN RESOURCES IMPACT**

- 8.1 There are no immediate human resource considerations arising from this report for LBC employees or staff or workers.

Any impacts arising will be managed under the Council's HR policies and procedures.

(Approved by: Gillian Bevan, Acting Head of HR – Resources and Assistant Chief Executives Office)

## **9. CUSTOMER FOCUS, EQUALITIES, ENVIRONMENTAL, CRIME AND DISORDER REDUCTION & HUMAN RIGHTS IMPACTS**

- 9.1 There are no further considerations in these areas.

## **10. EQUALITIES IMPACT ASSESSMENT**

- 10.1 An initial screening equalities impact assessment has been completed for the Anti-fraud and Corruption Policy. No further action was found to be necessary.

## **11. DATA PROTECTION IMPLICATIONS**

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

No, this report is for information only.

### **11.2. HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

NO

No DPIA has been completed as no personal data is used in the report. Any cases studies used do not include personal identifiers such as name and address

(Approved by: Richard Ennis, Interim Corporate Director of Resources & S.151)

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**CONTACT OFFICER: Malcolm Davies (Head of Anti-Fraud, Risk & Insurance)**

<b>REPORT TO:</b>	<b>GENERAL PURPOSES AND AUDIT COMMITTEE</b>  <b>03 March 2022</b>
<b>SUBJECT:</b>	<b>Corporate Risk Report</b>
<b>LEAD OFFICER:</b>	<b>Richard Ennis Interim Corporate Director Resources (S151 &amp; Deputy Chief Executive)</b>
<b>CABINET MEMBER</b>	<b>Councillor Callton Young, Cabinet Member for Resources &amp; Financial Governance</b>
<b>WARDS:</b>	<b>All</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT:</b>	
<p>As part of the General Purposes and Audit Committee’s role of overseeing the risk management framework and receiving assurance that significant corporate (Red) risks are identified and mitigated by the organisation, this report accompanies the appendix document which presents those risks recorded as ‘high rated’ or RED on the corporate risk register as at March 2022.</p> <p>In line with the Council’s commitment to openness and transparency, the corporate risk report will appear in Part A of the agenda unless there is specific justification for any individual entries being considered under Part B (set out under Paragraph 3 of Schedule 12A of the Local Government Act 1972 as amended).</p>	
<b>FINANCIAL SUMMARY:</b> No additional direct financial implications.	
<b>FORWARD PLAN KEY DECISION REFERENCE NO.:</b> N/A	

<p><b>1.1 RECOMMENDATIONS</b></p> <p>The Committee is asked to:</p> <p>Note the contents of the corporate risk register as at March 2022</p>
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## 2. EXECUTIVE SUMMARY

- 2.1 The report updates the General Purposes & Audit Committee Members on the corporate risk register (the register) as at March 2022.

### 3. DETAIL

#### Risk Register Report

3.1 The register presented details all the current corporate risks rated at a total risk score of 20 and above (Red Risks).

3.2 Since the register was last considered by Members, the following risks have been escalated to Red Status:

MO0002 Saving options for governance review: Risk that Democratic Services are unable to deliver renewal plan targets and (MO0003) Resources in Democratic services are under significant strain combined with increased demands on the service leading to the risk that statutory minimum standards are not met.

3.3 Since the register was last considered by Members, the following risks have been de-escalated from Red status as follows.

EHCS0001 Unaccompanied asylum seeking children (UASC) / 'care leavers looked after' additional financial pressures. Re-rated to high Amber.

PH0001 The Director of Public Health is unable to fulfil all statutory obligations as required under the 1938 Public Health Act. Re-rated to Amber.

ASC0031 Afghan Relocations and Assistance Policy (ARAP) places unsustainable burden on Croydon Council to finance and manage adult social care. Risk currently withdrawn.

EHCS0018 Effective action is not taken to address the underlying causes of social care overspends within Children's Services, specifically in terms of both the demand and the resulting cost pressures. Re-rated to Amber.

PP0009 Corporate financial savings objective is not achieved due to poor programme & project management behaviours. Re rated to Green.

- 3.4 In addition to the changes in the red risks noted above there have been a number of recent changes in relation to risk ownership as per the attached report and all risks are subject to an on-going review in relation current and future control measures. Members are reminded that they can request risk presentations in relation to any risk register entry where more detail/clarification is required.
- 3.5 In line with the Council's commitment to openness and transparency, the register will appear with the corporate risk report in Part A of the agenda unless, in accordance with the Access to Information Procedure Rules in the Council's Constitution there is specific justification for any individual entries being considered under Part B (set out under Paragraph 3 of Schedule 12A of the Local Government Act 1972 as amended).
- 3.6 It should be noted that some of the grounds for exemption from public access are absolute. However, for others such as that in para.3, 'Information relating to the financial or business affairs of any particular person (including the authority holding that information)', deciding in which part of the agenda they will appear, is subject to the further test of whether, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

#### **4. FINANCIAL CONSIDERATIONS**

- 4.1 There are no additional financial considerations arising from this report.

(Approved by Nish Popat Interim Head of Finance Resources on behalf of Interim Director of Finance)

#### **5. LEGAL CONSIDERATIONS**

- 5.1 The Head of Litigation and Corporate Law comments on behalf of the interim Director of Law and Governance and Deputy Monitoring Officer that the Committee is required through its terms of reference in exercising its audit functions to maintain oversight of risk management arrangements and operations and as such periodic updates on the Corporate Risk Register are provided to assist members with this responsibility.
- 5.2 Separately, the management of risk has a direct impact on the Council's ability to deliver its functions in a manner which promotes economy, efficiency and effectiveness. Therefore, the consideration of this report also seeks to demonstrate the Council's compliance with its Best Value Duty.
- 5.3 In addition, the Council is legally required to ensure that it has a sound system of internal control facilitating the effective exercise of the Council's functions. This includes arrangements for the management of risk and an effective system

of internal audit to evaluate the effectiveness of its risks management, control and governance processes, taking into account public sector internal auditing standards and guidance. This report also seeks to demonstrate compliance with these legal duties.

(Approved by: Sandra Herbert, Head of Litigation and Corporate Law on behalf of the interim Director of Law and Governance and Deputy Monitoring Officer)

## **6. HUMAN RESOURCES IMPACT**

- 6.1 There are no immediate human resource considerations arising from this report for LBC employees or staff or workers. Any impacts arising will be managed under the Council's HR policies and procedures.

(Approved by: Gillian Bevan, Acting Head of HR – Resources and Assistant Chief Executives Office)

## **7. EQUALITIES, ENVIRONMENTAL AND CRIME AND DISORDER REDUCTION IMPACTS**

- 7.1 None

## **8. RISK ASSESSMENT**

- 8.1 No further risk issues other than those detailed in the report.

## **9. FREEDOM OF INFORMATION/DATA PROTECTION CONSIDERATIONS**

- 9.1 Information contained in the Council's Risk Register or held in relation to the Council's risk management procedures may be accessible under the Freedom of Information Act subject to the application of any relevant exemptions, such as commercial sensitivity and whether disclosure was in the 'public interest'.

## **10. DATA PROTECTION IMPLICATIONS**

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

No.

No personal data is processed as part of the production of the Corporate Risk Register.



**10.2. HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

No.

Not applicable as no personal data is processed as part of the production of the Corporate Risk Register

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**CONTACT OFFICER:** Malcolm Davies,  
Head of Anti-Fraud, Risk & Insurance  
Ext 50005

**BACKGROUND DOCUMENTS:** Appendix 1 Corporate Risk Register  
Appendix 2 Risk Scoring Matrix

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## Appendix 1 Corporate Risk Register Red Risks

Risk Ref	Risk Scenario		Assigned To	Current			Future Risk Rating		
	Risk	Impact		Impact	L'hood	Total	Impact	L'hood	Total
PST0001  Cheesbrough, Heather	The Whitgift Centre is not redeveloped as anticipated.  Previous uncertainty in respect of retail behaviours has been exacerbated by Covid 19, which has further affected the likelihood of the risk materialising. The redevelopment was removed from the Unibail development pipeline in Feb 20 and there is no date for the redevelopment. The Croydon Limited Partnership (CLP) partners are both suffering from loss of income and are seeking to raise funding to strengthen their balance sheets. Both partners need to review business model and agree new approach to the Whitgift during a time of uncertainty and restricted finances major personnel changes in both partners give rise to a loss of organisational memory.  RISK & CONTROLS MEASURES REVIEWED BY: Heather Cheesbrough DATE: 10/2/22  Reviewed at CMT 18/01/2022  (Risk generated 18/05/2015).	<ul style="list-style-type: none"> <li>Major economic and social impact if development does not go ahead.</li> <li>Political and media scrutiny.</li> <li>Reputational Damage</li> </ul>	Cheesbrough, Heather	5	5	25	4	4	16

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### Existing Controls

- Clause 11 meetings - Clause 11 meetings to be held for a maximum period of 12 months as set out in the ILTA, this is a formal stage to work through options on non-delivery of the scheme. The meetings complete Feb 2022.
- Communication channels between politicians and officers with CLP kept cordial and relationship maintained to optimise influence. -
- LBC to continue to press CLP for a robust Meanwhile and Management Strategy to maintain footfall -with monthly meetings to exchange enquiries/contacts and proposals
- Officers and their consultant team seek to hold CLP to account on their plans and to manage the CPO process. -
- Projects will need to be reprofiled within the Growth Zone to later years. -
- Regular communication with the Whitgift Foundation -The Foundation is the freeholder of the majority of the site.
- Regular meetings with CLP to maintain dialogue between partners. -Robust discussion through planning pre-application process. ...
- Robust record keeping and retention of professional advisor team who have been involved since the beginning of the project -
- The Council through its statutory powers - Local Planning Authority (LPA), CPO and land assembly, and as a Highway Authority. -
- The ending of the exemption for CLP to pay Business Rates on unoccupied buildings due to the CPO -
- The Indemnity Land Transfer Agreement (ILTA) sets out the responsibilities of the parties, penalties with. -timeframes, which will need to be complied with and will need to be actively managed.
- The setting up of a Advisory Town Centre Board -Board of Stakeholders to include CLP, chaired by the Council to meet every 6 weeks to seek to collaborate and hold to account all stakeholders to the regeneration of the town centre

### Future Controls

Target Date

- End the arrangements entirely with agreement, but would have to address all outstanding issues, land transfer, compensation and make provision for various outstanding claims. (Completion financial year 2021/22). This would have a significant financial impact that would need to be negotiated with CLP.
- The Council seeks to introduce a new development partner, once the ILTA expires (February 2026).
- The preparation of a new Indemnity Land Transfer Agreement (ILTA) that reflects the changed circumstances. (Completion financial year 2025/26). This would require the agreement of both parties

Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
RCS0032 Ennis, Richard	<p>Croydon Council companies: Robust governance, financial accounting treatment &amp; risk management procedures/frameworks are not activated to safeguard the interests of the Council and it's taxpayers in respect of all subsidiary organisations where the Council has an interest as raised in External Audit's Management letter/report presented to GPAC 20th October 2021. (Specifically in reference to Croydon Affordable Homes &amp; Croydon Affordable Tenures and Brick x Brick).</p> <p>Reviewed at CMT 18/01/2022</p> <p>Grant Thornton - 'Report in the Public Interest' recommendation number(s): 8,12,17,19 &amp; 20.</p> <p>(Risk generated (26/02/2021))</p>	<ul style="list-style-type: none"> <li>• Significant financial accounting adjustment</li> <li>• Reputational damage.</li> <li>• Political interest and scrutiny.</li> <li>• Media interest and scrutiny.</li> <li>• Council placed in unstable financial position leading to potential bankruptcy.</li> <li>• Significant fraudulent activity.</li> <li>• Continuing and increasing levels of non-compliance.</li> </ul>	Ennis, Richard	5	5	25	5	5	25

**Existing Controls**

- Annual business plan of BXB reported to Cabinet. -
- Cabinet decision for managed wind down of BxB reached with build out of some sites -
- Cabinet member responsibility in portfolio. -
- Council taking legal advice in respect of Croydon Affordable Homes and Croydon Affordable Tenures -
- Dedicated shareholder function in place to manage relationship and risks. -
- LBC non-executive directors allocated to serve on all subsidiary Boards. -
- PwC Review of the transparency of reporting of any remedial action taken to address in year overspends. -
- Shareholder boards established specifically for Brick by Brick -and secondly for all other external companies feeding into the working group for council companies to report as part of the renewal plan delivery
- Shareholder Representatives and responsibilities identified following review. -
- Strategic review recommendations agreed to reduce risks and deliver secure financial path forward. -

**Future Controls**

- Report on governance of external and related companies approved with target date for further work/implementation of the CCSMP structure with Member/Cabinet involvement, meetings scheduled to end of 2022

Target Date

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Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
RCS0034 Ennis, Richard	Poor financial control and ineffective application of governance arrangements continues to lead to an unstable financial situation, including contract spend and pressures in our major partnership areas including the NHS.  Reviewed at CMT 18/01/2022  Grant Thornton - 'Report in the Public Interest' recommendation number(s):1-20. (Risk generated 22/10/2020).	<ul style="list-style-type: none"> <li>Internal Controls rated at 'limited' or 'no assurance' by Head of Internal Audit.</li> <li>Continuing instances of non-compliance with corporate policies and legislative requirements.</li> <li>Political scrutiny and interest at local and national level.</li> <li>Media interest at local and national level.</li> <li>Increasing and uncontrollable financial loss.</li> <li>Legislative action.</li> <li>Staff redundancies.</li> <li>Report in the Public Interests (RIPI) issued by External Auditors.</li> <li>Non delivery of in year savings</li> </ul>	Ennis, Richard	5	5	25	5	3	15

#### Existing Controls

- CMT co-ordination to identify and instigate savings strategies. -
- Collaborative working with MHCLG Improvement & Assurance Panel. -
- Finance Consultant issued report into improving finance system. -
- Immediate spending controls implemented across the Council. -Recruitment; PCards; Spend control panel.
- Introduced non-essential spend and recruitment controls as if s.114 notice issued. -
- Leader, Cabinet Member for Finance & Resources and the Chair of General Purposes & Audit Committee -attended LGA Training 07/11/2020.
- Monthly reporting to CMT/ Cabinet. -
- Proper management of purchase orders to ensure compliance with corporate policy to eliminate retrospective activity. -
- Rapid review completed to highlight issues. -
- Savings assurance meetings with S151 Officer and CEO implemented -
- Spending Control Panel in place monitoring and approving all expenditure across the Council. -

#### Future Controls

- Outcome of forensic audit to be considered. 2 Directors of Finance from other boroughs also peer reviewing Dec 2021
- Review of 'My Finance' and 'My Resources' systems: Jan 2022
- Review of scheme of delegation and constitution in conjunction with Monitoring Officer Dec 2021.
- Training programmes to be introduced to improve General Purposes & Audit Committee (GPAC) and Scrutiny Committees. Planned training programme ongoing / continuous through financial year 2021/22.

Target Date

Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
RCS0037 Ennis, Richard	Further deterioration in Internal Control & Governance as a result of capacity, budget and resourcing constraints in the organisation.  Reviewed at CMT 18/01/2022  (Risk generated 26/02/2020).	<ul style="list-style-type: none"> <li>Financial / Reputational and Legal implications arising from bad decision making.</li> <li>Poor data control leading to lack of financial control</li> <li>Inadequate financial governance</li> <li>failure to comply with probity requirements, legislation, local regulations or council policy.</li> <li>S114 Notice.</li> <li>Report in the Public interest.</li> </ul>	Ennis, Richard	5	5	25	5	3	15

**Existing Controls**

- Commissioning & Procurement Framework being reviewed with LGA Support -
- Committee Award process for contracts. -
- Higher profile of key policies and procedures and easier access to support and guidance. -
- Internal review of the current internal governance structures being conducted by Executive Leadership Team. -(Completion October 2021).
- Robust Internal Audit Programme in place. -
- Spend Control Panel -Medium Term Financial Strategy Work of Steering Board (Exec Directors and Directors).  
Financial Procedures Reviewed  
Monthly Budget Monitoring  
PMO monitoring of adherence and delivery of Renewal Plan
- Strategy implemented to raise profile of Governance / Internal Audit function to ensure appropriate adherence -at all levels across organisation.

**Future Controls**

- Finance systems including 'My Resources' and 'My Finance' to be reviewed Jan 2022.
- Review by Section 151 officer of the skills and capability and structure of Finance function Peer review with other councils and LGA.
- Review of training offer by L&OD to ensure provision of 'fit for purpose' support to all employees. December 2021.

Target Date

Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
RCS0039 Ennis, Richard	<p>The audit of the 2019/20 and 2020/21 accounts could require two significant adjustments, as highlighted in External Audit's management letter/report to GPAC 20 October 2021, to provide a balance and not be qualified. In relation to the 19/20 and 20/21 accounts further significant work is required in relation to the accounting treatment of Croydon Affordable Homes and Croydon Affordable Tenures with any financial implications for both the General Fund and Housing Revenue Account to be dealt with after this review. In addition, the council's bank reconciliations fail to balance for 20/21.</p> <p>Reviewed at CMT 18/01/2022 (Risk generated 22/02/2021).</p>	<ul style="list-style-type: none"> <li>• Qualified accounts provided in respect of 2019/20.</li> <li>• Loss of control of financial position</li> <li>• Political scrutiny applied at local and national level.</li> <li>• Media interest and scrutiny at local and national level.</li> <li>• Continuing financial loss.</li> <li>• Reputational damage.</li> <li>• Potential investigation of historic financial practices.</li> <li>• Impact on reserves</li> </ul>	Ennis, Richard	5	5	25	5	3	15

**Existing Controls**

- Regular meetings with Grant Thornton and corporate finance team to monitor progress of audit -
- Specific use of transformation funding in relation to 19/20 and 20/21 audited by Grant Thornton -in consultation with corporate finance team.
- The council has engaged CIPFA to advise in relation to the bank reconciliation processes and systems. -
- The Council is taking advice from PWC on accounting treatment -and Trowers and Hamlins on company legal arrangements in relation to Croydon Affordable Homes and Affordable Tenures and QCs input (James Goudie)

**Future Controls**

- Additional resources in corporate finance to support increased support and oversight of the accounts. This work to be driven by the Section 151 officer review of the Finance function and the effective use of 'My Resources' and 'My Finance' and peer review. Review to complete...?

Target Date

Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
RCS0040 Ennis, Richard	In respect of the 2022/23 financial year the additional savings as set out by MHCLG in the Capitalisation Direction Agreement (2021) are not delivered, including £12M identified savings associated with NHS contract negotiations together with the risk of not meeting the challenges of the spending review/local government grant settlement and council tax and social care precept restrictions, leaving the 22/23 budget unbalanced. **The Council would therefore not be able to 'balance the budget' also leading to the refusal for the further £25m loan as part of the final Capitalisation Direction Agreement.**  Reviewed at CMT 18/01/2022  (Risk generated 22/02/2021).	<ul style="list-style-type: none"> <li>Do not meet terms and conditions set out by MHCLG in Capitalisation Direction Agreement (2021) / Three Year Delivery Programme.</li> <li>Inappropriate financial behaviour and practice evidenced.</li> <li>Political scrutiny applied at local and national level.</li> <li>Media interest and scrutiny at local and national level.</li> <li>Impact on reserves</li> <li>Continuing financial loss and potential S114 notice</li> <li>Reputational damage.</li> <li>Potential investigation of historic financial practices.</li> <li>Not balancing 22/23 budget.</li> </ul>	Ennis, Richard	5	5	25	5	3	15

**Existing Controls**

- Corporate finance working with services to identify further savings for 2022/23 -via Star Chamber process
- MHCLG Improvement & Assurance Panel. -
- Public consultation activity. -
- Review and revision of budget setting process and meetings being conducted by Section 151 officer. -
- Steering board made up of CMT and Directors to oversee the strategy to achieve the additional savings targets established. -

**Future Controls**

- Renewal plan to be reviewed January 2022.

Target Date



Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
ASC0028  Robson, Simon	National Hospital Discharge funding for 4 weeks is confirmed to 31/3/22. The current position is this funding will stop from 1/4/22. The risk is that staffing will then have to be reduced and impact on patient care and hospital length of stay and flow will be severely impacted. Likelihood increased - Funding is due to end but current local and national negotiations have not reached a settlement and is high risk that the current model is not sustainable and a new sustainable model will need to be put in place.  RISK & CONTROLS MEASURES REVIEWED BY: SIMON ROBSON DATE: 9/2/22  (risk generated 01/03/2021). Reviewed at CMT 18/01/2022 Reviewed 19/01/2022 SR/SH	<ul style="list-style-type: none"> <li>Unable to meet deadlines as per the Care Act</li> <li>Financial impact due to packages of care required above BAU budgets.</li> <li>That delays are experienced in the hospital</li> </ul>	Robson, Simon	5	4	20	5	3	15

**Existing Controls**

- Funding £5.4m for 22/23 secured from CCG; to monitor spend against activity -Target date 1/6/22
- Options analysis of impact of returning to BAU and the impact this will have on the NHS and residents. -Funding extended until 31 March 2022 to review in January
- Partnership working and financial modelling activated. -

**Future Controls**

- Re-introduction of continuing healthcare teams. Review Feb 2022
- Review re-ablement and LIFE systems. Review Jan 2022
- Work with LGA on analysis of the long-term impact of Covid on adult social care. Review Jan 2022

Target Date

Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
ASC0033 Robson, Simon	<p>Potential breach of local authority statutory responsibility in delivering the approved mental health professional service due to lack of capacity and resources. Proposed plan to move resources from other areas of Adult Mental Health Social Care will result in increased risk in delivering statutory local authority interventions and commitment. If plan were to be implemented there would be an increased number of unallocated caseloads within Community Mental Health service.</p> <p>RISK &amp; CONTROLS MEASURES REVIEWED BY: SIMON ROBSON DATE: 9/2/22</p> <p>Reviewed at CMT 18/01/2022 Reviewed 31/01/22 VN Reviewed 15/02/22 SR</p>	There would be cancelled assessments, delays in carrying out assessments, unallocated caseloads of various complexities, staff sickness, resignations and an increase in potential serious incidents occurring.	Robson, Simon	4	5	20	3	4	12

**Existing Controls**

- Collaborative working with MH teams to manage risk. -Ongoing discussions and collaboration with system partners re ownership of risk where MHA assessments have to be cancelled or rescheduled due to lack of capacity. This may require crisis and contingency planning from responsible community MH teams and the AMHP service.
- Head of Service in partnership with SLAM Director of Operations -undertaking options appraisal for short term remodelling of service to agree more resilient service delivery and adequate capacity. Target date 1/3/22
- Leadership and management support. -Advanced AMHP practitioners and team managers to support shift coordination within the AMHP service to cover existing gaps as required.
- Temporary Staff deployment to cover gaps in the AMHP service. -AMHP in existing community MH teams have increased their hours as needed to cover the gaps in the AMHP rota. However, this has impact on case load management.
- Weekly AMHP meeting -Ongoing weekly AMHP meetings to identify and resolve resource gaps.

**Future Controls**

Target Date

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Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
CDS0018 Golland, Paul	Confidentiality, integrity or availability of LBC ICT systems is compromised by either a:  <ul style="list-style-type: none"> <li>• cyber-attack;</li> <li>• misconfiguration;</li> <li>• malware;</li> <li>• ransomware outbreak;</li> <li>• other malicious system breach; or</li> <li>• human error / non-compliance with GDPR.</li> </ul> Reviewed at CMT 18/01/2022  (Risk generated 09/03/2021).	<ul style="list-style-type: none"> <li>• LBC ICT systems become unavailable or unresponsive, resulting in critical business functions being adversely impacted for significant period of time.</li> <li>• LBC would incur costs in containment and recovery.</li> <li>• Breach of confidentiality, integrity and availability of sensitive data (including personal data, sensitive personal data and business critical data). ...</li> </ul>	Golland, Paul	5	4	20	4	3	12

**Existing Controls**

- Implemented regular vulnerability scanning, technical compliance checks and remediation. -
- Improve security collaboration & knowledge sharing (including 3rd party suppliers and partners). -Capita provision of critical infrastructure information to review and share security vulnerabilities.
- Better defined security roles & responsibilities, in particular between 3rd party suppliers and internal teams. -Negotiated cyber support & tooling contracts and defining support roles with vendors regarding O365/Azure management. (
- Business continuity plans in place for loss of essential services helps minimise disruption. -
- Cloud migration into MS/Azure environment -
- Continue to improve & test back-up & recovery processes. -
- Cyber security expert introduced via Paul Golland -
- Enhance system and environment Lifecycle & decommissioning processes. -Data centre exit completed, process and decommissioning defined/finalised.
- Enhanced system and environment lifecycle & decommissioning processes -
- Expanded vendor risk assessment and management process. -
- Identity and access management improvements implemented. -
- Improve identity and access management (AD clean up) — ongoing since Mar 2020, expected to complete Dec 2021.
- Migration of key infrastructure from legacy datacentre to cloud. -(completed May 2021).
- New cybersecurity initiative & team operating. -
- On-going review & assessment of toolsets & configuration of current software... -....
- Security-by-design approach. -
- User awareness training and communication. -

**Future Controls**

Target Date

- Council-wide mandatory awareness training and communication. as part of L&OD refresh Spring 2022
- Programme of systematic Penetration testing planned Q4 2021/22
- Project to revise IT business continuity plans and improve & rigorously test back-up & recovery processes – Q4 2021/2.
- Review & reconfigure current “core” software & toolsets (MS Suite) – pending O365 upgrade, target Q4 2021/2.

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Risk Ref	Risk Scenario		Assigned To	Current			Future Risk Rating		
	Risk	Impact		Impact	L'hood	Total	Impact	L'hood	Total
CEHR0071 Shoesmith, Dean	<p>Organisational behaviours, culture and practices lead to the Council being unable to operate effectively and therefore not serve the residents of the borough and internally within the council in accordance with their expectations.</p> <p>RISK &amp; CONTROLS MEASURES REVIEWED BY: DEAN SHOESMITH DATE: 08/02/22</p> <p>Reviewed at CMT 18/01/2022</p> <p>Grant Thornton - 'Report in the Public Interest' recommendation number(s): 1-20.</p> <p>Reviewed DLT 2/12/21</p> <p>(Risk generated 28/10/2020).</p>	<ul style="list-style-type: none"> <li>Increasing and uncontrollable financial loss.</li> <li>Legislative action due to non-compliance with statutory obligations.</li> <li>Workforce behaviours critically damage the organisation.</li> <li>Political scrutiny and interest at local and national level.</li> <li>Media interest at local and national level.</li> <li>Staff morale.</li> <li>Continuing and increasing reputational damage.</li> <li>Government intervention.</li> </ul> <p>Employment tribunals and potential for litigation HR process Recruitment and retention of staff</p>	Shoesmith, Dean	5	4	20	5	3	15

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**Existing Controls**

- A provider has been selected and appointed for the culture change programme -all staff will be re-inducted through to ensure the workforce as a collective is aligned to, and achieves, appropriate standards of behaviour and conduct to serve the Council's residents an customers. The provider will be commencing the design work of the programme with immediate effect and working in close collaboration with the Chief Executive, CMT and HR and OD to ensure clear objectives, milestones and outcomes are established. Target date 31/3/22
- Coaching and mentoring informal and formal -
- Corporate behaviours and ways of working are core elements -to job descriptions and new performance management system.
- Dedicated Learning & Organisational Development Team supporting culture change -as a key element to Croydon Renewal Plan with core expectations on compliance and accountability.
- Detailed policies and procedures in place and reviewed by relevant accountable officer / team regularly. -
- Governance Framework in place which is modelled on the CIPFA / SOLACE methodology. -
- Internal Audit Programme developed and delivered each financial year. -
- Ongoing engagement with staff. -
- Refreshed manager and staff behaviours and mandatory core training -including good governance and accountability framework schemes to ensure the Council maintains up to date and relevant adherence to legal requirements and initiatives as they relate to organisational best practice and workforce development and enhancement.
- Risk Management Framework in place. -
- Work is now underway for the implementation of the organisational culture change programme. - This was initiated through the appointment of external advisors and facilitators BBS in November 2021, with an initial meeting with the Chief Executive in early December and a facilitated session with CMT and the directors on 10 December 2021. There will be further facilitation sessions , including a train the trainers approach in the New Year, followed by the culture change programme being rolled out across the council via the trained trainers.

**Future Controls**

Target Date

- Corporate Director Assurance Statements to be provided annually. Q4 2021/22
- Corporate objectives updated to reflect new corporate standards to be launched Q4 2021/22
- Following the design of the programme with circa 25/30 staff there will be a train the trainers approach, with circa 80 staff identified to complete culture change training and development across the Council.  
Target date 5/5/22
- Health & Wellbeing will be refreshed and launched winter 2021 with a focus developing manager capability in managing staff with mental health conditions
- Introduction 360 April 2022 for all managers commencing with Head of service and above and incrementally including all mangers by April 2023
- The programme will include the wider culture change brought about by the May 2022 Mayoral Election. Roll out will be to CMT/Directors, followed by HOS, followed by all staff. Target date 31/5/22

- Under the Croydon renewal plan the cultural transformation programme is a key area of work that will define new behaviours Standard skills and core competencies and values that will reflect performance management and appraisal and new ways of working. All staff will be re-inducted against these standards. Target date Nov 2022
- Urgent work is being undertaken to establish a representative cross section of staff at all levels and for all directorates of the Council to form a Design Group

Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
CIC0005 Mitchell, Peter	<p>The investment strategy and income generating properties do not deliver the required financial benefits / targets.</p> <p><b>**Main Risks Croydon Park Hotel (£1.75m), Colonnades (potential £700k), Davis House (£200k), BWH (Arcadis £750k) remainder portfolio (£100k). Issue compounded by the inability of landlords to take swift action through the courts to pursue non-payment remedies**.</b></p> <p>Reviewed at CMT 18/01/2022</p> <p>Review &amp; Update 19/11/2021 - CPH &amp; College Green in active transactions (CG exchanged yesterday with disposal to complete on 17/12/2021). Colonnades, Davis House and wider portfolio currently holding performance, BWH require bid for growth following Arcadis departure but now being actively marketed and smaller letting generating interest with 1 demise u/o (£80k pa income) - wider MTFS up to date with current position.</p> <p>(Risk generated 30/10/20)</p>	<ul style="list-style-type: none"> <li>Financial loss due to under-performance of assets through non-payment of rents due to failure of tenants, reduced rents or deferrals.</li> <li>Service area funding / continuity of delivery could be impacted as a result of lower revenue income to support.</li> <li>Reputational damage due to failure of high profile assets.</li> <li>Political and media scrutiny.</li> <li>Covid-19 pandemic and Brexit significantly impact on investment properties and the general rental income across the wider portfolio leading to reduced revenue generation.</li> <li>Inability of landlords to take swift action through the courts to pursue non-payment remedies</li> </ul>	Mitchell, Peter	4	5	20	4	5	20

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<p><b>Existing Controls</b></p> <ul style="list-style-type: none"> <li>- Clear and agreed (Scrutiny &amp; Cabinet) strategy in place. -Strategy incorporates CIPFA recommendations.</li> <li>- Croydon Park Hotel disposal imminent Dec 2021. -</li> <li>- New ways to utilise properties to secure longer term security being investigated. -</li> <li>- Revised Corporate Asset Strategy in place to help focus resources in the most appropriate way. -The effectiveness of this strategy is dependent on result of Capitalisation Directive award from MHCLG.</li> <li>- Spending strategy stopped with immediate effect for any more investment purchases. -</li> <li>- The Asset investment strategy is included within the Asset Management Plan -ensuring proper governance which will include regular quarterly reporting to effectively monitor any impacts.</li> </ul>	Target Date
<p><b>Future Controls</b></p> <ul style="list-style-type: none"> <li>- Future controls to be confirmed by risk owner</li> </ul>	

Risk Ref	Risk Scenario		Assigned To	Current			Future Risk Rating		
	Risk	Impact		Impact	L'hood	Total	Impact	L'hood	Total
CIC0008 Mitchell, Peter	Wholesale gas and energy costs increasing and risk of continual increases placing unsustainable financial burden on the council, in addition that school energy recharges are recovered.  Reviewed at CMT 18/01/2022  Review & Update as at 19/11/2021 - Team Leader (Sustainability & Energy) is proactively looking at alternatives as LBoC is on Fixed pricing schedule until 31/03/2022. Gas is the key area, as bulk suppliers have little storage capacity due to UK closure of much of storage facilities and capacity relying on piped liquified gas, which is under strain due to increased global demand from Asian Continent.	Financial impact on the council	Mitchell, Peter	5	4	20	5	4	20

**Existing Controls**

- Pursuing a number of procurement options -looking at:  
Group procurement  
Specialist mid term fixed contracts  
Forward spot hedging opportunities

**Future Controls**

- Reviewing Energy Strategy On Green / Sustainability agenda  
Lower CO2 footprint  
Seeking Carbon Neutral opportunities

Target Date

Risk Ref	Risk Scenario		Assigned To	Current			Future Risk Rating		
	Risk	Impact		Impact	L'hood	Total	Impact	L'hood	Total
CIC0010 Mitchell, Peter	<p>Risk of financial loss and reputational damage due to the poor performance of Brick By Brick including the Fairfield Halls refurbishment project</p> <p>Reviewed at CMT 18/01/2022</p> <p>Reviewed by owner 19/11/21. Reported to CMT/Leader w/c 15/11/2021 (Risk generated 19/05/2021).</p>	<ul style="list-style-type: none"> <li>• Council is liable for the outstanding debt.</li> <li>• Political and media scrutiny and interest.</li> <li>• Financial loss on sale of BxB assets.</li> <li>• Loss of interest on loan payments</li> </ul>	Mitchell, Peter	5	4	20	4	4	16

**Existing Controls**

- Revised loan agreement to Brick by Brick (excluding Fairfield Halls) - Loan agreement setting down rights and obligations of parties.
- Separate bank account established for accrued interest on loans provided by Council
- Regular Operational meetings between company & Council and Shareholder board

**Future Controls**

- Additional Management support to be considered for Brick by Brick during managed wind down of the company. Additional third-party support for the build out of certain sites being engaged.  
Review December 2021
- Supplementary external help to close out Fairfield Hall Contract dispute and project manage completion of works Timescale to be appted Dec 2021

Target Date

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Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
ED0001  Davies, Shelley	Increasing population with complex learning needs and parental expectations leads to rising demand and financial pressure on SEN fixed budgets including pressure on High Needs Dedicated Schools Grant (DSG) budget, which can't be funded from General Fund reserves. (The School and Early Years Finance (England) Regulations 2020 established a statutory requirement for any DSG deficit balance to be held within the local authority's overall DSG, meaning authorities cannot fund deficit from general fund without Secretary of State approval)....  Reviewed at CMT 18/01/2022  Risk created 17/9/2019.	<ul style="list-style-type: none"> <li>• Children and families do not receive the advice and support they would expect.</li> <li>• Increased costs due to tribunals and complaints leading to reduced reputation.</li> <li>• Inability to achieve outcomes for children and families in Croydon.</li> <li>• LBC over reliance on 'independent sector'.</li> <li>• Increase in Education, Health &amp; Care (EHC) Plans issued with no additional funding provided.</li> <li>• Specialist placement pressures may result in young people with profound disabilities requiring provision out of borough at additional cost to the Council.</li> </ul>	Davies, Shelley	5	4	20	5	3	15

**Existing Controls**

- 0-25 SEND Strategy Implementation Plan to deliver change across the system. -
- Addington Valley Academy Free School opened in temporary site for Year 7 (September 2020). -
- Addington Valley Free School open on substantive site for all year groups -
- Continue to use Council Members / MP's to lobby Central Government -for a review of the model that funds higher needs to reflect the actual demand for Croydon.
- Delivery of training for travel providers in supporting PMLD and any other pupils requiring APG treatments -- and how to maintain safe Covid 19 Health practices should this be required.
- DSG Recovery Plan (balanced budget 2024/25) approved by Schools forum. -
- Early Identification and Intervention –improved HV assessment, identify needs, work with families early. -Support provided for EY education providers, personalised inclusion funding until the end of EY Foundation Stage.
- Free School opened which will relieve pressure in spend in non-mainstream sector. -
- Further senior management review of existing plans. -.
- Graduated response – right support, right time. -Meeting needs locally in local schools at SEN Support level; reduced reliance on alternative education.
- Implement strategies for managing demand for more effective mainstream school placements. -
- Implementation of joint working with other local authorities to reduce placement costs. -South London dynamic purchasing system (SL DPS).
- Improved forecasting and reporting of demand led spend to manage overall budget position. -
- Improved projections for school places. -
- Joint Working – children's needs are being met locally in Croydon (cost avoidance in independent sector), -through co-ordinated and coherent pathways which are achieved through collaborative work with parents and YP; across education, health and care.
- July 2019 -5 yr deficit recovery plan submitted to DfE.
- Modelling of Locality Based Working - & Staged Approach supporting mainstream schools meeting SEN needs.
- Post 16 pathway development providing effective local education, care and health pathways to adulthood, -and EHC Plans are ceased in timely way (currently 40% HNB spend is post 16).
- Post 16 specialist placements provision created at Coulsdon College for pupils in Sept 2019. -
- SEN strategy 2019 - 2022 presented and approved by Cabinet March 2019 -following consultation. Plans to improve impact of service and measure to mitigate against cost.
- South London Partnership SEN Commissioning Programme in place -for commissioning residential and day placements for children and young people with Special Education Needs.
- Utilised the additional funding allocated in the 2019 'Spending Review'. -

**Future Controls**

- High Needs Funding Review planned Jan 2022 ...

Target Date

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Risk Ref	Risk Scenario		Assigned To	Current			Future Risk Rating		
	Risk	Impact		Impact	L'hood	Total	Impact	L'hood	Total
ED0003  Davies, Shelley	The number of Council maintained schools moving into a financial deficit leading to default and arrears continues to increase. Decrease in pupil numbers is further impacting on school budgets and likelihood of moving into financial deficit.  RISK & CONTROLS MEASURES REVIEWED BY: Director Shelley Davies DATE: 21/02/2022  Reviewed at CMT 18/01/2022  (Risk generated 08/08/2017).	• Financial loss to LBC as the Council holds liability to settle deficit should schools transfer to academy status.	Davies, Shelley	4	5	20	4	5	20

#### Existing Controls

- 'Schools of concern' are under monthly review. -
- Deficit schools report financial outturn monthly to LBC. -
- Focus on schools with significantly reducing pupil numbers and therefore funding -Letter highlighting this sent to schools and follow up discussions / meetings on actions schools need to take.
- Implementation of new strategies following -Independent Financial Review of 'Schools in Deficit' funded from DSG schools block. Visits to 'Schools in Deficit'
- Oversight of any significant deficit reporting as a result of C19 in place. -
- Regular update meetings with the Governing Body's / SLT's of schools with the highest levels of debt. -
- Risk rating system is in place for each of the schools that are either in deficit or 'causing concern'. -
- Schools are met with by senior finance and education officers -to discuss their deficit and their action plan for setting a balanced budget in the future.
- Schools are requested to set a licence deficit plan – -this includes a 3 year budget plan as to how the school will return to a balanced position.
- We have input into the school's 3 year business plan to shape repayment terms and included a formal letter of agreement. -Termly finance meetings for all maintained schools sharing best practice etc.
- Where appropriate the Council is using its statutory powers to investigate installing an Interim Executive Board (IEB). -Powers are limited in terms of financial benefit to the LA but could steer the school towards a form of collaboration with another education body.

#### Future Controls

- School Resource Management Advisor to target meetings with additional school leadership teams and Chair of Governors to review deficit action plans during the start of Autumn term and provide advice to bring budgets in line. Review December 2021

Target Date

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Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
HO0003 Padfield, David	The Council does not meet its statutory obligations for the delivery of the General Building Works across the HRA estate.  Reviewed at CMT 18/01/2022  (Risk generated 30/10/2020).	<ul style="list-style-type: none"> <li>• Unsafe buildings.</li> <li>• Enforcement action against the Council by regulatory bodies.</li> <li>• Political scrutiny and interest at local and national level.</li> <li>• Media interest at local and national level.</li> <li>• Substantial financial loss.</li> <li>• Serious incident / injury.</li> </ul>	Padfield, David	5	4	20	5	4	20

#### Existing Controls

- ARK external independent investigation completed May 2021 and actively implementing recommendations. - Tenants group considering implementation of White Paper 'Charter for social housing residents'
- Tenants/scrutiny panels established in conjunction with housing function
- Residents panel established for the Regina Road meeting twice weekly
- Priority to ensure all key safety areas are being covered focusing on the gas, electricity, fire, lifts, legionella and asbestos checks
- Clear KPIs in situ
- Rigorous review of maintenance contract and contract management
- Actively working with Regulator for Social Housing to ensure correct approaches being taken
- Door-to-door checks with residents implemented

#### Future Controls

- Develop better systems for recording maintenance requests / tenant complaints. Condition survey on seven high priority blocks
- Reviewing all housing contracts including Axis, Mulalley, and Echelon Consultancy
- Detailed improvement plan being developed involving a number of staff in housing department
- Review of resident engagement and improvement board to be established.
- Overarching HRA business plan to be developed and published target date March 2022
- Leader of the Council dialogue with C Exec of Axis to be concluded Q4 2021/22

Target Date

Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
HO0004 Padfield, David	<p>Major increase in disrepair cases raised under the disrepair protocol and as a result of The Homes (Fitness for Human Habitation) Act 2018.</p> <p>**Act requires landlords to ensure that homes are fit for human habitation and is the most significant change in the law relating to housing conditions since the Housing Act 2004. The first phase of these provisions came into force in March 2019 and new tenancies granted since then have been subject to the new legislation.**</p> <p>Reviewed at CMT 18/01/2022</p> <p>(Risk generated 13/05/2021).</p>	<p>Currently disrepair claims are brought in accordance with the well-established 'pre-action protocol for disrepair claims'. An increase in repair claims which could be driven by:</p> <ul style="list-style-type: none"> <li>• Increased awareness of the ability to claim and to get compensation driven in part by targeted and aggressive advertising and social media campaigns by law firms and claims companies.</li> <li>• The cut to legal aid, as a result a number of law firms have change tactics to increase their revenue by concentrating resources into disrepair cases and we have seen an increase in solicitors door knocking and reported two firms to the Bar Council.</li> <li>• The Homes (Fitness for Human Habitation) Act 2018 which came into effect April 2019.</li> <li>• Cases where we have not due to other maintenance priorities addressed problems with the external fabric of our buildings. This requires an ongoing programme to address rendering failures, DPC, Cavity insulation and roofing renewal.</li> </ul> <p>There has been a significant increase in disrepair cases in the last year and in costs. Claims are predominantly (around 95%) related to damp and mould.</p>	Padfield, David	5	4	20	5	4	20

**Existing Controls**

- Analysis of the disrepair cases in the last year has -changed the process that has been in place with maintenance contractor to ensure all reports of damp are inspected and that the Council separate the issues of dampness vs those caused by ongoing leaks.
- Disrepair cases are managed by the Disrepair surveyor and supported by the Senior surveyor -and Technical Manager in the Technical Team. Approval to appoint an agency disrepair surveyors has been granted

**Future Controls**

Target Date

- Resources for disrepair work are being urgently reviewed as part of re-organisation of the service Q4 2021/22
- Review use of de-humidifiers and monitors with Asset Management Team to increase use of emerging damp monitoring technology and industry improvements. Q3 2021/22.

Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
MO0002 Jones, John	Saving options for governance review: Dem Services unable to deliver renewal plan targets  RISK & CONTROLS MEASURES REVIEWED BY: JOHN JONES DATE: 09/02/22	Financial impact or unable to deliver the governance improvements expected	Jones, John	4	5	20	3	4	12

**Existing Controls**

- Awareness and reporting via -improvement plan risk register

**Future Controls**

- Growth bid and budget setting process escalate to Exec Director and/or Deputy S151 officer

Target Date

Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
MO0003 Jones, John	Resources in Democratic services are under significant strain combined with increased demands on the service leading to the risk that statutory minimum standards are not met in relation to the production of committee papers and report packs and meeting our constitutional minimum standards. Growth in demand due to changes and enhancement of governance and the Croydon renewal plan. New staff and existing staff supporting 25% more meetings than originally resourced and meetings lasting longer and more complex including advice and induction of new Members.  RISK & CONTROLS MEASURES REVIEWED BY: JOHN JONES DATE: 09/02/22	Staff working significant more hours into evenings and Annual leave necessarily interrupted leading to TOIL accumulated A cumulative impact on staff of increasing demand, and risk of staff 'burn out' Statutory minimum standards could be challenged in relation to the production of committee papers and report packs and meeting our constitutional minimum standards.	Jones, John	4	5	20	3	3	9

**Existing Controls**

- Additional support has been provided to tackle backlog of minutes and cover staff vacancies -
- Current prioritisation over 6 week forward plan also -use more junior staff to cover more senior staff (also exploring overtime via SCP)
- David Corcoux developed paper on this issue. -

**Future Controls**

- Additional staff resources paper being prepared for ELT. Plan to provide a break/respice for staff members.
- Try to reduce existing demand on service and future demand by prioritising/stop doing some activities, currently under consideration

Target Date

Risk Ref	Risk Scenario		Assigned To	Current			Future Risk Rating		
	Risk	Impact		Impact	L'hood	Total	Impact	L'hood	Total
MO0004 Jones, John	Failure to implement new governance model for the Council associated with directly elected Mayor in May 2022  RISK & CONTROLS MEASURES REVIEWED BY: JOHN JONES DATE: 09/02/22  Reviewed at CMT 18/01/2022  Risk generated 5/11/21	Legal/statutory, reputational and service disruption for the Council and Borough.....	Jones, John	5	4	20	5	4	20

**Existing Controls**

- Governance working group currently set up -.....

**Future Controls**

- Regular meetings of the WG are held to ensure that work streams are meeting deadlines and where deadlines are not being met that corrective action is taken. Meetings are scheduled through to May 2022.

Target Date

Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
PH0007 Flowers,Rachel	<p>The spread of the C-19 infection and the nature of the interventions implemented to reduce it widen health inequalities and increase demand on all Council services. (The omicron variant with it's increased communicability has added another impact of this pandemic with fast transmission even for those who have received 2 vaccinations)</p> <p>** e.g. overcrowded/poor housing - less effective self-isolation; those in deprived areas more likely to have underlying conditions; unsecure employment leading to great financial insecurity**.</p> <p>RISK &amp; CONTROLS MEASURES REVIEWED BY: RACHEL FLOWERS DATE: 9/2/22</p> <p>Reviewed at CMT 18/01/2022</p> <p>(Risk generated 24/03/2020).</p>	<ul style="list-style-type: none"> <li>Increasing demand on Council services as this occurs.</li> <li>Increased mortality and morbidity in more vulnerable groups.</li> <li>Adult Social Care pressure.</li> <li>Housing demand.</li> <li>Political and media interest.</li> </ul>	Flowers,Rachel	5	4	20	5	3	15

**Existing Controls**

- Targeted comm's and engagement to the 'at risk' populations / vaccination uptake work included. -
- Council wide Inequalities programmes including Local Strategic Partnerships (LSP). -
- COVID-19 and flu messaging detailed in the NHS Health Check invitation letter sent to people aged 40-74. -
- Deep dive with data to identify if there are patterns around testing -e.g. people not accessing testing or testing positive e.g. community clustering.
- Director of PH is Regional Lead for London (ASC) and briefing LSP / ELT / GOLD on epidemiology -and control measures.
- Epidemiology data provided by DHSC and LCRC reviewed by PH Team on a daily basis to enhance understanding. -
- Free school meal vouchers. -
- Good engagement across borough with C19 Health Protection Board that provides oversight -to the Outbreak Control Plan.
- Lower level risks discussed on regular basis at SILVER and escalated where necessary. -
- The Outbreak Control Plan operating to ensure that there is coordinated approach to provide -effective delivery across the borough in a coordinated and targeted process.
- Ward level Power BI dashboard analyses data at a local level. -

**Future Controls**

- Achievement of coverage for all age categories under the mass vaccination programme. Including 12-15 Age Group Anticipated completion Dec 2021.

Target Date

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Risk Ref	Risk Scenario		Assigned To	Current			Future Risk Rating		
	Risk	Impact		Impact	L'hood	Total	Impact	L'hood	Total
PP0014 Handford, Gavin	Performance data provided via some corporate systems and processes is inaccurate and incomplete.  Reviewed at CMT 18/01/2022  Risk generated 01/06/2020.	<ul style="list-style-type: none"> <li>Inaccurate / misleading reporting.</li> <li>Financial loss.</li> <li>Reputational damage.</li> <li>Political and media scrutiny.....</li> </ul>	Handford, Gavin	5	4	20	5	3	15

**Existing Controls**

- Data validation activities to ensure accuracy. -
- Enhanced review of data recording in place to identify appropriate strategies to mitigate. -
- Establishment data corrected within My Resources. -
- Managers dashboards are available for key workforce information on MyResources. -
- Monthly finance reporting in place. -
- Performance framework aligned to Croydon renewal activated. -
- PMO activity to coordinated reporting. -
- Review of existing data recording practices / processes to ensure accuracy. -....
- Workstream initiated to ensure activities are appropriate. -

**Future Controls**

- Subject experts to be engaged to workflow current practices and identify control weaknesses more info?????

Target Date

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Risk Scenario			Current			Future Risk Rating			
Risk Ref	Risk	Impact	Assigned To	Impact	L'hood	Total	Impact	L'hood	Total
RCS0036 Ennis, Richard	Ineffective management of identified risk leads to organisational failure.  Reviewed at CMT 18/01/2022  Grant Thornton - 'Report in the Public Interest' recommendation number(s):1-20.  Reviewed by risk owner 16/11/21  (Risk generated 23/03/2020).	<ul style="list-style-type: none"> <li>• Inaccurate risk reporting leads to risk materialisation and consequences associated with them.</li> <li>• Service disruption, death or serious injury.</li> <li>• Political and media interest and scrutiny.</li> <li>• Leadership Team (senior officer / Cabinet Member) resignations / potential legislative action taken against individuals.</li> <li>• Continuing and increasing financial loss.</li> <li>• Public unrest / disorder.</li> <li>• Legal action against Council instigated.</li> <li>• s.114 Notice submitted.</li> <li>• Political scrutiny (national level).</li> <li>• Media interest and scrutiny.</li> <li>• Regulator criticism.</li> </ul>	Ennis, Richard	5	4	20	5	4	20

**Existing Controls**

- Continuous horizon scan review of national and global events / trends. -
- Effective risk recording / reporting mechanism in place allowing for 'high level Risk Register reporting to leadership. -CMT are accountable for successful delivery of the Council's Risk Management Framework.
- Frequency of management oversight of risk register has increased at a senior level in line with demand. -
- Rapidity of escalation to CMT amended to achieve desired outcome. -
- Risk is standing item on regular CMT risk reviews. -
- Robust corporate Risk Management Framework in place. -

**Future Controls**

- Further provision of risk management training to Officers and Members to be implemented as the senior leadership team takes shape. Q4 2021/22

Target Date

Risk Ref	Risk Scenario		Assigned To	Current			Future Risk Rating		
	Risk	Impact		Impact	L'hood	Total	Impact	L'hood	Total
VRN0024  Aspinall, Kristian	<p>A rise in domestic abuse in the borough resulting in greater numbers of murders and serious harm.</p> <p>Referrals February 2021: 66 high harm high risk (Multi-Agency Risk Assessment Conference (aka MARAC)).</p> <p>Risk Reviewed by owner 17/01/2022. Current MARAC referrals for January 2022 = 55</p> <p>Current MARAC referrals for the month of January 2022 = 75</p> <p>Reviewed at CMT 18/01/22</p> <p>(Risk generated 25/06/2018).</p>	<p>Death or serious injury to clients and their children / families.</p> <ul style="list-style-type: none"> <li>Financial loss due to increase in the pressure on inter-related services as well as DASS.</li> <li>Legislative action.</li> </ul>	Aspinall, Kristian	4	5	20	5	3	15

#### Existing Controls

- Feb 2021 - The council sought agreement to a refreshed approach from the partners in the learning the lessons from domestic homicides in the borough. -Community Safety Partnership to the recommendations from Domestic Homicide reviews. This should give new focus from partners to
- Action plans for Safer Croydon Partnership. -- Action plans for Safer Croydon Partnership. -
- Action plans for the Council's Domestic Abuse Support Service (DASS). -
- Active management of workloads and pressures on staff . -
- Commissioning of DRIVE service provider. -
- Community Safety Strategy -The new Community Safety Strategy is being agreed at cabinet on the 15th November 2021, and includes specific actions and updates to our approaches on domestic violence and efforts to reduce long term causes of violence.
- Contingency location identified if move is delayed. -
- Crime & Disorder Reduction Strategy. -
- Domestic Homicide Reviews -We have agreed the funding for our domestic Violence Homicide reviews as of WB 11 /11/2021, and this will be taking place in the coming months. Any actions resulting of these will be captured in an ongoing partnership action plan, and they will be quality reviewed by the Home Office as per protocol .
- FJC -Advocates for victims of domestic abuse and sexual violence White Ribbon Borough and petition.
- FJC team working with victims and putting in place new advocacy measures -
- High number of referrals for MARAC (VAWG pan London) -We will be developing a VAWG Strategy The Police will increase their presence in Town Centres across London MARAC's will continue to be held weekly to manage the volume Secured MOPAC funding for 2 additional IDVA's to assist in managing MARAC capacity and support our mental health and childrens services .
- MARAC and DAPP processes in place. -Occurring weekly to manage increased referral volume.
- Plans in place for prevention and support -
- Presented to GPAC for full review and scrutiny 26/04/2021. -
- Strategic Assessment -Our strategic assessment was refreshed in March 2021. Although not published externally due to the sensitive nature of its contents, the findings of the SA were used in the development of the Community Safety Strategy outlined in action 1), and it continues to be the basis for evidence led decision making across the Croydon Safer Partnership.
- The Council's domestic violence conducts annual refresh of their own specific strategy and work programme -
- Action plans for the Council's Domestic Abuse Support Service (DASS). -
- Active management of workloads and pressures on staff. -
- Commissioning of DRIVE service provider. -
- Community Safety Strategy -The new Community Safety Strategy is being agreed at cabinet on the 15th November 2021, and includes specific actions and updates to our approaches on domestic violence and efforts to reduce long term causes of violence.
- Contingency location identified if move is delayed. -
- Crime & Disorder Reduction Strategy. -
- Domestic Homicide Reviews -We have agreed the funding for our domestic Violence Homicide reviews as of WB 11/11/2021, and this will be taking place in the coming months. Any actions resulting of these will be captured in an ongoing partnership action plan, and they will be quality reviewed by the Home Office as per protocol.

- Family Justice Centre -Advocates for domestic abuse sufferers. White Ribbon Borough and petition.
- FJC team working with victims and putting in place new advocacy measures -
- High number of referrals for MARAC (VAWG pan London) -We will be developing a VAWG Strategy
- The Police will increase their presence in Town Centres across London
- MARAC's will continue to be held weekly to manage the volume
- Secured MOPAC funding for 2 additional IDVA's to assist in managing MARAC capacity and support our mental health and childrens services.

Target date 31/5/22

- MARAC and DAPP processes in place. -Occurring weekly to manage increased referral volume.
- Plans in place for prevention and support -
- Presented to GPAC for full review and scrutiny 26/04/2021. -
- Strategic Assessment -Our strategic assessment was refreshed in March 2021. Although not published externally due to the sensitive nature of its contents, the findings of the SA were used in the development of the Community Safety Strategy outlined in action 1), and it continues to be the basis for evidence led decision making across the Croydon Safer Partnership.
- The Council's domestic violence conducts annual refresh of their own specific strategy and work programme -
- The work of the Family Justice Centre. -
- Working with the Police and other public agencies to increase referrals. -

#### Future Controls

Target Date

- Completion of Croydon's VAWG strategy – end of 2022
- Annual Strategic Assessment The Council's annual strategic assessment will be published this will provide an evidence base to council practitioners and partners to better understand prevalence and types of domestic abuse across the borough. Winter 2021/22
- Community Safety Strategy - Safer Croydon Partnership Council will lead on the development of a new Community Safety Strategy for the Safer Croydon Partnership. Given our high and rising rates of domestic abuse it is likely to be a central area of focus. (Ongoing during 2021).
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- Domestic Homicide Review findings pending following statutory review. Winter 2021/22
- Domestic Homicide Review findings pending following statutory review. Winter 2021/22
- The Council's annual strategic assessment will be published this will provide an evidence base to council practitioners and partners to better understand prevalence and types of domestic abuse across the borough. Winter 2021/22

# Threat and Opportunity Risk Assessment

## Impact Classification

	Service disruption	Financial Loss	Reputation/ Complaints	Statutory/ legal	People
<b>Extreme 5</b>	Total failure of service	Over £5m	National publicity or complaints. Resignation of Member or Chief Officer.	Multiple civil or criminal suits. Litigation, claim or fine above £5m	Multiple fatal incidents or serious permanent injuries involving staff or customers
<b>Very high 4</b>	Serious disruption to service	£500k- £5m	National public or press interest, including high profile complaints	Litigation, claim or fine £500k - £5m	Fatal incidents or serious permanent injuries involving staff or customers
<b>Medium 3</b>	Disruption to service	£50k -£500k	Local public/ press interest including significant corporate complaints volumes/impact	Litigation, claim or fine £50k - £500k	Incidents causing serious permanent injuries involving staff or customers
<b>Low 2</b>	Some minor impact on service	£5k - £50k	Contained within department complaints process	Litigation, claim or fine £5k - £50k	Incidents causing serious injuries involving staff or customers
<b>Negligible 1</b>	Annoyance but does not disrupt service	< £5k	Contained within unit/section, complaints made but resolved	Litigation, claim or fine less than £5k	Incidents causing notifiable injuries involving staff or customers

Select the highest category to score the risk.

### Likelihood Classification for An Event Occurring In A Given Year

5. *Almost Certain*—Expected to occur in most circumstances (> 80%).
4. *Likely* - Will probably occur in most circumstances (51% - 80%).
3. *Possible* – Fairly likely to occur (21% - 50%).
2. *Unlikely* - Could occur at some time (6% - 20%).
1. *Rare* -May occur only in exceptional circumstances (0 – 5%).

### **Risk Rating/Scoring = Impact\*Likelihood**

#### Prioritisation of Risks

<b>20-25</b>	Those risks requiring immediate management and monitoring
<b>9-19</b>	Those risks requiring management and monitoring but less time critical
<b>1-8</b>	Those risks which require ongoing monitoring

#### Approaches that can be adopted for the management of risk:

- **Eliminating or avoiding:** Changing or abandoning goals specifically associated with the risk in question, or choosing alternative approaches or processes that make what was a risk no longer relevant.
- **Risk sharing:** Sharing risks in part or full with another stakeholder who could be involved solely to facilitate risk treatment.
- **Reducing the probability:** Changing approach identifying causal links between threat and impact, or causes of threat, and intervening to mitigate occurrence, acting to reduce the threat.
- **Reducing the impact:** Developing contingency plans for responding to the threat if it occurs, even if other steps have been taken to minimise risk.

**RISK IDENTIFICATION & ASSESSMENT  
CONSIDER BOTH OPPORTUNITY AND THREATS**

**RISK MANAGEMENT**

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<b>REPORT TO:</b>	<b>GENERAL PURPOSES AND AUDIT COMMITTEE</b> 3 March 2022
<b>SUBJECT:</b>	<b>WORK PROGRAMME 2021-22</b>
<b>LEAD OFFICER:</b>	<b>Stephen Rowan,</b> <b>Head of Democratic Services and Scrutiny</b>
<b>ORIGIN OF ITEM:</b>	The Work Programme is scheduled for consideration at every ordinary meeting of the General Purpose and Audit Committee.
<b>BRIEF FOR THE COMMITTEE:</b>	To consider any additions, amendments or changes to the agreed work programme for the Committee in 2021/22.

## 1. EXECUTIVE SUMMARY

- 1.1 This agenda item details the Committee's proposed work programme for the 2021/22 municipal year.
- 1.2 The Committee has the opportunity to discuss any amendments or additions that it wishes to make to the work programme.

## 2. WORK PROGRAMME

### 2.1 The work programme

The proposed work programme is attached at **Appendix 1**.

Members are asked to consider the work programme in the context of the Committee's terms of reference and whether the proposed items will support the Committee in meeting its delegated responsibilities.

### 2.2 Additional Items

Members of the Committee are invited to suggest any other items that they consider appropriate for the Work Programme. However, due to the limited time available at Committee meetings, Members are strongly encouraged to not propose meeting agendas that contain more than three hours of substantive business in order to allow full consideration of the items on any given agenda.

The Committee should also be mindful that the Council is operating under both very restricted resources and, while no longer formally subject to section 114 spending restrictions, the Council has resolved to continue to operate in accordance with such restrictions. To that end, Members should be mindful that requests for additional reports will need to be considered in the wider context of demand for Council resources and the requirement for the Council to only incur expenditure on statutory functions.

### 2.3 **Participation in General Purpose and Audit Committee**

Members of the Committee are also requested to give consideration to any persons that it wishes to attend future meetings to assist in the consideration of specific agenda items. This may include Cabinet Members, Council or other officers or representatives of partner organisations where the Committee feels that attendance would support their ability to fully consider specific items of business.

## **3 RECOMMENDATIONS**

- 3.1 The Committee is recommended to agree the Work Programme 2021/22 with any agreed amendments.

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**CONTACT OFFICER:** Sarah Keeble  
Democratic Services and Governance  
Officer- Council and Regulatory

**BACKGROUND DOCUMENTS:** None

**APPENDIX 1:** Work Programme 2021/22 for the  
General Purpose and Audit Committee.



## General Purposes and Audit Committee

**Chair:** Dr Olu Olasoda

**Committee Members:** Karen Jewitt (Vice-Chair), Stephen Mann, Nina Degrads, Paul Scott, Chris Clark, Joy Prince, Stuart Milson, Tim Pollard, Jan Buttinger and Steve Hollands.

### 2021-2022 Municipal Year

Meeting Date	Agenda Items	Report Lead
30 June 2021	<ul style="list-style-type: none"> <li>- Report in the Public Interest Action Plan – Progress Update</li> <li>- Corporate Risk Register</li> <li>- Grant Thornton Oracle Audit</li> <li>- Anti-Fraud Update Report</li> <li>- Update on Council Whistleblowing</li> <li>- Update on Independent person for GPAC Chair (to note)</li> <li>- Terms of Reference</li> </ul>	<ul style="list-style-type: none"> <li>- Elaine Jackson</li> <li>- Malcolm Davies</li> <li>- Victoria Richardson</li> <li>- David Hogan</li> <li>- Asmat Hussain</li> <li>- Asmat Hussain</li> <li>- Democratic Services</li> </ul>
8 July 2021	<ul style="list-style-type: none"> <li>- Head of Internal Audit Report</li> <li>- Redmond Review into Local Audit Report</li> <li>- Brick by Brick Audit Report</li> <li>- Audit Findings Report</li> </ul>	<ul style="list-style-type: none"> <li>- Simon Maddocks</li> <li>- Simon Maddocks</li> <li>-</li> <li>-</li> </ul>
16 September 2021	<ul style="list-style-type: none"> <li>- Croydon Finance Review – Phase 1, 2 and 3 Reports – Update on Implementation</li> </ul>	<ul style="list-style-type: none"> <li>- Ian O’Donnell</li> <li>- Elaine Jackson</li> </ul>

	<ul style="list-style-type: none"> <li>- Report in the Public Interest Action Plan – Progress Update</li> <li>- Internal Audit Update Report</li> <li>- Anti-Fraud Update Report</li> <li>- Annual Governance Statement 19/20</li> </ul>	<ul style="list-style-type: none"> <li>- Dave Phillips</li> <li>- David Hogan</li> <li>- Matthew Davis</li> </ul>
14 October 2021	<ul style="list-style-type: none"> <li>- Financial Performance Report</li> <li>- Treasury Annual Review</li> <li>- Presentation on an area of Risk</li> <li>- Presentation on Budget Risk</li> <li>- Audit Progress Report</li> </ul>	<ul style="list-style-type: none"> <li>- Nigel Cook</li> <li>- Malcolm Davies</li> <li>- Matthew Davis</li> <li>- Sarah Ironmonger</li> </ul>
25 November 2021	<ul style="list-style-type: none"> <li>- Treasury Mid-Year Review</li> <li>- Corporate Risk Register</li> <li>- Internal Audit update Report</li> <li>- Anti-Fraud Corruption Strategy</li> <li>- Annual Governance Statement 20/21</li> <li>- Regulation Investigatory Powers Act</li> <li>- Dedicated School Grant Management Plan</li> <li>- Governance Referendum Outcome: Update</li> <li>- Progress of Development</li> <li>- Tracking Actions from the Committee – to see it being followed through</li> </ul>	<ul style="list-style-type: none"> <li>- Nigel Cook</li> <li>- Malcolm Davies</li> <li>- Dave Phillips</li> <li>- Malcolm Davies</li> <li>- Heather Wills</li> <li>- Howard Passman</li> <li>- Shelley Davies</li> <li>- Heather Wills</li> <li>- Heather Wills</li> </ul>
January 2022	<ul style="list-style-type: none"> <li>- Audit Progress Report - Workshop</li> </ul>	<ul style="list-style-type: none"> <li>- Sarah Ironmonger</li> </ul>
25 January 2022	<ul style="list-style-type: none"> <li>- Council Meeting Dates</li> <li>- Presentation on an area of Risk</li> <li>- Review of the MTFs January Cabinet Report</li> <li>- Constitutional changes</li> <li>- Revisions to Annual Governance Statement</li> <li>- Local Government &amp; Social Care Ombudsman Report</li> </ul>	<ul style="list-style-type: none"> <li>- Democratic Services</li> <li>- Malcolm Davies</li> <li>- Richard Ennis/Matt Davis</li> <li>- Heather Wills</li> <li>- Heather Wills</li> <li>- Simon Robson</li> </ul>

<p><del>3 February 2022</del></p> <p><b>RECONVENED</b></p> <p>16 February 2022</p>	<ul style="list-style-type: none"> <li>- <del>February MTFS Cabinet Report – HRA</del></li> <li>- <del>Reserve Strategy</del></li> <li>- <del>Transformation Funding</del></li> <li>- <del>Corporate Risk Register</del></li> <li>- Internal Audit Update Report</li> <li>- <del>Anti-Fraud Update Report</del></li> <li>- <del>Recovery Progress Report – Cultural Change</del></li> <li>- Care Cubed</li> <li>- Appointment of External Auditors</li> </ul>	<ul style="list-style-type: none"> <li>- <del>Matthew Davis</del></li> <li>- <del>Matthew Davis</del></li> <li>- <del>Matthew Davis</del></li> <li>- <del>Malcolm Davies</del></li> <li>- Dave Phillips</li> <li>- <del>Malcolm Davies</del></li> <li>- <del>Elaine Jackson</del></li> <li>- Richard Eyre</li> <li>- Dave Phillips</li> </ul>
<p>3 March 2022</p>	<ul style="list-style-type: none"> <li>- <del>Grant Thornton Reports – Audit Findings</del></li> <li>- <del>Internal Audit, Charter, Strategy and Plan</del></li> <li>- <del>General Purposes and Audit Committee Draft Annual Report</del></li> <li>- Croydon Finance Review – Phase 1, 2 and 3 Reports – Update on Implementation</li> <li>- <del>Presentation on an area of risk</del></li> <li>- Changes to the Constitution</li> <li>- Croydon Renewal Plan – Culture Change (verbal update)</li> <li>- Anti-Fraud Update Report</li> <li>- Corporate Risk Register</li> <li>- Fairfield Halls Report in the Public Interest Action Plan</li> </ul>	<ul style="list-style-type: none"> <li>- <del>Sarah Ironmonger</del></li> <li>- <del>Dave Phillips</del></li> <li>- <del>Dave Phillips</del></li> <li>- Matt Davis</li> <li>- <del>Malcolm Davies</del></li> <li>- Heather Wills</li> <li>- Elaine Jackson</li> <li>- Malcom Davies</li> <li>- Malcom Davies</li> <li>- Stephen Rowan</li> </ul>
<p>21 April 2022</p>	<ul style="list-style-type: none"> <li>- Assurance Map</li> <li>- Croydon Renewal Update on Recovery</li> <li>- Internal Audit Report</li> <li>- Anti-Fraud Update Report</li> <li>- Corporate Complaints</li> </ul>	<ul style="list-style-type: none"> <li>- Elaine Jackson</li> <li>- Elaine Jackson</li> <li>- Dave Phillips</li> <li>- Malcolm Davies</li> <li>- Elaine Jackson</li> </ul>

	<ul style="list-style-type: none"> <li>- <b>Draft work plan</b></li> <li>- <b>Presentation on an Area of Risk</b></li> <li>- <b>General Purposes and Audit Committee Draft Annual Report</b></li> </ul>	<ul style="list-style-type: none"> <li>- <b>Richard Ennis</b></li> <li>- <b>Malcom Davies</b></li> <li>- <b>Dave Phillips</b></li> </ul>
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