

# Constitution



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# Constitution

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON



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

It was amended on the following dates:

July and October 2012; January and July 2014; May 2015; January, May and September 2016; January, June and September 2017; May, July, November and December 2018; February, April and August 2019; January, March, April and June 2020; February, March, August and September 2021; May and September 2022; April and August 2023; February 2024.

12 February 2024

# Constitution



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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.
- 2.3 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.
- 2.4 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.
- 2.5 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.
- 2.6 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.
- 2.7 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.
- 2.8 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.

- 2.9 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**

- 2.10 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.
- 2.11 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.
- 2.12 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.
- 2.13 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.
- 2.14 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.
- 2.15 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**

- 2.16 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 Mayor and Cabinet and exceptionally direct to the Council.
- 5.6 Members, the Chief Executive and Corporate 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 a change of governance model.
  - 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**

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**

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>	6 Members
<b>Audit and Governance Committee</b>	9 Members including 1 independent Chair (non-voting co-optee) and 1 independent non-voting co-optee
<b>Constitutional Working Group</b>	4 Members, appointed by the General Purposes Committee
<b>Ethics Committee</b>	6 Members
<b>General Purposes Committee</b>	8 Members
<b>General Purposes Urgency Sub Committee</b>	4 Members drawn from the membership of the General Purposes Committee
<b>Health and Wellbeing Board</b>	<p>8 voting Members : including the Cabinet Member for Health &amp; Adult Social Care and Cabinet Member for Children and Young People a Healthwatch Representative, and CCG Representative</p> <p>In addition, The Executive Mayor is entitled (<b>ex officio</b>) to be a member and to nominate one councillor (voting).</p> <p>Other non-voting members:</p> <ul style="list-style-type: none"> <li>- Corporate Director Adult Social Care &amp; Health</li> </ul>

<u>Committee</u>	<u>Membership</u>
	(non-voting), <ul style="list-style-type: none"> <li>- Corporate Director of Children, Young People and Education (non-voting),</li> <li>- Director of Public Health (non-voting),</li> <li>- Croydon University Hospital Chair (non-voting),</li> <li>- SLAM representative (non-voting),</li> <li>- Croydon Voluntary Action representative (non-voting).</li> </ul>
<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>	6 Members
<b>Pension Committee</b>	8 Members + 3 voting co-optee and 1 non voting co-optee
<b>Planning Committee</b>	10 Members
<b>Planning Sub-Committee</b>	6 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 + 2 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 six 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)      The Council's "Independent Persons" shall be invited and entitled to attend meetings of the Ethics Committee. Independent Persons are not Members of the Committee and have no-voting rights. Where the authority is making a decision on an allegation concerning Member conduct it has decided to investigate the committee will seek and consider the views of an Independent Person before making a decision.

### 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**

The Pension Fund makes some investments through the London LGPS CIV Limited (London CIV) which is authorised and regulated by the Financial Conduct Authority (FCA). The London CIV manages London Local Government Pension Scheme (LGPS) assets. It is one of a number of UK LGPS asset pooling companies. The London Boroughs and City of London are the shareholders. The governance structure includes Shareholder General Meetings and a Shareholder Committee, comprising Leaders and Treasurers of twelve of the London Boroughs, and a Board made up of executive and non-executive directors all of whom must meet FCA fitness to serve requirements.

**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

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# 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.

Function
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
<p>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 provided that the body etc is exercising executive functions.</p> <p>For example, it will be the responsibility of the Executive to make the following appointments:-</p> <p>Local Government Association;</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.</p>

The making of all other appointments will be a non-executive responsibility.

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.

### **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
3. The function in respect of voting on salary packages upon appointment
4. 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 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. 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.

5. 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. **Appeals Committee**

(Membership 6: 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.

## 3. **Audit and Governance Committee**

(Membership 9: one 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.
5. 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.
6. To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
7. To approve the internal audit charter.

#### Internal audit

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. To contribute to the Quality Assurance Improvement Programme and in particular to the external quality assessment of internal audit.

14. 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

15. To consider the external auditor's annual assessment of its independence and review any issues raised by Public Sector Audit Appointments Ltd.

16. To make recommendations to Council relating to the appointment of the external auditor.

17. 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.

18. To comment on the scope and depth of external audit work and ensure it gives value for money.

#### Financial reporting

19. 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

20. 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.

21. 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.

#### 4. **Ethics Committee** (Membership 6)

1. Supporting the statutory role of the Monitoring Officer as set out in Article 9 of the Constitution, including the promotion of high standards of Member conduct.
  1. 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.
  2. Reviewing the operation of the Code and recommending revisions for the consideration of full Council as necessary.
  3. Monitoring compliance with the Code and granting any dispensations church and parent governor representatives from requirements relating to interests set out in the Code.
  4. Commenting on the content of guidance and advice to be issued to elected and non-elected Members.
  5. Considering reports and recommendations from the Member Development Panel in relation to training for elected and co-opted Members.
  6. Agreeing programmes of advice and training for elected, co-opted and non-elected Members on ethics and probity, and on the Code.
  7. To consider applications for a grant of dispensation in the following circumstances:
    - a. That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.

- b. That the authority considers that the dispensation is in the interests of persons living in the authority's area.
- c. That the authority considers that it is otherwise appropriate to grant a dispensation.
- d. If referred to them for consideration by the Monitoring Officer, to advise on or express a view on whether a dispensation would be appropriate in either of the following circumstances:
  - i. That so many Members of the decision-making body have disclosable pecuniary interests (DPIs), 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.

8. 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.

9. To make future invitations for appointment of Independent Persons in accordance with and for the purposes of the Staff Procedure Rules.

10. To undertake the role of Hearings Panel in respect of a complaint that a Member or co-opted Member has failed to comply with the Code of Conduct upon the matter being referred to the Committee by the Monitoring Officer in accordance with the arrangements adopted by the Council under the Localism Act 2011.

## **2.5 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.
- 2. 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. If the proposals are being made in the context of litigation and the making of the decision is urgent.
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. Subject to paragraph 6, any matter reserved to the Council and a non-executive function, or a matter reserved to a non-executive committee or sub-committee of the Council which requires, in the Committee's view or on the recommendation of the 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 4 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**

8 voting Members : including the Cabinet Member for Health & Adult Social Care and Cabinet Member for Children and Young People a Healthwatch Representative, and CCG Representative

In addition, The Executive Mayor is entitled (*ex officio*) to be a member and to nominate one councillor (voting).

Other non-voting members:

Corporate Director Adult Social Care & Health (non-voting),  
Corporate Director of Children, Young People and Education (non-voting),  
Director of Public Health (non-voting),  
Croydon University Hospital Chair (non-voting),  
SLAM representative (non-voting),  
Croydon Voluntary Action representative (non-voting).

**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 6. A further 6 Members shall form a pool of reserve Members for the Committee)

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) and 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 voting co-opted member nominated by the unions, 1 non-Council Employer side voting co-opted member nominated by the other Pension Fund employers and 2 Pensioner side co-opted members (1 voting co-opted member and one non-voting co-opted member) appointed following an election by ballot of Pension Fund pensioners. The Staff side co-opted member is appointed on an annual basis. Pensioner side co-opted members are appointed normally for a term of four years. Terms of Reference are set out at Part 4N.

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

**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, 6 drawn from the Membership of the Planning Committee and constituted as and when necessary, by the Monitoring Officer).

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**

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**

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 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.

#### **4.24 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 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**



- 4.35 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**

- 4.36 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.**

- 4.37 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.
- 4.38 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.

4.39 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**

- 4.40 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.**

- 4.41 The Chief Finance Officer shall contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

#### **Providing advice.**

- 4.42 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.**

- 4.43 The Chief Finance Officer shall provide requisite financial information to the media, members of the public and the community.

#### **Assets and disposals.**

- 4.44 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.**

- 4.45 The Chief Finance Officer cannot be the Monitoring Officer.

#### **The Corporate Resources portfolio**

- 4.46 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**

- 4.47 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**

4.48 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.

- 4.49 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.
- 4.50 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**

- 4.51 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.

4.52 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**

4.53 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.

4.54 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**

4.55 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.

4.56 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**

- 4.57 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**

- 4.58 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.

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

## **PART 4**

### **PROCEDURE RULES**

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

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 4.A - Council Procedure Rules

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

#### Quorum

- 1.1 No business shall be considered unless 18 Members are present in the Chamber or meeting room. If the Chair considers the meeting to be inquorate 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 After the adjournment, the Chair shall decide whether to continue with the meeting either in the same Chamber or meeting room or elsewhere.
- 1.5 In the case of a Member or a member of the public disrupting the meeting, the Chair, after warning, may order the removal of that person or that the public areas be cleared. Re-admission shall be at the discretion of the Chair.
- 1.6 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 the internet. Members shall leave the meeting should they wish to make or receive urgent telephone calls. Members' attention shall be, and be seen to be, focused on the meeting and matters of council business.
- 1.7 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**

- 1.8 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 shall be recorded in the minutes.

### **Rules of Debate**

- 1.9 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.
- 1.10 Members shall, when speaking, address the Chair and:
- 1 refer to each other as Chair, Deputy Chair, Executive 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.
- 1.11 No debate shall be allowed except in relation to a motion or amendment under consideration. Unless stated otherwise, 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.
- 1.12 Every motion or amendment must be moved and seconded and if the Chair requires, be put in writing for the Chair 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.
- 1.13 Unless otherwise stated, the following procedural motions may be moved without prior notice and, with the exception of 1, at the discretion of the Chair:
- 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 Executive Mayor (and/or Cabinet as appropriate) or a Committee;
- 6 permit the withdrawal of a motion, report 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; this includes short adjournments for the Chair to seek legal or procedural advice, Members to develop amendment wording or proposals when permitted, or a comfort break.
- 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.
- 12 moving of an amendment to a Council Debate Motion by the mover of the Council Debate Motion.

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

- 1 Unless otherwise stated, 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.

1.15 Only in respect of a planning, licensing or some other regulatory 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.

1.16 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 fewer than fifteen Members sign a notice in support of such a motion in which case an item shall be placed on the Agenda.

1.17 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 breached. The ruling of the Chair on the matter will be final.

1.18 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 position or previously held 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.

- 1.19 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**

- 1.20 Unless required otherwise by law, all matters shall be decided by a simple majority. Voting shall in the first instance be by raising of hands. The Chair shall declare the result of the vote once Members' votes have been counted. In the event an electronic voting system is available, the Chair shall confirm the voting arrangements before a vote is taken, which may take place electronically or by show of hands.
- 1.21 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.
- 1.22 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.
- 1.23 Before a vote takes place, a Member may rise and ask the Chair that a Poll vote be taken. 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 orally (For, Against or Abstain) with the Chair being called upon to vote last.
- 1.24 In the event of an equality of votes, the Chair 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 Leader and/or Secretary and/or Chief Whip 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 Leader, Secretary or Chief Whip 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 fewer than six clear working days prior to the day of the Annual Council meeting.

### 2.3 The Annual Meeting of the Council shall be reserved for:

- Election of the Chair and Vice-Chair;
- Appointments to Committees and outside bodies;
- Election of Chairs, Deputy Chairs & Vice Chairs to Committees  
(If not nominated / agreed and in the absence of alternative provision in some other Part of the Constitution, their election falls to the first meeting of the relevant Committee);
- Receipt of the Executive Mayor's Scheme of Delegation;
- Confirmation of the Executive Mayor's Executive arrangements including any changes;
- Receipt of annual reports from Committees where required, including Scrutiny and Overview Committee,
- Noting of the Members of the Shadow Cabinet, and;
- Approval of the minutes of the last meeting of the Council.

The meeting will receive a statement from the Executive Mayor reflecting on the previous year and outlining their priorities for the year ahead; the Leader of the largest group of which the Executive Mayor is not a Member will be invited to respond.

The meeting may also hold a presentation ceremony, to present any honorary or freedom awards conveyed at a Special Council Meeting.

- 2.4 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.
- 2.5 The Chair shall determine the order of business for the meeting.

#### **Appointment of Substitute Members of Committees**

- 2.6 As well as allocating seats on Committees, the Annual Meeting of the Council will allocate seats for substitute Members.
- 2.7 For all non-Executive Committees, other than the Appointments and Disciplinary Committee, the Council will appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on that Committee. For the Appointments and Disciplinary Committee, the Council will appoint the triple the number of substitutes in respect of each political group as that group holds ordinary seats on that Committee.
- 2.8 Those substitute Members will be required to undertake any training required of ordinary Members of those Committees prior to participating in any meeting of those Committees.
- 2.9 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.
- 2.10 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; and,

ii) where the ordinary Member will be absent for the whole of the meeting.

2.11 A substitute is appointed after notification (by the Leader of the Group, the Individual Member, or the Group's Chief or Deputy Whip) has been received by the relevant Democratic Services Officer by the start of the Committee meeting.

2.12 Sub-Committee Members and substitute Members are appointed by the relevant Committee.

### **Executive Mayor, Cabinet and Shadow Cabinet**

2.13 The Executive Mayor and up to nine other members of the Cabinet shall comprise the Executive Members of the Council.

2.14 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 Executive 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.

2.15 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.

2.16 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.

### **Annual 'State of Borough' Debate**

2.17 The Chair of the Council may annually call a State of the Borough Debate meeting on a date and in a form agreed with the Executive Mayor.

2.18 The State of the Borough debate would take place as part of an ordinary Council meeting; however, the form of debate shall have 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 will be suspended, to ensure maximum flexibility in the agenda and this may exclude standing items of an Ordinary Council meeting. The arrangement for the meeting shall be communicated to the Public and Members in good time.

2.19 Smaller groups (i.e. a political group other than the two largest groups) and non-grouped Member/s may submit debate motions as part of the 'State of the Borough' council meeting.

The meeting and debate/s 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 Executive Mayor in proposing the budget and policy framework to the Council for the coming year.



In the event that other Council business needs to be considered, this will be done before or after the State of the Borough Debate at the discretion of the Chair.

### **3 COUNCIL MEETINGS**

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

- 3.1 Seven meetings of the Council, including the Annual and Council Tax (Budget) 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 Council meetings will begin at 6.30 pm and last for a maximum of three hours.
- 3.3 In the event that the meeting has lasted for three hours and there is remaining business to be conducted, the Chair shall interrupt the meeting and call for a vote of Members present on whether the meeting shall continue for up to 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 up to 30 minutes, the Chair will put to a vote whether any of the remaining business is of sufficient importance to warrant an adjournment of the meeting. If so, the Chair 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 any business that has been adjourned the Chair shall put to the vote without further debate (unless a motion to debate an item has been agreed) all outstanding reports and motions on the agenda. The Chair shall then close the meeting.
- 3.6 The agreeing of any Special or Extraordinary Council Meeting, including the time and date of the meeting, may be determined by the Chair of Council (or Vice Chair in their absence) or the General Purposes Committee. On occasions when a Special or Extraordinary Meeting is on the same date as an Ordinary Meeting, the Chair of Council (or Vice Chair in their absence) or General Purposes Committee may determine the arrangements for a shortened Ordinary Council Meeting if required.

#### **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 Executive Mayor (or nominee), Head of Paid Service and/or Returning Officer (or nominee);
6. Croydon Question Time: Public Questions from the public gallery;
7. The Croydon Debate:
  - a) Public Petition
  - b) Member Petition
8. Report/s to Council;
9. Questions to Mayor and Executive;
10. Maiden Speeches (Only taken as an item at Ordinary Council meetings following an election and permits newly elected Members (for the first time) to speak for up to three minutes each. No more than 5 maiden speeches shall be taken at any Ordinary Council meeting);
11. Appointments;
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 is 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, Special or Annual Council Meeting shall be signed at the next convenient Ordinary Council 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 Executive Mayor (or nominated representative); the Head of Paid Service (or nominated representative); and/or the Returning 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: Public Petition and Member Petition Debates.

### **Petitions: General requirements for all Petitions and Croydon Debate items**

- 3.14 Two types of petitions may be presented to full Council under the Croydon Debate item: Public Petitions and Member Petitions each of which are governed by these Rules and, where relevant, the provisions of the Council's Petition Protocol.
- 3.15 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.
- 3.16 Petitions shall not be received or debated by the Council at the Annual or Council Tax Meeting.
- 3.17 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.
- 3.18 Petitions may only be submitted for the Croydon Debate item by "Local People" i.e. a person who appears on the electoral register within the Borough, or an adult, young person or child, who lives and/or works in the area or attends a school/college in the Borough. Any lead petitioner or representative/s speaking to a petition at a council meeting must also meet the 'Local People' definition.

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 fewer than fifteen (15) clear working days before the Council meeting shall, if successfully verified, be presented to the following Council meeting.

- 3.19 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.
- 3.20 Electronic / online petitions can be submitted as long as the Council is able to verify that the signatories are 'Local People' in the same way as with paper petitions.
- 3.21 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.

### **Petitions by Members of the Public (Public Petitions)**

- 3.22 Only one public petition shall be considered at each Ordinary Council Meeting. Where two or more public petitions are received in accordance with these Rules, subject to validation of the necessary number of signatures, each public petition will be scheduled for debate at the next ordinary Council meeting in the order received. If a high number of public petitions are scheduled or the public petition is time sensitive, the Chair of Council has discretion, where time permits, to schedule additional public petitions to be received at a Council meeting.
- 3.23 Where two or more public petitions are received, or where a public 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 public petitions will be dealt with at the next Ordinary Council Meeting in the order they have been submitted.
- 3.24 At the conclusion of a public petition debate the Executive Mayor or relevant Cabinet Member will announce what steps the Council intends to 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.
- 3.25 The number of signatures required in order to trigger a Public Petition Debate at a Full Council meeting shall be 500 signatures of Local People.
- 3.26 The rules of debate for a public petition will be as follows:
- i. The Lead Petitioner or their representative may address the Council on the public 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 (the largest group the Executive Mayor is not a member of) may address the Council for up to three minutes;
  - iv. A second member from the Majority group may address the Council for up to two minutes;
  - v. A second member of the Opposition group may address the Council for up to two minutes;
  - vi. The Lead Petitioner or their representative may address the Council for a

- further two minutes;
- vii. The Executive Mayor or relevant Cabinet Member 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 public petition thereafter.

### **Petitions Presented by Members (Member Petitions)**

- 3.27 Subject to the provisions set out in Rule 3.14-3.21, any Member may formally present a Member Petition in accordance with the rules below.
- 3.28 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.
- 3.29 No Member Petitions shall be received at Annual Council or the Council Tax meeting.
- 3.30 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 Member Petitions shall not automatically be received at the following Ordinary Council meeting but may be resubmitted by the Member.
- 3.31 The full Member 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 and shall be subject of a debate.
- 3.32 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.

#### **3.33 Member Petitions:**

The rules of debate for a Member Petition will be as follows:

- i. The Lead Petitioning Member and/or the lead resident (from the Chamber Public Gallery) may address the Council on the Petition for a combined total of up to up three minutes;
- ii. The Executive Mayor or relevant Cabinet Member may address the Council for a response for up to two minutes and summarise the next steps to be taken in the matter.
- iii. No further debate shall take place on the Member Petition thereafter.

### **Croydon Question Time**

- 3.34 The Croydon Question Time item shall not be taken at the Annual Council Meeting or at the Council Tax Meeting.
- 3.35 The Croydon Question Time item shall comprise the Executive Mayor and Executive Questions and Public Questions at meetings.

- 3.36 Public questions can be asked of the Executive 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 can be noted and a written response provided within 3 weeks following the meeting; this will be stated at the meeting. The responses shall be published in the minutes.
- 3.37 Public Questions shall only be taken at Ordinary Council meetings and shall be allocated a total time of up to 30 minutes. This time frame shall include both the response by the Executive Mayor relevant Cabinet or Deputy Cabinet Member and any supplementary questions.
- 3.38 A question may only be asked if notice has been given by delivering it in writing or email to the Head of Democratic Services no later than midday of the seventh 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. If the question is specifically for the Executive Mayor, the Executive Mayor should provide the response (along with a Cabinet/Deputy Cabinet Member if appropriate for any supplementary question). If addressed to a Member of Cabinet or a Deputy Cabinet Member, the Executive has discretion to choose the most appropriate Executive Member to provide the response e.g., relates to an area outside of their portfolio.
- 3.39 At any one meeting no person may submit more than one question and no more than one question may be asked on behalf of a single organisation.
- 3.40 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.

- 3.41 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. 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 by email and included in the minutes of the meeting.

- 3.42 Only members of the public attending the meeting (in person or virtually) shall have their questions and responses read out at the meeting
- 3.43 Questioners attending the meeting will be given the opportunity to ask a supplementary question based on the answer from the Member. Questioners may attend the meeting in person or virtually. If attending virtually, the questioner must provide email details and will be provided with a protocol for joining the meeting virtually.
- 3.44 The Chair, in consultation with the Monitoring Officer, may reject a supplementary question on any of the grounds in 3.40 or if the question takes the form of a speech. All questions shall be put and answered without discussion.
- 3.45 Any question asked by a Member of the public together with the answer given shall be recorded in the minutes of the meeting.

#### **Questions to the Mayor and Executive:**

- 3.46 The Executive Mayor or nominee has the opportunity to use the first five minutes of this item to make announcements including updates of business by Cabinet Members.
- 3.47 This item is to enable Members to ask questions of the Executive 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 and added to the draft minutes of the meeting (stating that had been the subsequent response provided following the meeting). Any Member questions still outstanding at the end of the item, not so noted will fall.
- 3.48 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.

- 3.49 Subject to the allocation of questions set out below, each member may ask up to two questions:
- Labour Group x 1 Question
  - Conservative Group x 1 Question
  - Green Party Group (i.e. other group/s) x 1 Question

- Liberal Democrat Member (i.e., Independent Member/s) x 1 Question
- Questions will then alternate between the Labour and Conservative Groups until time runs out.

3.50 Questions are directed to the Executive. The Executive Mayor may answer or refer the answer to the questions to the relevant Executive Member (including Deputy Cabinet Members) as required. In cases of referral, the Executive Mayor's initial response and reason for referral should be short in order to avoid repetition and maximise the number of questions answered in the item.

3.51 The maximum time allocated to this item is 65 minutes. All questions and answers should be succinct.

3.52 The order of questions submitted for each group will be the order called at the meeting by the Chair. Supplementary questions shall relate to and be based upon the answers given verbally by a member of the Executive at the Council meeting.

### **The Council Debate Motions**

3.53 The two largest political groups 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.

3.54 Smaller groups and non-grouped members may submit a debate motion at the 'State of the Borough' Council meeting, and throughout the year may informally discuss and present motion topics to the two largest groups. Seconders of motions, with agreement of the group submitting the motion, do not have to be of the same group.

3.55 The wording of the motion shall be contained on the notice submitted to Democratic Services. 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. If not already provided, 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.

3.56 An amendment to a debate motion can only be moved by the original mover of the motion.

3.57 Proposed amendments by the original mover shall be submitted in a timely manner to Democratic Services before the meeting and if possible, an addendum published to the Council agenda.

3.58 The amendment moved by the original mover of the motion will be immediately put to the vote, and if agreed, will become the substantive motion put to the Council for subsequent debate and vote.

3.59 The Head of Democratic Services on behalf of the Monitoring Officer shall be entitled to clarify the wording of a motion or amendment 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.

3.60 The Monitoring Officer shall consult the Chair if agreement on such clarification or amendment to the motion cannot be reached, and the Chair may direct that the motion or amendment shall not be included in the summons.

3.61 The time available for Council Debate Motions shall be divided equally between the groups subject to each motion having no more than 15 minutes for debate. If the amount of time available prior to the end of the meeting to debate two Motions for Debate is less than 30 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 the end of the meeting to debate the Motion is less than 15 minutes, the Chair shall confirm that the Motion has fallen. 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. The proposer of a Motion for Debate shall have a right of reply and shall close the debate, with up to 3 minutes.

3.62 Following the vote, if the motion is approved, the Executive Mayor shall provide a response to the motion being passed, for up to 3 minutes, outlining the next steps and actions, if any.

3.63 Any listed motion, if not moved at the meeting shall be deemed to have fallen.

3.64 No Motions for Debate shall be submitted or dealt with at the Annual Council Meeting.

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

3.65 In accordance with 2.3 the Annual report of the Scrutiny and Overview Committee shall be received at the Annual Council meeting.

3.66 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.

- 3.67 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.
- 3.68 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**

- 3.69 Annual reports shall be received at the Annual Council meeting.
- 3.70 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.
- 3.71 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.
- 3.72 Any Member, except the seconder of the report, may ask the Chair or Vice-Chair (as appropriate) not more than two questions on each paragraph of the report.

### **Reports to Council**

- 3.73 The Executive Mayor, Chair of a Committee or other Member may exercise a right to introduce and move recommendation/s in a report to Council; in so doing the Executive Mayor, Chair of a Committee or Member shall speak for a maximum of 3 minutes.
- 3.74 If seconded, the recommendation shall immediately be put to the vote unless moved for debate, or unless a motion to amend or refer the item back to the Executive, Committee or Officers (as appropriate) has been submitted on notice.
- 3.75 The rules in this section (3 Council Meetings) are subject to the rules in Part 4C - Budget and Policy Framework Procedure Rules.

### **Reports Moved for Debate**

- 3.76 Any Member supported by a seconder, may ask that recommendations in a report be debated and, if there is a majority vote in favour, the recommendations shall be immediately 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 is less than 21 minutes, the Chair shall confirm that the item has been deferred to the next meeting unless a vote of Members has agreed the meeting shall continue for up to 30 further minutes.
- 3.77 The proposer of a debate on the recommendations shall be allowed to speak for a maximum of 3 minutes. The seconding Member simply seconds the motion and is deemed to have reserved their right to speak. All other speakers shall be restricted to a maximum of 3 minutes. There shall be no more than six speakers (including the proposer and seconder and at least four of the speakers shall be two members of each of the two largest groups) called to speak in respect of the

recommendations. The Member moving the report has a right of last reply for no more than 3 minutes.

3.78 At the conclusion of the debate, the recommendations shall be put to the vote.

3.79 No more than one report shall be the subject of debate at any one time.

3.80 In the event that any Executive, Cabinet or Committee recommendations have not been agreed when the time limit for the meeting has expired, those recommendations shall immediately be put to the vote without further debate.

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

3.81 The rules in respect of Reports to Council do not apply to any recommendations contained in the Annual Report of the Scrutiny and Overview Committee.

### **Council Reports – Amendments on Notice or Referring Back Recommendations**

3.82 Any Member may move a motion to refer a recommendation back (with amendment / reason for referral) or to amend a recommendation. A reference to a motion to amend or to amendment(s) in this section includes an amendment to add a new recommendation.

3.83 Should a Member wish to move an amendment to a recommendation in a report or move to refer the recommendation back to the Executive, Committee or Officers (as appropriate) with a suggested amendment (or any other reason for the referral back) the Member shall submit their intention and details of the amendment / referral back in writing to Democratic Services within 72 hours of the publication of the agenda or within 24 hours of the report being published if not part of the original published agenda.

3.84 The submission of a motion to amend a recommendation in a report or refer the recommendations back with a suggested amendment (or any other reason for the referral back) shall be published as an addendum.

3.85 At the meeting, a motion to amend or refer back a recommendation must be supported by a seconder and, if there is a majority vote in favour, will be debated. If there is no majority in favour, the motion will fall. The time allowed for consideration of an amendment or referral back shall not exceed 21 minutes, or 6 speakers in total (including at least two members of each of the two largest groups). The Member moving the report shall speak for up to 3 minutes. The seconding Member simply seconds the motion and is deemed to have reserved their right to speak.

3.86 Both the original recommendation and referral back or / and amendment(s) shall be debated as a single item.

3.87 Up to four other speakers can be called (which may include the Members seconding the report's recommendation/s or amendment/referral back) each of whom shall not speak for more than three minutes. The Member moving the report has the right of last reply, no more than 3 minutes.

3.88 Additional movers and seconders are permitted in the event of more than one motion to amend or refer back.

3.89 At the conclusion of the debate, the voting process will be:

- vote on the motion(s) to amend/refer back in order as determined by the Chair;

- if the motion(s) to amend/refer back fall(s), vote on the original recommendations.

3.90 In the event that the amount of time available for the referral back / amendment debate prior to 9.30pm is less than 21 minutes, the Chair shall confirm that the referral back debate has been deferred (unless the meeting has agreed to extend the meeting up to 30 minutes).

#### **Delegation of decision on recommendations**

3.91 In any circumstance where the Council decides not to take a decision on a recommendation, it may delegate that decision to such a committee, decision maker or body as it sees fit consistent with its legal obligations.

#### **Suspension of Council Procedure Rules**

3.92 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. 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 Executive Mayor, Head of Paid Service and/or Returning Officer;
6. Council tax and Budget report
  - Questions to the Executive 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 Executive Mayor and Cabinet Member for Finance**

4.3 This report will contain the recommendations of the Executive Mayor on the Council tax and Budget to Council

- 4.4 This item is to enable Members to ask questions of the Executive 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 3.22 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 Executive 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 Executive Mayor shall be 15 minutes. The first three minutes of the Executive Mayor's 15 minute slot may be used by the Executive 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 Finance's 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**

- 4.7 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**

- 4.8 The Executive 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.
- 4.9 Five further Members from each Group shall be called alternately by the Chair and shall each speak for not more than 3 minutes.
- 4.10 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 Executive Mayor or other Cabinet Member to wind up the debate. The Executive Mayor, or other Cabinet Member, in exercising a right of reply shall be allowed to speak for a maximum of 5 minutes.
- 4.11 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 4.11 are not subject to the requirements of paragraph 1.22 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 Executive 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 Special Meetings of the Council may be called by the

- i) Council by resolution;
- ii) Chair of Council

6.2 Special Meeting of Council are for the purposes of admitting former Members to the Roll of Honorary Aldermen/Alderwomen/Aldersperson, 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 / Alderwomen /Aldersperson**

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.

- 6.3 The Chair shall determine the order of business in respect of any Special Council Meeting.

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

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

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

#### 1 SCOPE

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

#### 2 ADDITIONAL RIGHTS TO INFORMATION

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

#### 3 RIGHTS TO ATTEND MEETINGS

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

#### 4. NOTICE OF MEETINGS

The 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.

13.6 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**

14.1 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.

14.2 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.

- 14.3 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.
- 14.4 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.
- 14.5 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.
- 14.6 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**

- 15.1 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**

- 16.1 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)).
- 16.2 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**

- 17.1 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.

- 17.2 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.
- 17.3 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**

- 18.1 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.

- 18.2 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**

- 19.1 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.
- 19.2 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**

- 20.1 Executive decisions will only be deemed to have been made when they have been recorded and publicised in accordance with this Constitution.
- 2.20 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**

- 21.1 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**

22.1 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**

23.1 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**

#### 25.1 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**

#### 26.1 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**

- 28.1 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 adviser 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**

34.1 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.

## Appendix 1

### LOCAL GOVERNMENT ACT 1972 (as amended)

#### SCHEDULE 12A

#### ACCESS TO INFORMATION: EXEMPT INFORMATION

#### PART 1

#### DESCRIPTIONS OF EXEMPT INFORMATION: ENGLAND

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

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

#### PART

2

#### QUALIFICATIONS: ENGLAND

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

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

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

**10.** Information which—

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

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

## PART

3

### INTERPRETATION: ENGLAND

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

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

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

"labour relations matter" means—

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

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

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

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

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

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

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

(b) in the case of a committee, to—

(i) any constituent principal council;

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

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

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

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

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

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

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

### 1 The framework for executive decisions

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

## **5 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**

- 2.7 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.
- 2.8 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.
- 2.9 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.
- 2.10 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.

## **Appendix 1**

### **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.

**APPENDIX A**

**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 coo-opted member.

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

- 3.1 Ordinary meetings of the Scrutiny and Overview Committee shall be programmed in each Council Year, though the Scrutiny and Overview Committee may vary this number during the course of the year to reflect its work programme. The frequency of meetings of any appointed Sub- Committees shall be determined by the Scrutiny and Overview Committee.
- 3.2 Meetings of the Scrutiny and Overview Committee shall commence at 6.30p.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 foregoing, where 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
  - (v) 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.

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

The following Sub-Committees have been established with the terms of Reference as set out below.

##### **14.1 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;

##### **14.2 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.

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

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

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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 into 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:

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 4.H – Financial Regulations

1. Status of Financial Regulations
  - Status
  - Financial Control Framework
  - Scheme of Financial Delegation
2. Other Financial Accountabilities
  - Virements
  - Treatment of Year-End Balances
  - Accounting Policies
  - Annual Statement of Accounts
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3. Financial Planning and Budgeting
  - Policy Framework
  - Budgeting
  - Budget Preparation
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  - Maintenance of Balances & Reserves
  - Capital Programme
4. Petty Cash
5. Procurement Cards
6. Banking Arrangements and Cheques
7. Risk Management and Insurance
8. Internal Control
  - Audit Requirement
  - Preventing Fraud & Corruption
9. Assets
10. Management of Contracts
11. Treasury Management
12. Systems and Procedures
13. Income and Expenditure
  - Leasing Arrangements & PFI / PPP Funding Arrangements
  - Payments to Employees & Members
14. Taxation
15. External Collaboration
  - Partnerships

- External Funding
- Work for Third Parties

16. Retention of Records

17. Devolution of Financial Management

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

## **1. Status of Financial Regulations**

- 1.1 The Financial Regulations (the Regulations) provide the governance framework for managing the Council's financial affairs. They apply to all Members, officers of the Council and anyone acting on its behalf. It is likely to be considered a disciplinary offence to breach these Financial Regulations and procedures.
- 1.2 They seek to ensure that the Council conducts its affairs in a way that complies with specific statutory provisions, generally accepted accounting practices and professional good practice.
- 1.3 The Local Government Act 1972 (Section 151) makes the Chief Financial Officer responsible for the proper administration of the Council's financial affairs. These Regulations are issued pursuant to these responsibilities.
- 1.4 All Members and Officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control and for ensuring that the use of these resources is legal, is properly authorised and achieves value for money. In doing so proper consideration must be given at all times to matters of probity and propriety in managing the assets, income and expenditure of the Council.
- 1.5 The Regulations apply to the control of both the General Fund finances (except maintained schools), Capital and the Housing Revenue Account, as well as other grants received. Schools must adopt their own financial policy and procedures based on the principles within the Regulations but also taking account of more specific guidance issued, including the Croydon Scheme for Financing Schools.
- 1.6 The Regulations identify the financial responsibilities of:
  - The full Council;
  - The Cabinet;
  - The Head of Paid Service (Chief Executive);
  - The Chief Financial Officer (Corporate Director of Resources – who is also the Council's Section 151 Officer);
  - The Monitoring Officer;
  - Corporate Directors
  - All officers and Members of the Council
- 1.7 The Chief Financial Officer is responsible for maintaining and regularly reviewing these Regulations and has delegated authority for any additions or changes.
- 1.8 The Chief Financial Officer is responsible for issuing advice and guidance to underpin the Regulations to which Members, Officers and others acting on behalf of the Council are required to have regard.
- 1.9 The Chief Financial Officer is also responsible for reporting, where appropriate, breaches of the Regulations to the Council and/or to Cabinet.
- 1.10 The Regulations are supported by a set of mandatory Financial Policies and Procedures which provide more detailed direction on the arrangements to be complied with. All Officers and Members must ensure that they read and follow these procedures. Failure to comply may constitute misconduct and lead to formal disciplinary action. Financial Control Framework
- 1.11 The financial administration framework of the Council is organised in accordance with Section 151 of the Local Government Act 1972, requiring that every local Authority in England and Wales should "make arrangements for the proper administration of their

financial affairs and shall secure that one of their Officers has responsibility for the administration of those affairs.”

The framework comprises:

- Constitution: The principal rules governing the Council’s affairs, including financial, and the delegation of authority to Members and Officers.
- Financial Regulations: this document is part of the Constitution, created by the Council, with amendments delegated to the Chief Financial Officer, to provide a framework for its financial procedures.
- Financial Policies and Procedures: set out controls and responsibilities of all staff and Members
- Schemes of Delegation
- Scheme of Financial Delegation
- Procurement Governance Handbook
- Tenders & Contracts Regulations
- Project and Project Management Framework Scheme of Financial Delegation

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

## **2. Other Financial Accountabilities Virements**

- 2.1 Virement is the term used to transfer (or vire) budgetary provision from one budget heading to another. Transfer of budgetary provision within the same budget heading is not considered a virement however appropriate evidence for this transfer must be maintained and completed in accordance with the Scheme of Financial Delegation.
- 2.2 An inter-departmental virement is a transfer between budgets within different departments. An intra-departmental virement is a transfer between two budgets within the same department.
- 2.3 Virements must not be fragmented to circumvent the limits set out below. Any transfers intended to have a permanent effect must form part of the budget setting process and will be set out within the annual “Council Tax and Budget Setting report”. Approval Limit Heads of Service Up to £100k for virements within their budgets Directors Unlimited for virements within their division. Corporate Directors Unlimited for virements within their department. Up to £500k between departments. (Both Corporate Directors to agree). Cabinet with full support of Chief Financial Officer. The Chief Financial Officer must have formal agreement from both Corporate Directors. Above £500k for inter-departmental virements. Corporate Director of Resources Unlimited non-controllable virements\*. \*Non-controllable virements are those which need to be undertaken for accounting purposes (such as depreciation and recharges). Treatment of year-end balances
- 2.4 Requests to carry forward revenue budgets at the end of the financial year must be made by the budget holder as part of the closing of accounts process. Requests are to be made via an official form and will be approved by the Chief Financial Officer. Once approved the budget will be included in the annual statement of accounts as an

earmarked reserve. Requests need to be made annually and any balances at the end of a financial year will not automatically be carried forward.

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

Accounting policies

2.6 The Chief Financial Officer is responsible for selecting the Council's accounting procedures, records and policies, including any changes to those policies, and ensuring that they are applied accurately and consistently. The Annual Statement of Accounts

2.7 The Chief Financial Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom. The General Purposes & Audit Committee is responsible for approving the annual statement of accounts on behalf of full Council.

2.8 The Chief Financial Officer is responsible for the preparation and publication of an Annual Governance Statement (AGS). This is the outcome from an annual review of the Council's risk management, internal control and governance arrangements and is published with the Statement of Accounts. The AGS is signed by the Chief Executive and the Leader and is approved by the General Purposes & Audit Committee on behalf of full Council.

Trading Accounts

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

### **3. Financial Planning and Budgeting**

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

3.1 The full Council is responsible for agreeing the Council's policy framework and budget, which will be proposed by the Cabinet at the annual council tax and budget setting meeting, usually at the end of February. In terms of financial planning, the key elements are:

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

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

objectives and can be multi-year.

#### Budget format

- 3.3 The general format of the budget will be proposed by the Leader or Cabinet on the advice of the Chief Financial Officer and approved by the full Council. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds. Budget preparation
  - 3.4 The Chief Financial Officer is responsible for ensuring that a balanced revenue budget and capital programme and budget, are prepared on an annual basis. The full Council may amend the budget or ask the Leader and Cabinet to reconsider it before approving it.
  - 3.5 The Chief Financial Officer will issue details of the Council budget to Corporate Directors as soon as possible following approval by the full Council. Each of the Corporate Directors will be expected formally to signoff their budget with the Chief Financial Officer before submission to the Cabinet.
  - 3.6 It is the responsibility of Corporate Directors to ensure that budget estimates reflect agreed service plans and are submitted to the Chief Financial Officer. The Chief Financial Officer will provide a detailed Directorate budget book before 1st March relating to the next budget year.
  - 3.7 The total for the Directorate budget book must equal the budget agreed by the Corporate Directors. Financial Management Process
  - 3.8 The Chief Financial Officer is responsible for the financial management process enabling capital and revenue budgets to be monitored effectively.
  - 3.9 The Chief Financial Officer is responsible for monitoring and controlling expenditure against budget allocations and reports the actual position in comparison to the budget, projected out-turn position and any proposed action to be taken by departments to deal with any variances to:
    - the Leader and Cabinet at least quarterly; and
    - the Corporate Management Team.
- 17.9 Corporate Directors are responsible for:
- controlling income and expenditure within their area and monitoring performance, taking account of financial information provided by the Chief Financial Officer and / or their own systems;
  - quarterly and monthly reporting for areas of high financial risk, in accordance with the agreed corporate format and timetable, on variances within their own areas;
  - taking any action necessary to avoid exceeding their budget allocation and alerting the Chief Financial Officer as soon as possible if this cannot be achieved;
  - Ensuring that fees and charges are reviewed annually as a minimum and changes reflected through the budget planning process Maintenance of Balances and Reserves
- 3.10 It is the responsibility of the Chief Financial Officer to advise the Leader and Cabinet and / or the full Council on prudent levels of balances and reserves to be maintained for the Council. Use of the contingency fund has to be agreed by the Chief Financial Officer.

#### Capital Programme



- 3.11 Capital expenditure is expenditure which is used to purchase fixed assets or to add value to existing fixed assets where those assets have a useful life extending beyond a year (for example, expenditure used to purchase land and buildings).
- 3.12 Full Council must agree the overall capital programme as part of the Council Tax and budget setting report each year. Quarterly financial monitoring of the capital programme, including spend to date, projected spend for the financial year and slippage will be presented to Cabinet as part of the financial monitoring report. Programme and Project managers along with the relevant Corporate Director must ensure that any variances to budget are reported as soon as they are aware of them.
- 3.13 The Growth Board is the Officer control mechanism by which all non IT and FM capital expenditure is managed and assured. Details on its role are contained in the Growth Board terms of reference.
- 3.14 ICT and FM capital expenditure is approved through their own Officer boards. All of these boards must be presented with a business case that details the expenditure to be incurred and the timing of that expenditure to ensure accurate financial management and monitoring.

#### **4. Petty Cash**

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

- 4.7 All officers administering petty cash accounts must ensure that they comply with the petty cash procedures.

## **5. Procurement Cards**

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

## **6. Banking Arrangements and Cheques**

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

## **7. Risk Management and Insurance**

- 7.1 The Council is committed to establishing an effective risk management framework and culture to enable management at all levels to deliver their objectives in the light of those risks. The Chief Financial Officer has responsibility for establishing and delivering corporate risk management arrangements across the Council.
- 7.2 The Chief Financial Officer is responsible for preparing the Council's Risk Management Policy Statement and for promoting it throughout the Council, including the Executive Leadership Team.
- 7.3 The General Purposes & Audit Committee is responsible for reviewing the Council's Risk Management Policy statement and strategy and is responsible for reviewing the effectiveness of risk management via a quarterly review of the high level risks on the Council's risk register.

- 7.4 At a departmental level Corporate Directors, Directors and Heads of Service should ensure that risk assessments are conducted, followed by appropriate work to manage the risks identified and to monitor current and emerging risks.
- 7.5 The Chief Financial Officer shall effect and periodically review all insurance cover in consultation with other Executive Directors and Directors who shall provide such information as may be required.
- 7.6 Directors shall promptly notify the Chief Financial Officer of all new risks and any alterations, terminations, loss or liabilities that affect existing insurances. Where appropriate, Directors should also inform the Police as soon as possible of any losses and inform the Head of Internal Audit and the Head of Insurance Fraud & Risk
- 7.7 Directors shall consult the Chief Financial Officer or Head of Insurance & Risk in respect of the terms of any indemnity which the Council is required to obtain or provide.

## **8. Internal Control**

- 8.1 Internal control refers to the systems of controls devised by management to help ensure the:
  - Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources; and
  - Council's assets and interests are safeguarded.
- 8.2 The Chief Financial Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 8.3 Corporate Directors are responsible for establishing sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.
- 8.4 Corporate Directors are required to complete an annual assurance statement for their departments. Audit Requirements
- 8.5 The basic duties of the external auditor are governed by National Audit Office in its Code of Practice.
- 8.6 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue & Customs, who have statutory rights of access.
- 8.7 The Chief Financial Officer is responsible for arranging an adequate and effective internal audit to examine the accounting records and systems of internal control of the Council in accordance with proper practices.
- 8.8 Internal Audit has unrestricted access to all Council records and information (both hard copy and digital), activities, property, other assets, Officers, Members and contractors it considers necessary to fulfil its responsibilities. This may be, where necessary, on demand and without any prior notice. Rights of access to other bodies funded by the Council should be set out in the conditions of funding. The rights and responsibilities are set out more fully in the Internal Audit Charter which is approved annually by the General Purposes & Audit Committee

- 8.9 Contracts let for the provision of services and works on behalf of the Council will ensure that the Council's internal and external auditors have right of access to any of the contractor's records associated with their contract with the Council. Preventing Fraud and Corruption
- 8.10 The Council is committed to:
- taking fraud and other avoidable losses (arising from error or mismanagement) seriously and tackle it on all fronts;
  - ensuring that all its funds are legitimately used and only those entitled to services and benefits receive them, and
  - fighting against fraud and avoidable loss as this is an important aspect of its public accountability. The Council's approach to tackling fraud is set out in its Anti-Fraud & Corruption Policy.
- 8.11 All Officers and Members must ensure they comply with the Council's AntiFraud & Corruption Policy, the Anti-money Laundering Policy and the AntiBribery Policy.
- 8.12 All officers have a duty to inform the Head of Insurance Fraud & Risk or the Chief Financial Officer of any incident or circumstance which gives rise to the suspicion that fraud, misappropriation or financial irregularity may be or may have taken place, in connection with the activities of the Council. This may be made directly or via the Council's whistleblowing arrangements.
- 8.13 All Officers and Members are responsible for referring as soon as possible any suspicions of money laundering to the Head of Insurance Fraud & Risk who is the Council's designated Money Laundering Reporting Officer or one of the deputies under the policy.

## **9. Assets Land and Property**

- 9.1 The Director of Commercial Investment may authorise and approve legal documents on behalf of the Council in respect of property transactions up to a total value of £25,000 in the following categories:
- Short term contracted out leases of less than 5 years
  - Licences
  - Wayleaves
  - Easements
  - Disposals

Any transaction above this figure must be approved by the Chief Financial Officer.

- 9.2 In order to establish a clear separation of duty, any property acquisitions or disposals directly dealt with by the Director of Commercial Investment should be approved by the Corporate Director Resources as well as the Chief Financial Officer.
- 9.3 Recommendations on acquisitions or disposals valued between £500k and up to £5m must also be approved by the Cabinet Member for Finance and Resources in consultation with the Leader of the Council, subject to the intention to do so having been reported to a previous meeting of Cabinet and in accordance with the Leader's Scheme of Delegation. Recommendations on acquisitions or disposals valued over £5m will be reported for approval to Cabinet.

- 9.4 All proposals for the acquisition of investment properties will be channelled through the Director of Commercial Investment and will be progressed in line with the Asset Investment Strategy relating to the Asset Acquisition Fund established as part of the Medium Term Financial Strategy 2018/22 Non Land and Property
- 9.5 Non land and building asset disposals, between £5k and £500k must be authorised in accordance with the Council's Scheme of Financial Delegation and the Assets Procedure. The Head of Strategic Procurement & Governance must be consulted prior to any nonproperty assets being disposed of to ensure that the best possible price is obtained and that the method of disposal is appropriate. For items over £100k disposal should be by competitive tender or public auction
- 9.6 Asset disposals up to £5k must be authorised in accordance with the Council's Scheme of Financial Delegation and be reasonable as regards methodology, value obtained and recorded.
- 9.7 The total value of leasehold acquisitions or disposals includes the value of all rental payments and service charges over the life of the lease. The total value of lettings includes the value of all rental payments and service charges over the life of the lease.
- 9.8 Officers must notify the relevant Head of Finance before entering into any lease, to ensure that the correct accounting treatment can be applied.
- 9.9 For further guidance on assets please consult the Council's Assets Procedure.

## **10. Management of Contracts**

- 10.1 The Commissioning & Procurement Division will maintain a contracts register in the form of electronic copies of all contracts issued and entered into by the Council. Details will be published in accordance with the Council's transparency agenda.
- 10.2 Officers entering into contracts must ensure that upon completion of any contract document, contract information is entered onto the Deeds and Documents Register and the Council's copy of the original contract is sent to the Business Support Team for safe storage.
- 10.3 Variations to contracts to be written in an approved form. The relevant Corporate Director or a senior officer nominated by them or the contract administrator appointed by the Council shall authorise variations and a copy of the variation order be retained as a document appertaining to the contract.
- 10.4 In accordance with the Council's Tenders and Contract Regulations, contracts between £100k and £500k in value will require appropriate sign off of the procurement strategy and award of contract by the Director of Commercial Investment on the recommendation of the Contracts and Commissioning Board (CCB). Contracts in value above this and up to £5m will require appropriate sign off of the procurement strategy and award of contract by the nominated Cabinet Member on recommendation of CCB and above £5m by Cabinet. Contracts over £100k in value must also be completed on behalf of the Council by an authorised signatory in the Council's Law Division.
- 10.5 Where contracts are administered on behalf of the Council by persons other than the Council's own officers, the Corporate Director concerned should ensure that those persons comply with the Council's Constitution, Financial Regulations and Tenders and Contracts Regulations as if they were Officers of the Council. The relevant Corporate Director and the Chief Financial Officer should be entitled to inspect all records and documents relating to such contracts.

- 10.6 When entering into contracts, staff must not deviate from the Council's standard purchasing terms unless this is formally agreed by the Chief Financial Officer.

## **11. Treasury Management**

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

## **12. Systems and Procedures**

- 12.1 Sound systems and procedures are essential to an effective framework of accountability and control.
- 12.2 The Chief Financial Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Corporate Directors to the existing financial systems or the establishment of new systems must be approved by the Chief Financial Officer. However, Corporate Directors are responsible for the proper operation of financial processes in their own departments.
- 12.3 Any changes to agreed procedures by Corporate Directors to meet their own specific service needs should be agreed with the Head of Finance for that department.
- 12.4 Corporate Directors must ensure that, where appropriate, computer and other systems are registered in accordance with GDPR as set out in the Data Protection Act 2018. Corporate Directors must ensure that members of staff are aware of their responsibilities under Data Protection and Freedom of Information legislation and the Computer Misuse Act.

12.5 The Council publishes data each month on all payments over £500 as part of its Transparency Policy. For reasons of privacy, personal details are omitted; these include payments to individuals including foster carers, children and adult carers, staff salaries and pensions.

### **13. Income and Expenditure**

- 13.1 The Scheme of Financial Delegation identifies staff authorised to act in respect of payments, income collection and placing orders, together with the limits of their authority.
- 13.2 It is the responsibility of Corporate Directors to ensure that the scheme of financial delegation is operating effectively within their area and the responsibility of all staff on the Scheme to ensure that they operate within the limits defined by the Scheme.
- 13.3 Corporate Directors are responsible for complying with the Procurement Strategy, Tender and Contract Regulations and the Council's Project and Programme Management Framework, and should make use of common supplies and services provided by other Departments of the Council. All staff with payment responsibilities should ensure that they read and abide by the Council's Payment Procedures. Leasing Arrangements & PFI/PPP Funding Arrangements
- 13.4 Before entering into any finance or operating lease, or lease rental agreement, or PFI/PPP arrangements, Corporate Directors must seek agreement from the Chief Financial Officer to ensure that the arrangement is financially advantageous to the Council. Corporate Directors should take appropriate legal advice from the Council's Solicitor and their Head of Finance to ensure that they meet the revised guidance for finance and operating leases under the International Financial Reporting Standards Interpretations, IFRIC4 as this may alter the treatment of the income. Payments to Employees and Members
- 13.5 The Chief Financial Officer is responsible for all payments of salaries and wages to all employees, including allowances, expenses and overtime, and for payment of allowances to Members. Debt Write-Offs
- 13.6 The Chief Financial Officer can authorise debt write-offs up to £500k. Above that limit authorisation must be obtained from Cabinet. Limited further delegations for the writing off of debt will be approved by the Chief Financial Officer upon the recommendation of the Head of Internal Audit and recorded within the Scheme of Financial Delegation.

### **14. Taxation**

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

14.3 The Chief Financial Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

## **15. External Collaboration**

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

15.2 The Leader is responsible for approving delegations for executive functions, including frameworks for partnerships. The Leader and Cabinet are the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

15.3 The Leader may delegate executive functions, including those relating to partnerships, to Officers. These are set out in the scheme of delegation that forms part of the Council's constitution. Where functions are delegated, the Leader remains accountable for them to the full Council.

15.4 The Chief Financial Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.

15.5 The Chief Financial Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are proper. In consultation with the Monitoring Officer, they must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies.

15.6 They must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

15.7 Corporate Directors are responsible for ensuring that appropriate approvals are obtained before any negotiations are commenced in relation to work with external bodies. External Funding

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

15.9 Work for Third Parties

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

## **16. Retention of Records**

16.1 Records held locally in establishments shall be retained in accordance with approved local information management schemes, which in turn must meet the Council's standards and conform to the Data Protection Act 2018.



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

## **17. Devolution of Financial Management**

- 17.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget. The Full Council, Cabinet and Committees
- 17.2 The roles and responsibilities of these bodies are set out in the Articles Part 3 of the Constitution.
- 17.3 The Statutory Officers
- 17.4 The Head of Paid Service is responsible for the corporate and overall strategic management of the authority as a whole. They must report to and provide information for the Cabinet, the full Council, and other committees. The Head of the Paid Service is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the full Council's decisions.
- 17.5 The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and for reporting any actual or potential breaches of the law or maladministration to the full Council. The Monitoring Officer is also responsible for maintaining an up to date constitution.
- 17.6 The Monitoring Officer together with the Chief Financial Officer is responsible for advising full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget or the policy framework.
- 17.7 The Chief Financial Officer is the Council's Section 151 Officer under the Local Government Act 1972 and has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden.
- 17.8 The Chief Financial Officer will nominate a properly qualified officer to act as the Council's Deputy Section 151 Officer in their absence.
- 17.9 The Chief Financial Officer will ensure that all appropriate financial controls and systems are in place where not specified above.
- 17.10 The Chief Financial Officer is responsible, in relation to these regulations for:
  - 17.9.1 the proper administration of the Council's financial affairs;
  - 17.9.2 setting and monitoring compliance with financial management standards; Part 4H Financial Regs. June 2020 Page 27 of 29
  - 17.9.3 amendments to the Financial Regulations;

- 17.9.4 advising on the corporate financial position and on the key financial control necessary to secure sound financial management;
- 17.9.5 providing financial information;
- 17.9.6 approval of financial schemes of delegation;
- 17.9.7 preparing the revenue budget and capital programme;
- 17.9.8 Treasury management;
- 17.9.9 Internal Audit;
- 17.9.10 Anti-Fraud;
- 17.9.11 Risk Management; and
- 17.9.12 Insurance.

17.10 Section 114 of the Local Government Finance Act 1988 requires the Chief Financial Officer to report to the full Council, the Cabinet and the External Auditor of the Council if one of its Officers:

- 17.10.1 has made, or is about to make, a decision which involves incurring unlawful expenditure;
- 17.10.2 has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficit to the Council;
- 17.10.3 is about to make an unlawful entry in the Council's accounts.

17.11 Section 114 of the 1988 Act also requires:

- 17.11.1 the Chief Financial Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under Section 114 personally;
- 17.11.2 the Council to provide the Chief Financial Officer with sufficient staff, accommodation and other resources, including legal advice where this is necessary, to carry out the duties under Section 114.

#### Executive Directors

17.12 Corporate Directors are responsible for ensuring that Cabinet and Committee Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Financial Officer.

17.13 It is the responsibility of Corporate Directors to consult with the Chief Financial Officer and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred. Heads of Finance

17.14 Heads of Finance have responsibility for the financial affairs of the departments including the departmental financial management staff, processes and systems. They must equally report financial issues to the appropriate Corporate Director and the Chief Financial Officer.

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

- 17.15.1 any unlawful expenditure immediately it is realised that it is about to take place or has taken place;
- 17.15.2 any area where a loss or deficiency is about to occur;
- 17.15.3 any occasions where the overall departmental budget is projected to be overspent or where any individual budget is projected to be overspent by more than £5,000.

- 17.15.4 any concerns as regards the slow or non-banking of cash immediately;
- 17.15.5 any significant loss of stock or concerns immediately, and
- 17.15.6 any other matter of financial significance.

#### Budget Holder

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

- 17.16.1 leading the production of revenue and capital programme budgets for the service area ensuring all plans have appropriate and necessary budget provision;
- 17.16.2 ensuring plans and realistic prudent profiled budgets exist for the delivery of the medium term financial strategy and to report year to date variances and forecast outturn adverse or favourable variances immediately they exist;
- 17.16.3 ensuring that appropriate financial controls exist and are maintained properly within the service area and report on any deficiencies to the Head of Finance;
- 17.16.4 providing appropriate financial information to the Head of Finance and their respective teams in a timely, accurate and appropriate form and level of detail;
- 17.16.5 actively seeking additional income or savings opportunities, including grant and new financing opportunities, and reporting to the Head of Finance ;
- 17.16.6 ensuring that appropriate financial controls exist and are applied within the service area and report on any deficiencies to the Head of Finance;
- 17.16.7 ensuring that the appropriate financial controls are in place to ensure that all the Council's cash is paid into its bank accounts quickly and efficiently;
- 17.16.8 ensuring value for money is obtained for the whole Council when undertaking any procurement activity
- 17.16.9 reconciling all cash received by the service area on a regular basis (at least monthly);
- 17.16.10 ensuring all monies due to the council are recorded accurately and recovered promptly;
- 17.16.11 ensuring that all accounts payable invoices are settled within 30 days unless special terms have been agreed by Chief Financial Officer; and
- 17.16.12 Budget monitoring via MyResources in a timely manner (as per the timetable issued by the Chief Financial Officer).

17.17 The Budget Holder should report to their Head of Finance:

- 17.17.1 any unlawful or inappropriate expenditure immediately it is realised that is about to take place or has taken place;
- 17.17.2 any area where a loss or deficiency is about to occur;
- 17.17.3 any occasions where the overall service budget is projected to be overspent or where any individual budget is projected to be overspent by more than £5,000;
- 17.17.4 any concerns as regards the slow or non-banking of cash immediately;
- 17.17.5 any significant loss of stock or concerns immediately.

17.17 To confidentially inform the Chief Financial Officer, Head of Internal Audit, Head of Insurance Fraud & Risk or the Monitoring Officer of any fraudulent activity and other losses through error and mismanagement by any party connected with or employed by the Council.

- 17.18 To ensure that all financial implications of all reports are agreed and approved with the relevant Head of Finance prior to their submission to the Cabinet, a Committee, Corporate Management Team or other bodies within and external to the Council.
- 17.19 To ensure that all appropriate financial controls and systems are in place where not specified above.

# Part 4.I of the Council Constitution

## Tenders and Contracts Regulations 2022

These Regulations form part of the Constitution and were adopted by Full Council on 23 March 2022

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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%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; 5
- 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 10 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: Contract Value Procedure Approval Up to £10,000 Preferably two written quotations both to be from local supplier using the Council's Business Directory (if possible) In accordance with the Council's Scheme of Financial Delegation and Departmental Scheme Over of Delegation £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. Approval Required Chair of CCB Approval Cabinet Member Approval Cabinet Approval RP2 How we Buy – Procurement Strategy Up to £5,000,000 Cabinet Member(s) to be sighted on all reports Over £5,000,000 13 RP3 Contract Award Low Value Threshold up to £500,000 Over £500,000 up to £5,000,000 Over £5,000,000

- 11.3.2 Unless as otherwise specified in these Regulations, the approval of strategies and awards relating to Framework Agreements and the establishment/initial appointment of providers to a DPS shall be subject to the requirements and procedures applicable to Contracts, by reference to the estimated value of contracts to be called off over the life of the Framework or DPS.
- 11.3.3 The periodic appointment of new providers to an approved DPS or (where relevant) Framework shall be reported to CCB with such frequency as shall be specified in the report seeking approval for the award of a Framework Agreement or establishment/initial appointment of providers to a DPS ('Framework/DPS Award report').
- 11.3.4 Unless as otherwise stated in these Regulations, the approval of strategies and awards in relation to Call-off Contracts under a Framework or DPS approved via a Framework/DPS Award Report shall be subject to the requirements and procedures applicable to Contracts, except as may be otherwise specified and approved in the relevant Framework/DPS Award Report.

## **12. Pre Tender Market Consultation**

- 12.1 Before submitting a procurement strategy to CCB, the officer responsible for the procurement and in consultation with the relevant Category Manager, may issue a Prior Indicative Notice (PIN) or conduct market consultations with a view to informing the eventual procurement approach, scope of contract, specification etc. and/or to communicate to prospective applicants and tenderers the Council's procurement plans and requirements such as the nature, level and standard of the provision, contract packaging, timescales and other relevant matters.
- 12.2 For this purpose, the officer responsible may, for example, seek or accept advice from independent experts, other authorities or from market participants.
- 12.3 Such advice may be used in the planning and the proposed procurement procedure, provided that it does not have the effect of distorting competition (by giving those who participate in the pre-tender market consultation an unfair advantage over others in relation to future procurement opportunities) and does not result in a violation of the EU Rules and transparency and furthermore, is conducted in line with the UK Regulations.

## **13. London Living Wage (LLW) 1**

- 3.1 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 subcontractors 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).

18.1 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 20 shall have committed any

offence under the Bribery Act 2010 or shall have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972 or shall have given any fee or reward to any member or officer of the Council which shall have been exacted or accepted by such officer by virtue of office or employment and is otherwise than such officer's proper remuneration.

- l. A clause that states the Council will require all staff engaged by the Contractor in the delivery of services or works under the Contract be paid the LLW.
  - m. Where appropriate a clause that states the Contractor must comply with the Modern Day Slavery policy.
  - n. Where appropriate a clause that states the Contractor will ensure they maintain their compliance with Council policies that are relevant to the services that the Council are procuring.
  - o. Where personal data is being used within the delivery of the services, the appropriate data protection provision is made including that the Contractor must indemnify the Council against any relevant liabilities applicable to the Contractors responsibilities.
  - p. Where appropriate, relevant safeguarding provisions must be included.
- 23.4 Standard contract clauses for securing social value are set out in the Social Value Framework. The Officer responsible should refer to this framework to ensure the appropriate clauses are used. Every Contract awarded by the Council must have a commitment on social value.
- 23.5 The Officer responsible must consider the obligation to require tenderers to provide a Performance Bond and/or Parent Company Guarantee where a contractor is a subsidiary of a parent company, as a Contract requirement in the following circumstances:
- i. the award is based on evaluation of the parent company;
  - ii. the financial status of the contractor (having regard, inter alia, to the proposed contract) warrants the same; and or
  - iii. the S151 Officer recommends;
  - iv. where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the Contract.
- 23.6 The decision to require a Performance Bond and/or Parent Company Guarantee as a Contract requirement should be detailed in the RP2 How we Buy report.
- 23.7 If during the tendering exercise it becomes a requirement for a tenderer to provide a Performance Bond and/or Parent Company Guarantee as a Contract requirement - perhaps to support a financial standing issue, then this requirement, if different from that stated in the procurement should be reported in the eventual award report.
- 23.8 If required, advice should be sought from the relevant Finance Head of Service and included as part of the RP2 How we Buy report or Contract Award report for approval by the Chair of CCB.
- 23.9 In all cases where relevant, the Officer responsible, must discuss the need for the provision of a Pension Bond with the Head of Service responsible for Pensions and Treasury.
- 23.10 Every Contract must have a clause requiring the contractor to obtain adequate public liability and employer's liability insurance and any other insurance as may be required by the contract. The contractor must provide reasonable proof of this before work is commenced and throughout the life of the contract upon renewal of insurance.

- 23.11 The levels of cover are to be as stated in the Council's insurance guidance document. Any proposed reduction in required cover must be in consultation with the Council's Insurance, Risk and Corporate Programme Office.
- 23.12 All Contracts must include the following: a. wording in which the contractor agrees to indemnify the Council for all claims proceedings, actions and other matters relating to the contract, except where the Council is found to be legally liable; and b. a clause in which the contractor agrees to certain service levels while dealing with claims, etc; and c. a clause requiring the full range of relevant insurances to be provided by the contractor, advice on this must be taken from the Risk and Insurance Officer; and d. the need for any self-employed person or consultant to have their own insurance, particularly where services are provided by employment agencies.
- 23.13 Every Contract must have a clause requiring all parties to comply with the provisions of the Data Protection Act 2018 ('DPA').
- 23.14 Every contract must ensure that the contractor acknowledges that the Contract and the information associated with it is subject to the Freedom of Information Act 2000 ('FoIA').
- 23.15 Every Contract must name the supervising person/s.
- 23.16 Every Contract must have a clause requiring the contractor to observe statutory requirements as to the manner in which work is to be carried out.
- 23.17 Every Contract must incorporate the specification and any drawings and bills of quantities as required/relevant.
- 23.18 Every Contract must contain a provision enabling the Council to deal with cases where the contractor, without good reason, either wholly or partly fails to complete delivery of the supplies, services or works, the subject of the Contract, to the contract standard or at all. The provision must enable the Council, if so desired, to:
- a. engage an alternative provider, and in situations of urgency, without notice to the original contractor;
  - b. arrange for the delivery of necessary supplies or materials from an alternative source;
  - c. change quality or quantity of supplies, services or works required;
  - d. recharge to the original contractor the costs of re-procurement and/or associated administrative and legal costs, and any costs incurred in excess of the original tendered price of the contractor to complete the delivery of the supply the subject of the contract, including the costs of any changes required to that supply, resulting from the contractor's default.
- 23.19 Where appropriate, a standard form of contract issued by the regulatory body, trade industry or profession may be used in conjunction with these Regulations. 24. Form of Contract for all Awards

23.20 Every Contract must be in writing and in a form approved by the Director of Legal Services.

23.21 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.

23.22 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.
- 28.1 The Officer responsible must provide a report on financial references in the report seeking acceptance of a tender.
- 28.2 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.
- 28.3 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.
- 28.4 The Cabinet, nominated Cabinet Member, and the CCB are the bodies responsible for reviewing Contract matters for the Council.

- 28.5 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.
- 28.6 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.
- 28.7 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.
- 28.8 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**

- 28.2 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.
- 28.3 Once the actions in Regulation 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 28 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](http://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](http://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](http://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.

## **37 Glossary of Terms – Appendix A**

### **Term Description/Meaning Amount of an estimate**

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.

### **Award Report**

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).

### **Category Manager**

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. Call-off Contracts Contracts selected and awarded from an existing Framework Agreement or DPS. Chair of CCB The Director of Commercial Investment. CCB 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).

### **CCS Crown Commercial Services CCR 2016**

The Concession Contracts Regulations 2016 and any supersede or replacement legislation 'CDM' Construction (Design and Management) Regulations 2015.

C&P Commissioning & Procurement Division responsible for the Council's Tenders and Contracts Regulations Central Buying Team

The Council's central Buying Team within the Procurement Division responsible for all goods & services procurement below the Low Value Threshold Central Purchasing Body

A Contracting Authority which provides centralised purchasing activities and which may also provide ancillary purchasing activities —

- a) acquires supplies or services intended for one or more contracting authorities;
- b) awards public contracts intended for one or more contracting authorities; or
- c) concludes framework agreements for work, supplies, or services intended for one or more contracting authorities; (for the avoidance of doubt, this is the same definition as provided in the PCR 2015).

Concession Contract 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.

Constructionline Website that has pre-qualified suppliers who provide goods, services and works for Construction related projects

### **Contract**

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.

### **Contracting Authorities**

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.

### **Contracts Finder**

A web-based portal provided for the purposes of PCR 2015 Part 4 by or on behalf of the Cabinet Office.

### **Contract Management System**

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.

### **Contract Manager**

The Council officer or external person appointed to manage and/or monitor the tender/contract process on behalf of the Council

### **Contract Value or Value of a Contract**

A value:

- a) 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; and
- 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 main subject (the part that has the greatest value) of the Contract.

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.

Note: 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.

### **Corporate Director**

The Chief Executive; or

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.

### **Council's approved estimates**

The Council's budget approved annually by full Council and includes estimates of both capital and revenue expenditure

### **Council's Declaration of Confidentiality and Interest Form**

This form is available on the Council's intranet: <https://intranet.croydon.gov.uk/workingcroydon/finance/commissioning-andprocurement/forms>

### **Council's Constitution**

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.

### **Council's Financial Regulations**

The financial regulations as contained in Part 4.H of the Council's Constitution.

### **DPA Data Protection Act 2018 Director**

- a) 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) Corporate Director;
- c) A nominated Officer with delegated authority to incur expenditure. Dynamic Purchasing System ("DPS") A completely electronic purchasing system procedure available for contracts for works, services and goods commonly available on the market.

For the avoidance of doubt, please refer to Regulation 32 to the PCR 2015 for a more detailed definition e-sourcing (tendering)

An internet based process wherein the complete tendering process, from advertising to submitting and receiving tender-related information, is done online 35 EU Rules. 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 Evaluation criteria

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'

### **Expression of Interest ("Eoi")**

A statement by a prospective provider of their intention to compete for a tendering opportunity for the provision of goods, services and/or works.

### **Executive function**

Matters reserved to the Leader under the Council's Strong Leader Model and as set out in the Leaders Scheme of Delegation.

### **External Advisors & Consultants**

Individuals who are contracted to fulfil a role, not already covered by the Council's establishment, which may be of a specialist nature.

### **Framework Agreement**

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. For the avoidance of doubt, this is the definition provided in Regulation 33(2) PCR 2015.

### **Audit Committee**

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.

Note: Audit Committee is a NonExecutive function

### **Grant**

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

### **How we Buy Report (RP2)**

This the procurement strategy report often referred to as RP2. Template can be found on the Procurement Governance SharePoint page.

### **In Writing Refers to paper and electronic records IIOB**

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

### **ITT (Invitation to Tender)**

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

### **KPI**

Key Performance Indicator - a type of performance measurement used to evaluate the success of a particular activity carried out by a provider

### **LGPS**

Local Government Pension Scheme

### **The Leader or nominated Cabinet Member**

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.

### **Light Touch Regime (“LTR”)**

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

### **London Living Wage (“LLW”)**

The basic hourly rate before tax and other deductions determined and published by the Greater London Authority from time to time.

### **Low Value Threshold**

£177,8981 (such figure to be adjusted in line with periodic changes to the threshold applicable to Supplies and Services in the PCR 2015)

### **LTR Services**

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

### **Make or Buy Report (RP1)**

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.

### **Most Economically Advantageous Tender (“MEAT”)**

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.

Nominated Cabinet Member or Member Cabinet Member within whose portfolio, as identified by the Leaders Scheme of Delegations, the service which is the subject matter of the contract falls

### **Non-Executive function**

Matters reserved to Full Council/Full Committee or matters that are delegated in accordance with the Scheme of Delegation

### **Officer**

An Officer authorised by the appropriate Director or Corporate Director to lead in the requirements for a procurement and comply with these regulations.

## **OJEU**

The Official Journal of the European Union

## **Output (or Outcome) Based Specification (“OBS”)**

A specification that focuses on the desired outputs of a service in business terms, rather than a detailed

This figure applies to all Contracts regardless of whether for goods, services or works technical specification of how the service is to be provided.

## **Parent Company Guarantee**

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.

## **PCR 2015**

The Public Contracts Regulations 2015 and any superseding or replacement legislation

## **Performance Bond**

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.

Person Includes the following:

- a) A group of persons;
- b) A firm;
- c) A partnership
- d) An unincorporated association;
- e) A company;
- f) Another local authority or a group of local authorities
- g) A Government Department (as represented by the Secretary of State);
- h) A statutory body;
- i) A public utility that has been privatised

## **PIN**

Prior Indicative Notice for publishing in the OJEU, to notify the market of a possible opportunity. See PCR 2015 Reg. 48 for further information.

## **Post Tender Clarification**

Tender or bid clarifications that may become necessary during the evaluation of tenders

## **Post Tender Negotiation**

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.

Note: this process is only available as indicated in these Regulations.

### **Another 'Public Body'**

Any contracting Authority within the meaning of the EU Public Procurement Directives and the Public Contracts Regulations 2015

### **Regulations**

All the Regulations as listed below.

### **S151 Officer**

The Corporate Director Resources and S151 Officer

### **Scheme of Authorisations**

The departmental 'scheme of management' setting out who is authorised to make what decisions within that department

### **Small and Medium Enterprises SME**

The main factors determining whether a company is an SME are:

1. number of employees; and
2. either turnover or balance sheet total.

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

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.

### **Social Value**

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 Social Value Act The Public Services (Social Value) Act 2012

### **Social Value Toolkit**

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

### **Standstill Period**

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.



## **Strategy Report**

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

## **SQ**

Supplier Selection Questionnaire a process used to identify potential suppliers that are most capable of performing a contract

## **Tendering and submitting a tender**

Includes any quotation or action taken by any person seeking to enter into a contract with the Council, which is subject to these Regulations.

## **Third Sector**

The range of non-statutory service providers set up as not for profit organisations. These encompass the traditional voluntary and community sector, cooperatives, social enterprises and registered social landlords. For the purposes of this document the term 'third sector' is used to denote this group of organisations.

## **TUPE**

Transfer of Undertakings (Protection of Employment) Regulations 2006

## **UK Regulations**

The PCR and/or CCR and any national legislation that affects Contracts under these Regulations.

## **Value Added Tax ("VAT")**

Value added tax as chargeable under the Value Added Tax Act 1994 ("VfM") 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.

## **Variant bid**

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.

## **Weightings**

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.

**Working Day**

Any other day other than a Saturday, Sunday and any bank or UK public holidays.

# 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 by Full 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.
- 4.11 (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.
- 4.12 Suspension in accordance with paragraph 4.10 and 4.11 and 4.11(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.

#### 4.13 **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
    - (iii) the dismissor is satisfied that any objection received from the Mayor within that period is not material or is not well founded. 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.

#### **4.14 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.

#### **4.15 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.

4.16 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 5.10 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.L – TERMS OF REFERENCE HEALTH AND WELLBEING BOARD

### 1. FUNCTIONS OF THE CROYDON HEALTH AND WELLBEING BOARD

The Health and Wellbeing Board's terms of reference are, without prejudice to any statutory provisions:

- 1.1. To encourage, for the purpose of advancing the health and wellbeing of people in Croydon, persons who arrange for the provision of any health or social care services in Croydon to work in an integrated manner.
- 1.2. To provide such advice, assistance or other support as appropriate for the purpose of encouraging partnership arrangements under section 75 of the National Health Service Act 2006 between the Council and NHS bodies in connection with the provision of health and social care services.
- 1.3. To encourage persons who arrange for the provision of health-related services (i.e. services which are not health or social care services but which may have an effect on the health of individuals) to work closely with the Board and with persons providing health and social care services.
- 1.4. To exercise the functions of the Council and its partner Clinical Commissioning Groups in preparing a joint strategic needs assessment under section 116 of the Local Government and Public Involvement in Health Act 2007 and a joint health and wellbeing strategy under section 116A of that Act.
- 1.5. To give the Council the opinion of the Board on whether the Council is discharging its duty to have regard to the joint strategic needs assessment and joint health and wellbeing strategy in discharging the Council's functions.
- 1.6. To agree the delivery plans of the Health and Wellbeing Strategy.
- 1.7. To monitor the delivery plans in fulfillment of the Health and Wellbeing Strategy.

- 1.8. To report to Council the outcome of the Board's monitoring of the delivery plans in fulfillment of the Health and Wellbeing Strategy as part of its annual report.
- 1.9. To exercise such other Council functions which are delegated to the Board under the Constitution.

## 2. MEMBERSHIP, QUORUM AND VOTING RIGHTS

### **Membership**

- 2.1 Subject to the provisions of Article 13, the Board shall comprise of the following members:
  - 5 Majority Group Members (voting) such members to include the As amended 02.2019 and 08.2019
  - Cabinet Member for Families Health and Social Care and the Cabinet Member for Children, Young People and Learning ,
  - 2 Minority Group Members (voting),
  - The Corporate Director Adult Social Care & Health (non-voting),
  - The Director of Public Health (non-voting),
  - 1 Croydon Clinical Commissioning Group (CCG) Representative (voting),
  - The Croydon University Hospital Chair (non-voting),
  - 1 Healthwatch Representative (voting)
  - 1 SLAM representative (non-voting)
  - 1 Croydon Voluntary Action representative (non-voting)
  - 1 Croydon Voluntary Action representative
- 2.2. The Chair shall be appointed by full Council and shall be a Majority group member. The Vice Chair shall be the CCG Representative. In the absence of the Chair, the Vice chair shall fulfil the role of Chair of the Board.
- 2.3. The below mentioned parties shall be invitees to attend the Health and Wellbeing Board meetings. While these parties will not be members of the Board, they will, subject to requirements around confidential and exempt information:
  - receive copies of agenda papers;
  - receive copies of Board reports;
  - At the Chair's discretion, be invited to participate in discussions and submit information for consideration by the Board.
  - National Commissioning Board Representative x 1
  - Croydon University Healthcare NHS Trust representative x1
  - South London & the Maudsley NHS Trust representative x1
  - Croydon Voluntary Sector Alliance representative x2
  - BME Forum representative x1
  - Croydon Charity Services Delivery Group representative x1
  - Police Service x1
  - Croydon College representative x 1
  - London Fire and Rescue Service representative x1
  - London Probation Service representative x1
  - Chairs of Partnership Groups representatives x3
  - Faiths Together in Croydon representative x1

- Pharmacist Representative x1

- 2.4 The term of office of Board members, other than ex officio members shall normally be one year from the date of appointment (or reappointment), provided that, for the duration of that period, they remain a Member or duly nominated representative of their appointing body and have been appointed by that body to be or remain a member of the Board.
- 2.5 Except where a person is appointed or nominated as an individual each appointing or nominating body shall notify the Clerk of the Board of the name and contact details of their appointed or nominated members of the Board.
- 2.6 Nominating Bodies who have a nominated representative on the Board may change their appointed or nominated Board representative members at any time provided that written notice of any such change is given to the Clerk. Such change shall not take effect until acknowledgement of receipt is sent to the nominating body by the Clerk.
- 2.7 Each appointing and nominating body shall, as far as possible, ensure that the persons appointed as members have the skills and qualities required to fulfil the role of a Board member.
- 2.8 Each appointing or nominating body may send appropriate officer(s) to meetings of the Board to support their Board Members. Any such officers shall have no voting or speaking rights.

#### **Voting Rights and Voting Procedures**

- 2.9 Each of the voting Board members shall have one vote with all decisions being made through simple majority of those voting members present. The Chair shall have a casting vote.
- 2.10 All voting shall be by a show of hands but recorded votes shall be taken if requested by any Voting member, and any such Voting member shall have the right to have the way he/ she voted (or abstained) recorded in the minutes.

#### **Putting items on the agenda**

- 2.11 Any Board member may request through the Chair that any matter relevant to the functions of the Board is placed on the board agenda.
  - 2.12 Where a relevant overview and scrutiny committee have resolved that an item be considered by the Board, the Clerk will, subject to consultation with the Chair, place that item on the agenda of the next available meeting of the Board.
  - 2.13 The Council Solicitor, and/or the Chief Financial Officer and Section 151 Officer of the Council may include an item for consideration on the agenda of a Board meeting and may require the Chair to call such a meeting in pursuance of their statutory duties.
- Public Questions

- 2.14 Public questions can be asked of the Board on issues pertaining to the policy and business of the Health and Wellbeing Board due to be conducted at the Meeting in question, as set out within these Terms of Reference. Any questions of a purely factual or of a detailed nature shall be noted and shall receive a written response within 3 weeks following the meeting.
- 2.15 Questions which relate to a current planning, licensing, safeguarding or enforcement matter, any confidential matter or any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review, or right of appeal conferred by or under any enactment shall not be permitted. In addition, questions shall not be received or responded to where they pertain to anticipated or on-going litigation, conciliation or As amended 02.2019 and 08.2019 mediation or any employment or personnel related issues or disputes. A named member of staff shall not be the subject of a question. If necessary, the Council Solicitor shall provide guidance for members of the public and staff on the above.
- 2.16 Questions shall be directed through the Chair and shall only be taken at the Chair's discretion and subject to the parameters set out herein. Any period allowed for questions shall not exceed a total time of 15 minutes. This time frame shall include both the questions and responses by the relevant Board Member.
- 2.17 The Chair has absolute discretion to decline to allow any question to be dealt with under this procedure on the grounds that it addresses matters that would be inappropriate to consider at the meeting, including where the questions being asked are repetitive, inappropriate, relate to confidential matters or have already been addressed.
- 2.18 Any questions for the Board meeting must be received by the relevant Committee Clerk not later than noon, on the third working day prior to the meeting date. Questions shall be dealt with in the order in which they are received, although the Chair has discretion, where a number of queries relate to the same matter, to address them (or direct that they be addressed) in a single response.

### **3. PROCEDURES AND QUORUM AT MEETINGS**

- 3.1 The meetings of the Board will be governed by the Non-Executive Committee Procedure Rules Part 4F.
- 3.2 The quorum shall be three voting members two of whom shall be a majority group members.
- 3.3 Meetings of the Board will be open to the public and press except during consideration of items containing confidential or exempt information within the meaning of the Local Government Act 1972 (as amended).
- 3.4 The Access to Information procedure rules in Part 4B of the Constitution shall apply to the Board as a non-executive committee of the Council. Minutes of the Board shall be available to the public and press as though they were minutes of a meeting of the

Council.

- 3.5 The Chair may invite any person to attend a meeting of the Board for the purpose of making a presentation, or participating in discussion, on any item relevant to the Board's functions where that person is able to provide a professional or user viewpoint, which the Chair considers would be of assistance to the Board.

#### **4. ROLE OF A BOARD MEMBER**

The responsibilities of a Board Member are as follows:-

As amended 02.2019 and 08.2019

- To be committed to, and act as a champion for the achievement, of the Objectives;
- To be a good ambassador for the Board;
- To attend Board meetings regularly, vote on items of business (as required) and make a positive contribution to the achievement of the Objectives;
- To be and to remain acquainted with key current issues in the area of health and social care locally and nationally.
- To act as an advocate for the Board in seeking any necessary approval of their nominating body to the Draft Business Plan and Annual Action Plan.
- To report back to the appointing body after every meeting and to ensure that the views of the appointing body are made known to the Board in respect of any matter under consideration by the Board or under consultation by the Board. To suggest items of business for the consideration of the Board via the Chair.
- To comply with the Members' Code of Conduct set out in Part 5I of the Constitution (all voting members of the Board) or the Code of Conduct for Non-voting Co-opted members of the Council (all non-voting members of the Board) as adopted and updated by the Council from time to time.

#### **5. SCRUTINY ARRANGEMENTS**

- 5.1 The decisions, actions and activities of the Board shall be subject to the Scrutiny Arrangements of the Council.
- 5.2 Decisions (including recommendations) of the Board shall be notified to all those to whom agenda papers etc are despatched within seven working days of the decision being reached. The Board, its Members and its Officer advisors, shall fully co-operate with the Scrutiny and Strategic Overview Committee of the Council.
- 5.3 The Overview and Scrutiny Procedural Rules set out in the Council constitution shall apply but as a non-executive committee the decisions of the Board shall not be subject to the call-in procedure.

#### **6. EXPENSES OF MEMBERS**

- 6.1 Each appointing or nominating member shall be responsible for meeting any expenses to which any Board member, is entitled as a result of their attendance at duly authorised meetings in accordance with each appointing or nominating organisations own rules regarding such matters.

**7. ACCESS TO INFORMATION RULES**

- 7.1 The provisions of the Access to information Procedure Rules in Part 4B of the Constitution shall apply to the meetings of the Board and its sub- committees in the same manner as they apply to non-executive committees of the Council.

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## PART 4.M – Local Pension Board Procedure Rules

### 1. Definitions

“Advisers” means those provided for in paragraph 11 of these Terms of Reference;

“Administering Authority” means the Council which is a body listed in Part 1 of Schedule 3 of the Scheme Regulations who maintains a fund within the LGPS;

“Board” means the members of the Local Pension Board as appointed by the Pension Committee;

“Chair” means the suitably qualified individual who is selected and appointed by the Scheme Manager who has responsibility of ensuring the Board acts appropriately in accordance with these Terms of Reference;

“Employer Representative” means persons appointed to the Board for the purpose of representing employers of the Scheme and any connected Scheme;

“Fund” means the Croydon Council Pension Fund that is run by Croydon Council and is part of the National Local Government Pension Scheme for England and Wales;

“Internal Dispute Resolution Procedure” means the Local Pension Board’s internal dispute resolution procedure as set out in a separate document titled “Internal Dispute Resolution Procedure”;

“LGPS” means the Local Government Pension Scheme;

“Local Pension Board” (LBS) means the board established under section 5 of the Public Service Pensions Act 2013 and regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended). The LBS is not constituted as a committee or sub-committee of the council but is a statutory non-decision making body;

“Member Representative” means persons appointed to the Board for the purpose of representing members of the Scheme and any connected Scheme;

“Members” means the Employer and Member Representatives collectively;

“Pensions Regulator” means the UK regulator of work-based pensions whose powers derive from the Pensions Act 2004 (as amended) and its powers inherited from the Occupational Pensions Regulatory Authority (OPRA) from 6 April 2005;

“Scheme” means the Local Government Pension Scheme in England and Wales;

“Scheme Manager” means the Council acting in its capacity as Administering Authority of the Fund;

“Scheme Regulations” means the Local Government Pension Scheme Regulations 2013, the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 and the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 and other relevant and any subsequent legislation made in relation to the LGPS;

## **2. Introduction**

- a. The purpose of this document is to set out the terms of reference for the Local Pension Board (“LPB”) of the Fund, and to set out the rules of procedure of the LPB.

## **3. Role of the Local Pension Board**

- 3.1 The role and responsibilities of the LPB, as defined by section 5(1) and (2) of the Public Service Pensions Act 2013 and regulations 106 and 108 of the Local Government Pension Scheme Regulations 2013, is to assist the Administering Authority in its role as a Scheme Manager of the Scheme in relation to the following matters:
  - a. securing compliance with the Scheme Regulations and any other legislation relating to the governance and administration of the LGPS;
  - b. securing compliance with requirements imposed in relation to the LGPS by the Pensions Regulator;
  - c. such other matters as the Scheme Regulations may specify; and
  - d. ensuring the effective and efficient governance and administration of the LGPS; and
  - e. providing the Scheme Manager with such information as is required to ensure any member of the LBP or person to be appointed to the LPB does not have a conflict of interest.
- 3.2 The LPB will ensure it effectively and efficiently complies with any code of practice on the governance and administration of public service schemes issued by the Pension Regulator.
- 3.3 The LPB shall meet sufficiently regularly to discharge its duties and responsibilities effectively.

## **4. Establishment**

- 4.1 The LPB was established on 1 April 2015 subsequent to recommendation by the Pension Committee to the General Purposes and Audit Committee on 24 March 2015.

## 5. Appointment of members of the Local Pension Board

5.1 The process for the selection and appointment of members of the LPB is set out below, with all appointments being made by the Scheme Manager.

5.2 The LPB shall consist of 6 voting members constituted as follows:

- a. 3 Employer Representatives;
- b. 3 Member Representatives;

5.3 The LPB Board shall be an equal number of voting Employer representatives and voting Member Representatives. No person shall be a representative on both the Pension Committee and LPB.

### Employer Representatives

5.4 Employer Representatives shall be office holders or senior employees of employers of the Fund or have experience of representing scheme employers in a similar capacity. No officer or elected member of Council who is responsible for the discharge of any function of the Council under the Scheme Regulations may serve as a member of the LPB.

5.5 Employer Representatives should be able to demonstrate their capacity to represent the employers. This will be in relation to attending and completing the necessary preparation for meetings and participating in training as and when required.

5.6 Substitutes for Employer Representatives shall be appointed by the same process as Member and Employer Representatives. This will be limited to one (1) substitute per Employer Representative. Where appointed, substitutes should be named and must undertake the same training as full members.

5.7 Each Employer Representative shall serve for a fixed 2 year term which may be extended by the Scheme Manager for further periods subject to their renomination. Such appointments will be determined following an expression of interest and then a shortlist and interview process.

5.8 Employer Representatives shall endeavour to attend all Board meetings during each year.

### Member Representatives

5.9 Member Representatives shall either be Scheme members or have capacity to represent Scheme members of the Fund.

- 5.10 Member Representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and participate in training as and when required.
- 5.11 Substitutes shall be appointed by the same process as Member and Employer Representatives. This will be limited to one (1) substitute per Member Representative. Where appointed substitutes should be named and must undertake the same training as full members
- 5.12 Each Member Representative shall serve for a fixed 2 year term which may be extended by the Scheme Manager for further periods subject to their renomination.
- 5.13 Member Representatives shall endeavour to attend all Board meetings during each year.

**6. Suspension/Termination/Removal of Employer Representatives, Member Representatives and Substitutes ( referred to as Representative(s)) and the Chair**

- 6.1 A Representative's (including substitute's) or Chair's term of office may be suspended or come to an end prior to the end of the term of office in any of the following circumstances:
- a. death;
  - b. Incapacity because of illness or injury;
  - c. In the absence of reasonable excuse (to be decided by the Scheme Manager), fails to attend two consecutive meetings;
  - d. Resignation – a notice period of 4 weeks is required to be given to the Scheme Manager;
  - e. A Representative ceases to represent their constituency, for example if an employer representative leaves the employment of their employer and therefore ceases to have the capacity to represent the Fund's employers;
  - f. A conflict of interest which cannot be managed in accordance with the conflicts of interest policy current at the time;
  - g. Conduct in breach of the Council's Members' Code of Conduct.
- 6.2 The Scheme Manager may suspend the Chair and a Representative whilst investigations into (but not limited to) the above are conducted. Upon the conclusion of any investigation the Scheme Manager may either approve their return to his/her role or can terminate their appointment and secure a replacement.

## **7. The Chair**

7.1 The Chair of the LPB will be a suitably qualified person who is selected and appointed by the Scheme Manager for a fixed term of office to be determined by the Scheme Manager. It will be the role of the Chair to ensure that all Members show due respect for process, that all views are fully heard and considered and to determine when consensus has been met.

7.2 The Chair shall:

- a. Ensure the LPB delivers its purpose as set out in these Terms of Reference;
- b. Ensure that meetings are productive and effective and that opportunity is provided for the views of all Members to be expressed and considered; and
- c. Seek to reach consensus and ensure that decisions are properly put to a vote when it cannot be reached. Instances of a failure to reach a consensus position will be recorded and published;
- d. Be non-voting.

## **8. Quorum**

8.1 The LPB shall have a quorum of three (3) Members (which does not include the Chair). If a meeting is inquorate it will be re-scheduled for as soon as is reasonably practicable.

8.2 Advisers do not count towards the quorum.

## **9. Conflicts of Interest**

9.1 Conflicts of interest will be managed in accordance with a policy and, if applicable, other procedures applied by the Administering Authority.

## **10. Board Review Process**

10.1 The Board will undertake a formal review process during June of each year to assess how well it and the voting and non-voting members are performing with a view to seeking continuous improvement in the Board's performance.

## **11. Advisers to the Board**

11.1 The Board may be supported in its role and responsibilities by Council officers and by External Advisers appointed by the Pension Committee. Subject to any applicable regulation and legislation from time to time in force, the LPB may consult with Advisers including but not limited to:

- a. Governance Adviser
- b. The Fund's Actuary;
- c. The Fund's Legal Adviser
- d. The Fund's Investment Managers(s)
- e. The Fund's Investment Advisers
- f. The Fund's Employer Covenant Adviser
- g. The Scheme Manager.

11.2 The LPB shall ensure that the performance of all Advisers who are appointed are reviewed on a regular basis as part of the Board Review Process.

## **12 Knowledge and Skills**

12.1 The Chair and the Employer and Member Representatives (including substitutes) of the LPB must be conversant with –

- a. The legislation, Scheme Regulations and associated guidance of the LGPS;
- b. Any document recording policy about the administration of the LGPS (which is for the time being adopted by the Fund).

12.2 All members of the LPB must have a working knowledge and understanding of –

- a. The law relating to pensions, and
- b. Any other matters which are prescribed in Scheme Regulations.

12.3 It is for the Scheme Manager to be satisfied that those seeking to be appointed have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the LPB.

12.4 In line with the duties under their role, the Chair and Members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date on anything that would fall within the remit of their role. The Chair and Members are therefore required to maintain a written record of all relevant training and development (whether internal or external) they have undertaken. In the event that the Chair and Members wish to attend an external course/training event prior approval must be sought from the Scheme Manager. All information in relation to training and development of the Chair and Members shall be made available to the LPB as part of the LPB review process. In addition, the Scheme Manager may, at any time request to inspect such records upon providing the Chair and Member with a written request which must be adhered to within 7 days of receipt of such a request.

12.5 The Chair and Members will undertake an annual personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or

weaknesses as well as mandatory training that the LPB or Scheme Manager considers is required to ensure the LPB operates as effectively as possible. The Chair and Members will comply with the Scheme Manager's training policy current at the time.

### **13 Board Meetings – Notice, Agendas, Minutes, Timings and Location**

- 13.1 The Scheme Manager shall give 5 days' written notice, by email, to the Chair and to all Employer and Member Representatives of every meeting of the LPB. The Scheme Manager shall ensure that formal minutes of all LPB meetings are maintained. Following the approval of the minutes by the Chair they shall be circulated by email to all members within 14 days of the meeting date and then published in accordance with paragraph 17.
- 13.2 There will be a minimum of 4 LPB meetings each year. The dates of such meetings are to be agreed in June of each year by the LPB, taking into account the dates of scheduled Pension Committee meetings which will then provide the LPB with the opportunity to effectively review the work of the Pensions Committee.
- 13.3 All LPB meetings will be held in the Croydon Town Hall, Katharine Street, Croydon, CR0 1NX at 2pm, unless stated otherwise in the notice for the meetings.

### **14 Remit of the Board**

- 14.1 The role of the LPB will be determined by the relevant Scheme Regulations. The LPB will assist the Scheme Manager with such other matters as any relevant Scheme Regulations may specify.

### **15 Standards of Conduct of Members**

- 15.1 The role of LPB members requires the highest standards of conduct and therefore the "seven principles of public life" embodied in the Council's Members' Code of Conduct will be applied to the Chair and the Members. These are –
  - a. Selflessness
  - b. Integrity
  - c. Objectivity
  - d. Accountability
  - e. Openness
  - f. Honesty
  - g. Leadership
- 15.2 The Chair and Members are required to sign-up to the Council's Members' Code of Conduct (current at the time) as soon as reasonably practicable on being appointed, but in any case before attending their first meeting of the LPB. In any event, the Council's Members' Code of Conduct will, subject to paragraph 15.3 below, apply to the Chair and Members immediately on exercising their role and responsibilities in relation to the LPB.

15.3 Paragraphs 9 (Interests) and 10 (Gifts and hospitality) of the Council's Members' Code of Conduct will not apply to the Chair and Members. In addition, complaints or allegations of breach of the Council's Members' Code of Conduct will be dealt with by the Administering Authority in accordance with its own arrangements.

## **16 Decision making**

16.1 All Employer Representatives and Member Representatives of the LPB will have an individual voting right but it is expected the LPB's decisions (in so far as is possible) will be reached by consensus.

## **17 Publication of Local Pension Board Information**

17.1 Scheme members and other interested parties will want to know that the Fund is being efficiently and effectively managed. They will also want to be confident that the LPB is properly constituted, trained and competent in order to comply with Scheme Regulations, the governance and administration of the Scheme and requirements of the Pension Regulator.

17.2 To this end information will be posted on the Fund website showing:

- a. The names and biographies about the LPB members
- b. How the Scheme and employer members are represented on the LPB
- c. The responsibilities of the LPB as a whole
- d. The full terms of reference and policies of the LPB and how they operate
- e. The LPB appointment process
- f. Who each individual LPB member represents
- g. Any specific roles and responsibilities of individual LPB members.

17.3 LPB agendas and minutes of meetings will be published on the Council's website. These may be published in redacted form at the discretion of the Scheme Manager to exclude exempt information as specified in Part 1 Schedule 12A of the Local Government Act 1972 or for some other legal reason. The Scheme Manager will also consider requests for additional information to be published or made available to individual Scheme members to encourage Scheme member engagement and promote a culture of openness and transparency. However, the final decision as regards the release of information rests with the Scheme Manager.

## **18 Accountability**

18.1 The LPB will be collectively and individually accountable to the Scheme Manager and must also report annually to the Secretary of State, as provided in the Scheme Regulations.

As amended February 2024



## **19 Allowance**

19.1 At the discretion of the Administering Authority, the Chair and certain Members of the LPB may receive an allowance in recognition of the time commitment their role demands as well as the experience, knowledge and skills requirements.

## **20 Reporting Breaches**

20.1 Any reported breach in connection with the administration of the LGPS, whether potential, or actual, brought to the attention of the LPB shall be dealt with in accordance with the procedure set out in a separate policy document titled "Local Pension Board Reporting Breaches Policy". For the purposes of this policy a breach is considered to include any statutory responsibilities/obligations that have not been performed as and when required.

## **21 Internal Dispute Resolution Procedure**

21.1 The LPB's Internal Dispute Resolution is set out in a separate policy document titled "Internal Dispute Resolution Procedure (IDRP) System Employees' Guide."

## **22 Complaints**

22.1 Any complaint received in relation to the LPB will be dealt with in accordance with the Complaints Policy, which is set out in a separate document titled "Local Pension Board Complaints Procedure".

## **23 Budget**

23.1 The LPB must seek approval from the Administering Authority's s151 Officer or Deputy s151 Officer for any expenditure it wishes to incur in line with its responsibilities. Until a written decision has been communicated to the LPB by the relevant officer, the LPB is not authorised to make any financial commitment to a third party and any expenditure must be in accordance with the requirements, conditions and limitations set out in the decision

## **24 Review of Terms of Reference**

24.1 These Terms of Reference shall be reviewed:-

- a. on the making of any material change to those part of the Scheme Regulations; and
- b. annually.

## **25 Interpretation**

25.1 Any uncertainty or ambiguity or interpretation required relating to any matters contained in this document shall be determined by the Scheme Manager.

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## PART 4.N – Pension Committee Terms of Reference

### 1. Introduction

- 1.1 Without prejudice to the Non-Executive Committee Procedure Rules, Part 4.F of the Constitution, the purpose of this document is to set out the terms of reference for the Pension Committee (“the Committee”), to discharge the responsibilities for Croydon Council in its role as administrative authority of the Croydon Pension Fund (“the Fund”)/Local Government Pension Scheme (“the Scheme”).

### 2. Role of the Committee

- 2.1 To exercise the Council’s pensions functions including but not limited to the functions set out in 2.2 to 2.4 below.
- 2.2 To ensure that the Fund is properly operated in accordance with the Local Government Pension Scheme Regulations (“the Regulations”) and all other relevant legislation, codes, guidance and best practice as advised by the Pensions Regulator, including financial, governance and administrative matters.
- 2.3 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.
- 2.4 To discharge its fiduciary responsibility in the best interest of the Fund, in particular:
- a) To set the investment policy and review the performance of the Fund’s investment managers, pooling arrangements, Scheme administration, and external advisors;
  - b) To make arrangements for the triennial actuarial valuation;
  - c) To determine the Pension Administration Strategy;
  - d) To approve and monitor compliance of statutory statements and policies required under the Regulations;
  - e) To approve the Fund’s Statements of Accounts and annual report;
  - f) To ensure that the Council discharges its obligation, as administrating authority for the Scheme, to other scheme employers;
  - g) To make representations to government as appropriate concerning any proposed changes to the Scheme; and
  - h) To keep these terms of reference under review.

### **3. Delegations**

3.1 Unless otherwise reserved for this Committee or Full Council by law or the Constitution, this Committee hereby delegates all Fund matters to the Corporate Director of Resources and Section 151 Officer. As appropriate the Corporate Director of Resources and Section 151 Officer may delegate aspects of the role to other officers of the Council including the Head of Pensions and Treasury, and may appoint professional advisors within the scope of the Regulations.

### **4. Structure**

4.1 In accordance with those recommendations made by Chartered Institute of Public Finance and Accountancy (CIPFA) and the Myners Principles and notwithstanding resignations etc. the Committee will comprise the following members:

- a) 8 elected voting Members (plus 8 substitutes);
- b) Two representatives of Pensioners of the Fund elected by ballot of Pensioners of the Fund, one of whom shall be a voting co-opted member and one of whom shall be a non-voting co-opted member. The representative with the most votes following the ballot of Pensioners of the Fund shall be the voting member. The other representative of the Pensioners of the Fund shall be non-voting but is permitted to exercise a vote in the absence of, and on behalf of, the voting representative;
- c) One non-Council Employer representative nominated by the other Fund employers who shall be a voting co-opted member; and
- d) One Staff representative nominated by the Trade Unions who shall be a voting co-opted member.

4.2 There will be a minimum of three meetings a year of the Committee.

### **5. Quorum**

5.1 Three elected voting Members (i.e. excluding co-opted members).

### **6. Local Pensions Board**

6.1 As part of good governance of the Scheme, the Committee will work with, receive and consider reports from the Local Pension Board. The Board is not a decision making body and it will be for the Committee to ensure that the appropriate actions are undertaken as required.

### **7. Knowledge and Understanding**

7.1 Members and co-opted members of the Committee are expected to continually demonstrate their own personal commitment to training and to ensure that governance objectives are met. To assist in achieving these objectives training sessions will be organised to ensure Committee Members and co-opted members are familiar with the rules of the Fund and with relevant legislation.

### **8. Review of Terms of Reference Policy**

8.1 The Terms of Reference will be reviewed annually and updated as required.

As amended February 2024

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## PART 5

### PROTOCOLS AND CODES

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##### **Protocols - General**

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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.

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

## 12. Ward Councillors

- (i) Councillors shall be given timely access to information that they require to carry out their role as Ward Councillors. Corporate Directors must ensure that all relevant staff are aware of the requirement to keep local Councillors informed so that Councillors 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 Councillors 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;
  - (i) An understanding of and support for respective roles, workloads and pressures;
  - (ii) Timely response to enquiries and complaints in accordance with agreed standards and processes;
  - (iii) Professional advice not influenced by political views or preference, which does not compromise the political neutrality of employees;
  - (iv) 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;
  - (v) Awareness of and sensitivity to the political environment in which they are working;
  - (vi) Respect, dignity and courtesy;
  - (vii) Training and development in order to carry out their role effectively;
  - (viii) Integrity, mutual support and appropriate confidentiality;
  - (ix) That staff shall not use their relationship with Members to advance their personal interests or to influence decisions improperly;
  - (x) 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;
- (iv) Integrity, mutual support and appropriate confidentiality;
- (v) 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.
- (vi) 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;
- (vii) 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 Monitoring Officer 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.

	<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>
<p><b>Statutory Chief Officers</b></p>	<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>

# 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 stagewhere 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 5D – Planning Code of Good Practice

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1. 1 Introduction
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3. 3 Interests: Disclosable Pecuniary Interests
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6. 6 Lobbying of and by Members
7. 7 Pre-application discussions
8. 8 Post-submission discussions
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11. 11 Member training
12. 12 Amendments/Variation

### **1 INTRODUCTION**

- 1.1 This code has been prepared using the advice in the Local Government Association’s revised guidance note on good planning practice for Members and officers dealing with planning matters – *Probity in Planning: the Role of Councillors and Officers* (May 2009).
- 1.2 **The aim of this code:** To ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 1.3 **The key purpose of planning:** To manage development in the public interest.
- 1.4 **Your role as a Member of the Planning Committee:** To make planning decisions openly, impartially, with sound judgement and for justifiable planning reasons.
- 1.5 **When the Code applies:** This code applies to Members at all times they are involved in the planning process. This includes, where applicable, when part of decision making meetings of the Council, in exercising the functions of the planning authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications. If you have any doubts about the application of this code to your own circumstances you should seek advice early, and preferably well before any meeting takes place, from the Monitoring Officer.
- 1.6 In this Code when the term “Councillor” or “Member” is used it means that the advice is applicable to all Members of the Council. The term “Planning” means a Member or a substitute Member of any of the Council’s Planning Committees or sub-committees.
- 1.7 **Relationship to the Members' Code of Conduct:** Members are reminded that the Planning Code of Good Practice is designed primarily for Members of the Council’s Planning

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Committees and Members who, for whatever reason, find themselves involved in the planning process. Whilst the planning code interprets the Members' code of conduct with respect to planning matters it is subordinate to the Members' Code of Conduct and in the event of any inconsistencies arising between this Code and the Members' Code of Conduct, the Members' Code of Conduct shall prevail.

## **2 GENERAL ROLE AND CONDUCT OF MEMBERS AND OFFICERS**

### **General roles of Members and officers**

- 2.1 Members and officers have different, but complementary roles. Both serve the public. Officers are responsible to the Council as a whole, whilst Members are responsible to the electorate.
- 2.2 Officers are not appointed to serve any political group and therefore advise all Members and the Council. Officers carry out the daily functions of the Council's business in accordance with Council, Cabinet or Committee decisions or under powers delegated to them pursuant to the constitution. Officers are governed by the Employees Code of Conduct contained in the constitution. In addition, planning officers, who are Members of the Royal Town Planning Institute (RTPI), are subject to a professional code of conduct and breaches may be subject to disciplinary action by the RTPI. Similarly, officers who are solicitors are subject to regulation by The Solicitors Regulation Authority. Officers in other professions will have corresponding codes.

### **Relationship between Members and officers**

- 2.3 Mutual trust, respect and understanding between Members and officers are the keys to achieving effective local government. A successful relationship between Members and officers can only be based upon mutual trust and understanding of each other's positions. This relationship, and the trust that underpins it, must never be abused or compromised.
- 2.4 Planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.
- 2.5 Members must not put pressure on officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a Member from asking questions or submitting views to the officer. These views, when received in written form, will be placed on the planning file and considered together with other material planning considerations.

## **3 INTERESTS: DISCLOSABLE PECUNIARY INTERESTS**

- 3.1 A Member should refer to the Members' Code of Conduct for assistance in identifying Disclosable Pecuniary Interests or seek advice from the Monitoring Officer prior to attending a meeting.
- 3.2 Members should have regard to the Members' Code of Conduct in relation to actions required where a Disclosable Pecuniary Interest exists.

- 3.3 Under the Members' Code of Conduct a Member who has a disclosable pecuniary interest must, if the interest is not one which is already on the register of interests or subject to a pending notification to the Monitoring Officer, disclose the existence of that interest to the meeting and thereafter notify the Monitoring Officer of that interest within 28 days of this disclosure.
- 3.4 Where a Member has a disclosable pecuniary interest, the Member may not participate or participate further in any discussion of the matter at the meeting or participate in any vote or further vote on the matter although there is no obligation for that Member to withdraw from the Chamber. This means that a Member with a disclosable pecuniary interest is precluded from making representations orally to the Committee or from making representations on behalf of a party to the hearing.
- 3.5 A Member with a disclosable pecuniary interest can still present their views to the Committee through other means. For example, the Member can:
- make written Representations in their private capacity in accordance with Committee Consideration Criteria as set out in the Planning and Planning SubCommittee Rules The existence and nature of the interest should be disclosed in such representations and the Member should not seek preferential consideration for their representations. Such written representations should be addressed to officers rather than other Members of the Authority;
  - use a professional representative to make a representation on the Members' behalf in circumstances where the Members' planning application is under consideration; and
  - arrange for another Member of the Authority to represent the views of the Member's constituents on matters in which their ward Member has a disclosable pecuniary interest.

#### **4 PREDISPOSITION, PREDETERMINATION AND BIAS**

- 4.1 In addition to being aware and taking appropriate action in relation to Disclosable Pecuniary Interests, Planning Committee Members need to avoid bias or predetermination or any appearance of bias or predetermination before taking a decision on a planning application.
- 4.2 Avoidance of bias or predetermination or the appearance of bias or predetermination is a principle of natural justice that the decision maker is expected to adhere to. The determination of a planning application is a formal administrative process involving the application of national, regional and local policies, reference to legislation and case law as well as rules of procedure. Members of the Committee should not decide or declare which way they will vote in advance of the planning meeting, or before hearing evidence and arguments on both sides. However, Members will often form an initial impression or view; this is not necessarily predetermination or bias. A distinction is drawn by the courts between having clearly expressed an intention to vote in a particular way before a meeting (predetermination), and a predisposition to an initial view (such as supporting the policies in the Development Plan) where the Member is clear they are willing to listen to all the material considerations presented at the Committee and keep an open mind before deciding on how to exercise their vote. In the latter case there would be no predetermination or bias, just a

legitimate predisposition.

- 4.3 This distinction is particularly important in the context of the Council's practice of facilitating presentations by developers of schemes at the pre-application stage. After these presentations, the Committee Members question details of the development so that they have the opportunity to input into the design development of these strategic developments. They will therefore express views on aspects of the development (such as its external appearance, impact on neighbours or transport network implications) which will often display predisposition around these elements. What the Members of the Committee should not do at this stage is to express a firm view on the development as a whole, as this could amount to predetermination. Such a view should only be formed at the end of the process when all the material considerations are available to the Members of the Committee to consider and weigh up before finalising their view.
- 4.4 A useful test to determine whether a position or view could be considered to be biased is to think about whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias. Predetermination goes beyond predisposition and essentially evades the process of weighing and balancing relevant factors and taking into account other viewpoints.
- 4.5 If a Planning Committee Member has been lobbied and wishes to promote or oppose a planning application, they will need to consider whether this is likely to be regarded as amounting to bias and going against the fair determination of the planning application. If they have predetermined their position or have given that impression, they should avoid being part of the decision-making body for that application.
- 4.6 A Planning Committee Member who is also a ward Member and wishes to campaign for or against a proposal, could speak at the Planning Committee (in accordance with the Council's public speaking procedures) on behalf of their constituents, having declared their predetermined position. The Member can continue to represent those ward interests as a spokesperson for their local community, notwithstanding their normal Planning Committee Membership provided that if the Member has a Disclosable Pecuniary Interest, they may not participate in any discussion of the matter unless they have received a dispensation to do so.
- 4.7 Participation in a Planning Committee where a Member is or may be perceived to be biased, in addition to the risk of a complaint against the individual Member, also places the decision of the Committee at risk from legal challenge. As such, if a Planning Committee Member considers that they are or have given the impression that they are biased or predetermined it is advisable that they carefully consider whether it is appropriate for them to participate in the matter.

## **5 APPLICATIONS SUBMITTED BY THE COUNCIL, MEMBERS OR OFFICERS**

### **Applications submitted by the Council**

- 5.1 Proposals for a Council's own development can give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted to and determined by the Council. Proposals for a Council's own development will be treated no differently from any other

application.

- 5.2 Certain Members, such as Cabinet Members, may through their other roles outside of a Planning Committee, have been heavily committed to or involved in a Council's own development proposal. In such circumstances, when an item comes to be considered at Committee the Member concerned, if they sit on the Committee, must consider whether they have an interest or degree of involvement with the proposals that could give the impression of bias. If in doubt, they are encouraged to seek advice from the Monitoring Officer. The most appropriate course of action if that is the case, is that the Member concerned may address the Committee in the applicant's speaking slot (see part 4K of the constitution: Planning and Planning Sub-Committee Procedure Rules) but does not take part in its consideration and determination and therefore withdraws before the debate by Members commences. It is important that the Member should restrict their address to the Committee to relevant planning considerations rather than wider non-planning issues that are not material to the determination of the application.

#### **Applications submitted by Members or officers**

- 5.3 It is perfectly legitimate for planning applications to be submitted by Members and officers. However, it is vital to ensure that they are handled in a way that gives no grounds for accusations of bias or pre-determination
- 5.4 If a Member or an officer submits their own proposal to the Council which they serve, they should take no part in its processing. A Member who acts as an agent or representative for someone pursuing a planning matter with the authority should also take no part in its processing. The 1APP planning application form requires applicants to indicate whether they are members of staff or an elected Member or partners/spouses of a Member or Officer of the Council. Where decisions relate to applications made by members of staff or an elected Member these should be reported to Committee where they relate to the following:
- Members of the Council
  - Senior officers of the Council (Service Head and above)
  - Officers of the Local Planning Authority.
- 5.5 The term "Officers of the Local Planning Authority" means officers within the Council who are closely involved in the day-to-day work of the Council's planning function.
- 5.6 The procedures to be followed in Committee in such circumstances are as follows:
- The consideration in Committee of an application from a Member may be considered a disclosable pecuniary interest for that Member and Members need to be mindful of their obligations in relation to Disclosable Pecuniary Interests as set out in the Members' Code of Conduct.
  - If such a Member does not have a Disclosable Pecuniary interest they may address the Committee as the applicant in accordance with the Council's public speaking procedures. If however, such a Member has a Disclosable Pecuniary Interest they may not participate in the consideration of the matter and may therefore not speak on the matter. They would need to have a representative speak on their behalf.

- The Members of the Committee must consider whether the nature of any relationship means that they have a Disclosable Pecuniary Interest in relation to the matter and if so, they may not participate in the consideration of that matter.

5.7 The principle in the final bullet point also applies to applications submitted by officers when they are considered in Committee.

## **6 LOBBYING OF AND BY COUNCILLORS**

6.1 Lobbying is a normal and perfectly proper part of the political process. Members of the public, applicants or local interest groups will often seek to influence a decision through an approach to their ward Member. In the case of a Planning Committee Member, care needs to be taken to avoid the perception of bias or predetermination of any planning matter.

### **Lobbying of Members**

6.2 A Planning Committee Member should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may prejudice their impartiality and ability to participate in the Committee's decision making if they are asked to express either an intention to vote one way or another or such a firm point of view that it amounts to the same thing. Planning Committee Members should ensure that it is made clear to any lobbyists that they will only be in a position to reach a final decision on any planning matter after they have heard all of the relevant arguments and looked at the relevant information during the sitting of the determining Committee.

6.3 Planning Committee Members should therefore

- suggest to lobbyists that they write to the Head of Development Management in order that their views can be included in the officer reports prepared for determination under delegated powers or by Committee;
- pass on any lobbying correspondence received (including plans, data, correspondence etc in respect of an application) to the Head of Development Management as soon as practicably possible so that it can be taken into account and included in the report on the application;
- remember that their overriding duty is to the whole community not just to the residents and businesses within their ward and that they have a duty to make decisions impartially, and should not improperly favour, or appear to improperly favour, any person, company, group or locality;
- not accept gifts or hospitality from any person involved in or affected by a planning proposal, but if a degree of hospitality is entirely unavoidable, ensure that they comply with the provisions in the Members' Code of Conduct on gifts and hospitality; and
- inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up where necessary.

6.4 Planning Committee Members should note that, subject to the requirements to ensure that Members comply with the Members' Code of Conduct and the rules regarding bias and pre-determination and ensure that they take appropriate action in relation to Disclosable

Pecuniary Interests, they are not precluded from:

- listening or receiving viewpoints from residents or other interested parties;
- making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to predetermination and they make clear they are keeping an open mind;
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion or speaking at the meeting as a ward Member, provided they explain their actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate.

6.5 In the interest of openness, it is recommended that Planning Committee Members declare any lobbying to which they have been subject.

### **Lobbying by Members**

6.6 Planning Committee Members should not become a member of, lead or represent a national or local organisation whose primary purpose is to lobby to promote or oppose planning proposals. If a Member does, he/she may appear to be biased. Whilst they may be able to address the Committee as a ward Member or an objector, Members are not able to participate or vote on any matter in respect of which they have a disclosable pecuniary interest unless they have received a dispensation for this purpose.

6.7 Members can join general groups which reflect their areas of interest and which concentrate on issues beyond particular planning proposals, but they should disclose a personal interest where that organisation has made representations on a particular proposal. A Member should make it clear to that organisation and the Committee that they have reserved judgement and the independence to make up their own mind on each separate proposal.

6.8 Members should not excessively lobby Planning Committee Members regarding their concerns or views on a planning application, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

6.9 Members should not decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so.

## **7 PRE-APPLICATION DISCUSSIONS**

7.1 Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties. However, it would be easy for such discussions to become, or to be seen by objectors to become, part of a lobbying process on the part of the applicant. For this reason the Council have developed pre-application processes that enable Member engagement at the pre-application stage.

7.2 Members should try to attend meetings which may be organised for them by officers as part of the Council's pre-application process. All Members are encouraged to participate in these pre-application discussions, but particularly ward Members, Planning Committee Members

and relevant Cabinet Members. Please remember that both this Code and the Members' Code of Conduct will apply when attending such meetings.

7.3 In all cases these meetings will be subject to the following procedures:

- No meeting shall be convened without the presence of a Council planning officer for the entire duration of the meeting.
- Any Planning Committee Members involved in such a meeting, who sit on the Committee that subsequently considers any resulting application, should declare their attendance at the meeting in the same way as lobbying would be declared.
- Officers (and any Member, if present) should make it clear from the outset that the discussion will not bind the Council to making a particular decision and that any views expressed are personal and provisional.
- Any advice given should be consistent and in accordance with the Development Plan and officers should agree, prior to any meeting, on a consistent interpretation of Development Plan policies as applied to the particular proposal.
- A contemporaneous note of the meeting should be prepared by the planning officer attending wherever possible and a copy sent to all parties for their agreement.
- The final version of the note of the meeting will form part of the planning file and should a planning application subsequently be received, it will thereby be open to public inspection.

7.4 Planning Committee Members should not attend pre-application meetings that are not organised through officers.

## **8 POST-SUBMISSION DISCUSSIONS**

8.1 A Planning Committee Member should not usually be involved in discussions with a developer or agent when a planning application has been submitted and remains to be determined. Potentially, these discussions could be interpreted, particularly by objectors to a proposal, as an indicator of predetermination or bias.

8.2 In limited circumstances Planning Committee Members may legitimately engage in post-submission discussions. An example would be in the case of a large-scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives. Such meetings will be organised by officers and run under the same procedural rules as pre-application discussions.

8.3 If a Planning Committee Member is contacted by the applicant, their agent or objectors, they should follow the rules on lobbying and consider whether or not it would be prudent in the circumstances to make notes when contacted. A Member should report to the Head of Development Management any significant contact with the applicant or other parties, explaining the nature and purpose of the contacts and their involvement in them, so that it can be recorded on the planning file.

8.4 Planning Committee Members should not attend post-submission meetings that are not organised through officers.



## **9 PLANNING APPEALS**

- 9.1 Appeals into the planning decisions of the Council are heard by a Planning Inspector appointed by the Secretary of State. Any hearing or inquiry will be open to the public and Members are able to attend. Members are encouraged to attend such hearings, as they can be a good learning experience. This part of the code is concerned with Members who wish to actively participate in these appeals.
- 9.2 If a Member wishes to attend a public inquiry or informal hearing as a ward Member or as a member of the public, they are free to do so. It is strongly recommended that they discuss their participation with the Director of Planning & Sustainable Regeneration or the Head of Development Management to ensure that they are aware of the process and that they do not act in a manner which compromises their position as a Member of the Council or brings the Council into disrepute or puts the decision made at risk of challenge
- 9.3 A Member cannot attend an appeal on behalf of the Council's Planning Committee, even if they sat on that Committee, unless this is as part of the Council's case as decided by the Director of Planning & Sustainable Regeneration or the Head of Development Management. The decision of the Committee will be documented in the minute and set out in the decision notice. The planning officer will present the Council's case on its planning merits, in accordance with the Committee's decision. The inspector is required to determine the appeal omits planning merits and therefore all representations should be so directed.
- 9.4 Where the appealed decision was contrary to the officer's recommendation, officers are generally able to present the Council's case in a satisfactory manner. Where this may not be possible, the case will be presented by a planning consultant employed by the Council.

## **10 PLANNING ENFORCEMENT**

- 10.1 It is perfectly legitimate for Members to bring to the attention of the planning service suspected breaches of planning control so that they may be investigated to see whether any action is possible or necessary. They should bring these to the attention of the Head of Development Management.
- 10.2 The Council's planning enforcement service operates to a priority system so that those breaches that cause the most harm are dealt with first. This priority system is designed to produce a fair and responsive enforcement service.

## **11 MEMBER TRAINING**

- 11.1 Members may not participate in decision making at meetings of the Council's Planning Committees unless they have attended mandatory planning training. This will be provided by the Council's planning and legal services and will cover the principles of planning and probity in planning.
- 11.2 Whilst all new Members and new substitute Members have to attend this training before they can participate in the Council's Planning Committees, all other Planning Committee Members and substitute Members are encouraged to attend the training so that they can ensure that

they keep up-to-date on these matters.

- 11.3 All Planning Committee Members should endeavour to attend any other specialised training sessions provided, since these will be designed to extend their knowledge of planning law, policy, procedures, and good practice, which will assist them in carrying out their role properly and effectively.
- 11.4 Training provided on planning related matters is aimed at Planning Committee Members but is always open to any Member with an interest to attend.

## **12 AMENDMENTS/VARIATION**

- 12.1 Where amendments to this Code are necessary due to legislative changes, the Council Solicitor may make such consequential changes to this Code as are necessary to take such changes into account.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.F – Protocol for Licensing Hearings under the Licensing Act 2003

Protocol adopted by the Licensing Committee on 19 April 2005. 1st Revision: 6.1.06; 2nd Revision: 22.11.07. Updated: 30 September 2020 - approved by the Licensing Committee on 30 September 2020 pursuant to Article 15 of the Council's Constitution

### 1. DEFINITIONS

#### 1.1 In this Protocol:

- **'The Act'** means the Licensing Act 2003.
- **'The Regulations'** means the Licensing Act 2003 (Hearings) Regulations 2005 and the Licensing Act 2003 (Hearings) (Amendment) Regulations 2005.
- **'Applicant'** means the applicant for a licence under the Licensing Act 2003. This includes an applicant making an application for a new premises licence or club premises certificate, a variation to a premises licence or club premises certificate, a personal licence, a transfer, an interim authority, designated premises supervisor, a provisional statement or a temporary event notice. The term Applicant also refers to a person representing the Applicant.
- **'The Authority'** means the Licensing Authority for the London Borough of Croydon.
- **'Licensing Sub-Committee'** means a Sub-Committee of the Licensing Committee empowered under the Act and the Council's Constitution to determine applications under the Act.
- **'Party to the hearing'** means a person to whom a notice of hearing is required to be given in accordance with Regulation 6(1) of the Regulations including the Applicant, Responsible Authorities and 'Other Persons' and "Party" and "Parties" shall be construed accordingly. "Party" includes a person representing the Applicant, Responsible Authority and Other Persons.
- **'Responsible Authority'** means a person or body as defined by the Act and/or the Regulations and includes the Police, the Fire Authority, the Health Authority, the Licensing Authority, Planning Officers, Noise and Nuisance Officers, Health and Safety Officers Trading Standards Officers and officers responsible for protecting children from harm. "Responsible Authority" includes a person representing the Responsible Authority.
- **'Other Persons'** means any of the following: -
  - An individual or a body representing the same;
  - a business or a body representing the same."Other Person" and "Other Persons" shall be construed accordingly. "Other Person" includes a person representing the 'Other Person'

## **2. INTRODUCTION/APPLICATION OF PROTOCOL**

- 2.1 This protocol applies to hearings held by the London Borough of Croydon under the Act. It sets out how the Licensing Committee and its Sub-Committees will manage their business under the Act and the procedure to be followed in determining applications/requests for review and at hearings.
- 2.2 The protocol shall comply with the Regulations and any regulations or enactment amending or replacing the same. The protocol applies to all applications which are required under the Act to be determined by the Licensing Sub-Committees, and to the conduct of all Members whether or not Members of the Licensing Committee or its Sub-Committees.
- 2.3 This protocol does not apply to the consideration of any licensing matter outside of the Act's scope by the Licensing Committee or to non-decision making matters related to the Act (i.e. recommendations) from the Licensing Committee. In either instance the Licensing Committee can use their Reserve Members when considering such matters. Reserve Members are appointed when any of the 12 Voting Licensing Members are unable to attend a Meeting. Reserve Members will be notified in advance to Democratic Services and, subject to availability, their selection and appointment will be confirmed at the outset of the meeting.

## **3. DETERMINATION OF APPLICATIONS**

- 3.1 Where a hearing is required under the Act, this shall be held by one of the Licensing Sub-Committees.
- 3.2 Applications and other matters shall be determined in accordance with the Guidance issued under section 182 of the Act. Unopposed applications will be determined by officers under delegated authority, except where the Act or Regulations require otherwise. Officers will report periodically to the Licensing Committee on applications determined under delegated authority.

## **4. THE LICENSING SUB-COMMITTEES**

- 4.1 The membership of each Licensing Sub-Committee shall be three Members, drawn from the pool of 12 voting Members of the Licensing Committee. The Council Solicitor, Director of Legal Services, shall, after consultation with the appropriate Group Whip(s), nominate Members, to serve on meetings of the Licensing Sub-Committees taking into account member availability, group proportionality and the need to avoid any potential conflict of interests.
- 4.2 The quorum of the Licensing Sub-Committee is three Members and all three Members must be present throughout the hearing.
- 4.3 Each Political Group shall nominate a reserve member for each meeting of the Licensing Sub-Committee to provide for the eventuality that a Member is unavailable at short notice.

- 4.4 The Licensing Sub-Committees shall be subject to the ‘access to information’ rules applying to committees and sub-committees appointed under Section 102 of the Local Government Act 1972 and the Council’s Access to Information Procedure Rules set out in Part 4B of this Constitution, provided always that the Licensing Sub-Committees may at any time decide to withdraw to private session to deliberate on any matter.
- 4.5 The Licensing Sub-Committees shall be subject to the ‘political balance’ rules applying to committees and sub-committees appointed under Section 102 of the Local Government Act 1972.
- 4.6 The Licensing Sub-Committee shall appoint a chair for the meeting from amongst its Membership at the start of each meeting.

## **5. HEARINGS**

- 5.1 Hearings will be convened and conducted in accordance with the procedures at Annex 1 and Annex 2 to this protocol (as applicable).
- 5.2 Hearings shall normally take place at the Town Hall, Katharine Street, Croydon though as at Annex 2, hearings may also be held remotely, online. Hearings may take place during the daytime or evening.
- 5.3 The agenda for meetings of the Licensing Sub-Committees shall be agreed by the Council Solicitor, Director of Legal Services, after any necessary consultation with the relevant Chair. The Council Solicitor, Director of Legal Services, after consultation with the Chair and the Licensing Officer, shall determine how many applications shall be heard at each meeting of the Licensing Sub-Committee and in what order, taking into account all relevant factors including the number of parties who are present for each item.
- 5.4 Hearings shall be scheduled in accordance with the timescales set out in the Regulations. In general a hearing must be held within 20 working days after the time has expired for making representations.

## **6. NOTIFICATION OF HEARINGS**

- 6.1 The Applicant and all parties who have made relevant representations shall be notified of the hearing in accordance with the timescales set out in the Regulations. Information to accompany the notice of hearing shall be provided in accordance with the Regulations, and shall include:
- a copy of this Protocol;
  - confirmation that a Party may be assisted or represented by a person whether or not that person is legally qualified;
  - confirmation that a Party to the hearing may address the Authority, give

- further information on a point on which the Authority requires clarification and, if considered by the Licensing Sub-Committee to be required, question another Party to the hearing;
- the consequences of not attending or being represented at a hearing (which normally will be that the hearing will proceed in the Party's absence); and
  - a note of any particular points on which the Authority wants clarification.
- 6.2 In order to consider whether there are any issues of clarification to be requested, from Applicants or those making representations, Members of the Licensing Sub-Committee may meet with the Clerk and/or Legal Adviser in advance of the hearing. No decisions will be made or discussions held regarding the substantive merits of the application or submissions at this meeting.
- 6.3 Subject to any restrictions in the Regulations, a Party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.
- 6.4 All Parties upon whom a notice of hearing has been served are required to give to the Authority, in accordance with the timescales set out in the Regulations, notice of:
- whether they intend to attend or to be represented at the hearing;
  - whether or not they consider a hearing to be unnecessary; and
  - whether they wish to request that another person appear at the hearing (other than their representative). If such a request is made, it should be accompanied by details of the name of that person and a full description of the points about which that person may be able to assist the Authority.
- 6.5 The Authority may dispense with the requirement to hold a hearing if all Parties agree that such a hearing is unnecessary provided (1) all the Parties involved in the application agree to dispense with a hearing and (2) all Parties have each served a notice on the Authority that a hearing is unnecessary. Where all the persons required by the Act to agree that a hearing is unnecessary have done so in accordance with paragraph 6.4 above, the Authority, if it agrees that a hearing is unnecessary, shall forthwith give notice to the Parties that the hearing has been dispensed with and the application will be determined by the officers under delegated authority. The Authority will determine the application within **10 working days** from the date the Notice is served dispensing with the hearing. Once the application has been determined the Authority will notify the Parties of its decision forthwith.
- 6.6 Subject to the requirement to determine an application within the timescale set out in the Regulations and to any other restrictions contained in the Regulations, the Authority has the power to extend a time limit specified in the Regulations for a specified period where it considers this is necessary in the public interest, or to adjourn a hearing to a specified date. Where the Authority has exercised its discretion to extend a time limit or adjourn a hearing, it must forthwith give notice to the Parties, stating the period of the extension and the reasons why it

considers it is necessary in the public interest, or the date, time and place to which the hearing has been adjourned, as appropriate.

## **7. FAILURE OF PARTIES TO ATTEND THE HEARING**

- 7.1 If a Party, who has not given prior notice of his/her intention not to attend the hearing, is absent from the hearing the Licensing Sub-Committee may either adjourn the hearing or hold the hearing in the Party's absence. Where the hearing is held in the absence of a Party, the Licensing Sub-Committee will still consider the application, representation or notice submitted by that Party.

## **8. OFFICERS TO ATTEND THE HEARING**

- 8.1 The hearing will be attended by a Legal Officer, a Democratic Services Officer who shall act as the clerk, and a Licensing Officer. The officers are present to provide advice and are not Parties to the hearing. Where the Licensing authority determines that it will make representations as a Responsible Authority, these representations will not be made by the same Licensing Officer who presents the application to the Sub-Committee at the hearing.
- 8.2 The role of the Legal Officer is to provide legal advice relating to the application and submissions. Any legal advice that may be given to the Licensing Sub-Committee in private shall be repeated when the Licensing Sub-Committee returns in open session.
- 8.3 The role of the Clerk is to record the hearing and the decisions of the Licensing Sub-Committee, and to ensure efficient administration.

## **9. LICENSING OFFICER'S REPORT TO THE LICENSING SUB-COMMITTEE**

- 9.1 The Licensing Officer shall prepare a report for consideration by the Sub-Committee including:
- a brief summary of the application;
  - a brief summary of representations by responsible authorities and Interested Parties;
  - relevant aspects of the Council's Licensing Policy and National Guidance; and
  - Other information as appropriate and as included in the Council's standard report format.
- 9.2 The Licensing Officer's report shall be sent to the Parties and will be accompanied by the relevant documentary material that has been submitted by the Parties.
- 9.3 After having heard the representations and prior to retiring to make its decision the Licensing Sub-Committee may, if it wishes, seek the guidance of the licensing officer regarding possible suitable conditions in respect of any particular application.

## **10. REPRESENTATIONS**

- 10.1 Other Person(s) or Responsible Authority may make written representations about an application for a premises licence or certificate. Generally these must be made at any time up to and including 20 working days after the day on which the application was received. A copy of all relevant representations will be provided, in full, to the Applicant. The papers for the Licensing Sub-Committee hearing will be available to the press and public. Correspondence submitted anonymously will not be considered.
- 10.2 Licensing Sub-Committee Members will not enter into correspondence or discussion with Applicants, their agents or representatives, Other Persons or Responsible Authorities about the merits of the application(s) they may be called upon to decide.
- 10.3 Where an application is to be decided at a hearing by the Licensing Sub-Committee, Applicants and those who have made relevant written



representations in connection with the application, will be invited to attend.

- Representations or requests for review will only be relevant if they relate to one or more of the four licensing objectives:  
the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

10.5 At the hearing a Party shall be entitled to:

- give further information in response to a point upon which the Authority has given notice that it will want clarification;
- if given permission by the Authority, question any other Party; and
- address the Authority.

10.6 Members of the Licensing Sub-Committee may question any Party or other person appearing at the hearing.

10.7 In considering any representations or notice made by a Party the Authority may take into account documentary or other information produced by a Party either before the hearing or, with the consent of all the other Parties, at the hearing.

10.8 Statements made by people in support of a Party's representation who are not present at the hearing, must be signed by the maker, dated and witnessed by another person. The statement must also contain the witness's full name and occupation.

10.9 A Party who wishes to withdraw any representations they have made, may do so by giving written notice to the Authority no later than 24 hours before the day on which the hearing is scheduled to be held, or orally at the hearing.

10.10 The Licensing Sub-Committee has the discretion to consider whether to take into account any documentary or other evidence produced by a Party before the hearing. Any documentary or other evidence produced by any Party in support of an application, representations or notice of hearing, which has not been produced before the hearing can only be heard with the consent of all other Parties present, and the Licensing Sub-Committee. During the hearing no new matters may be raised without the express consent of the Chair of the Licensing Sub-Committee.

## **11. HEARINGS TO BE OPEN TO THE PUBLIC**

11.1 The hearing will take place in public. However, the Licensing Sub-Committee may exclude the public (including a Party and any person assisting or representing a Party) from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

11.2 The Chair may exclude from the hearing any person who is behaving in a disruptive manner. This may include a Party who is seeking to be heard at the

hearing. In the case where a Party is to be excluded, the Party may submit to the Licensing Sub-Committee in writing any information which they would have been entitled to give orally had they not been excluded from the hearing.

- 11.3 The Licensing Sub-Committee may retire into private session during or at the end of the hearing to deliberate on any matter or decide how it wishes to determine the application. The Licensing Sub-Committee may be accompanied by the Clerk and the Legal Advisor who will be available to assist the Licensing Sub-Committee with any legal problems but will not participate in any decision making of the Licensing Sub-Committee.

## **12. DETERMINATION OF APPLICATIONS**

- 12.1 Normally the Licensing Sub-Committee shall make its determination at the conclusion of the hearing and in all cases the Licensing Sub-Committee shall make its determination in accordance with the timescales laid down by the Regulations.
- 12.2 Where all Parties have notified the Authority that a hearing is not required and the Authority agrees that a hearing is not required, the application shall be determined in accordance with the timescales set out in the Regulations.
- 12.3 The Licensing Sub-Committee shall give reasons for its decision and these shall be recorded in the minutes of the meeting.
- 12.4 The Authority shall notify Parties of its determination, and provide any accompanying information in accordance with the Regulations. The Chief Officer of Police shall also be notified even in a case where the Police have not made a representation.

## **13.1 RECORD OF PROCEEDINGS**

- 13.1 The Authority shall keep a record of the hearing in a permanent and intelligible form for 6 years from the date of the determination or, where an appeal is brought against the determination of the Authority, from the disposal of the appeal.

## **14. CODE OF CONDUCT AND PRINCIPLES OF DECISION-MAKING**

- 14.1 Members shall at all times comply with the provisions of the Members' Code of Conduct.
- 14.2 In making their determinations under the Act, Members shall have regard to:
- the material relevant facts in light of the evidence presented;
  - the relevant statutory provisions;
  - relevant national guidance and the policy statement;
  - the licensing objectives; and
  - the individual merits of the case.
- 14.3 Applications shall be determined on the basis of whether they promote the

licensing objectives in the Act, namely:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

14.4 The Licensing Sub-Committee shall disregard any information or evidence given which is not relevant to the application, representations or notice; or to the promotion of the licensing objectives.

14.5 Decisions must not be influenced by any political party direction whether given at a previous party group meeting or otherwise.

14.6 Members of the Licensing Committee or its Sub-Committee(s) must act without bias or predetermination, must have no disclosable pecuniary interest (DPI) in any application before them, and must keep an open mind on all applications until they have considered all of the evidence and arguments presented. They shall not take or express any view on the merits of an application, nor organise support for or opposition to any application in advance of a hearing. Any Member who does so shall not be eligible to serve on the Licensing Sub- Committee [meeting] that hears the application.

## **15. MEMBERS' INTERESTS: GENERAL**

15.1 Members must at all times comply with the Members' Code of Conduct in relation to the disclosure of disclosable pecuniary interests, participation in relation to disclosed interests and registration of disclosable pecuniary interests and other interests and of gifts and hospitality.

## **16. MEMBERS' INTERESTS: MEMBERS OF THE LICENSING COMMITTEE**

16.1 A Member of the Licensing Committee who has been involved in a licence application shall not serve on the Licensing Sub-Committee hearing at which the licence application is to be determined.

16.2 No Member sitting on the Licensing Sub-Committee can represent one of the interested Parties or applicant. If a Member wishes to do so s/he must excuse him/herself from membership of the Licensing Sub-Committee which is considering the application and address the Licensing Sub-Committee as a representative for an Interested Party (subject to 17.2 below).

16.3 Members involved in Council meetings which approved the Licensing Policy (or any amendment to it), will not be excluded from membership of the Licensing Sub-Committee solely on this basis.

## **17. MEMBERS' INTERESTS: WARD MEMBERS AND OTHER MEMBERS**

17.1 Under the Members' Code of Conduct a Member who has a disclosable pecuniary interest must, if the interest is not one which is already on the register of interests or subject to a pending notification to the Monitoring Officer,

disclose the existence of that interest to the meeting and thereafter notify the Monitoring Officer of that interest within 28 days of this disclosure.

- 17.2 Where a Member has a disclosable pecuniary interest in relation to the application under consideration they may not sit on that sub-committee.
- 17.3 Any Member with a disclosable pecuniary interest is also precluded from making representations orally to the Sub-Committee or from making representations on behalf of a party to the hearing. They can still present their views through other means. For example, the Member can:
- make written representations in their private capacity. The existence and nature of the interest should be disclosed in such representations and the Member should not seek preferential consideration for their representations. Such written representations should be addressed to officers rather than other Members of the Authority;
  - use a professional representative to make an application on the Members behalf; or
  - arrange for another Member of the Authority to represent the views of the Member's constituents on matters in which their ward Member has a disclosable pecuniary interest.
- 17.4 The Member who has a disclosable pecuniary interest but has been asked to represent the views of a party making representations should advise them about that interest and inform them that another Member may represent their views on the issue. When representing those views the other Member should make it clear to the relevant committee or officers that he or she is acting in place of the original Member because of that Member's disclosable pecuniary interest.

## **18. LOBBYING**

- 18.1 If a Member of the Licensing Committee is approached by a person(s) wishing to lobby him/her on a licence application then that Member should explain that they cannot discuss the matter and refer the lobby person(s) to the Licensing Officer or his/her Ward Member who can explain the process of decision making. Any written representations received by a Member of the Licensing Committee should be passed to the Licensing Officer and reported at the hearing at which the application is being determined. Requests for procedural advice with regards to licensing applications should be referred to Council Officers for advice and information.
- 18.2 Other Members must not lobby Members who sit on the Licensing Sub-Committee, directly or indirectly, before or after a meeting, in writing or otherwise, in respect of items to be decided by the Licensing Sub-Committee. Any representation by other Members, on behalf of an Other Person(s), should be sent to the relevant Licensing Officer for inclusion in his/her report. A Member shall not attempt to use her/his status as a Member to influence consideration of a submission, or try to get officers to change a decision or recommendation.

## **19. SITE VISITS**

- 19.1 The Licensing Sub-Committee may undertake a site visit to the premises which are the subject of an application. If required, the site visit may occur prior to the hearing or the Licensing Sub-Committee may adjourn the hearing part way through to undertake a site visit. The Chair of the Licensing Sub-Committee shall give reasons justifying the need for a site visit and these shall be notified to the Parties.
- 19.2 If a site visit is necessary the following procedure should be observed:
- the visit should be undertaken as a group visit attended by all the Licensing Sub-Committee Members and its purpose should be confined to that indicated by the Chair;
  - the visit should be attended by an officer who may be asked factual questions by the Members;
  - no indication of the likely outcome of the application should be given on the visit;
  - no representation from the applicant or from those making representations shall be heard or accepted on the visit; and
  - a record should be kept of those attending the visit, the questions asked, and answers given.

## **20. APPLICATIONS SUBMITTED BY THE LOCAL AUTHORITY OR BY ANOTHER PUBLIC AUTHORITY**

- 20.1 Where the Authority is the applicant for a licence, that application shall be determined in accordance with the normal procedure. The Licensing Sub-Committee shall give no regard to the interests of the Council itself, aside from receiving relevant representations on this issue. Members who were part of the Authority's decision to apply for the licence, or who express a view in respect of such an application, shall not serve on the Licensing Sub-Committee to determine the application.
- 20.2 A Member who also serves on another local authority, or carries out a function for another public authority, or is appointed by Croydon Council as its representative on another body, shall not serve on the Licensing Sub-Committee to determine an application which has been made by that other authority or body, or on which that other authority or body has made a representation.

## **21. VARIATION/AMENDMENT OF THIS PROTOCOL**

- 21.1 The Licensing Sub-Committee may waive, vary or modify any part of this protocol in relation to a particular case if it considers that this is necessary to ensure fairness to the Parties and/or proper consideration of the application in question, provided always that this does not result in any contravention of the Regulations.
- 21.2 This protocol may be amended by the Licensing Committee. In addition, where amendments to this protocol are necessary due to legislative changes, the

Council Solicitor, Director of Legal Services, may make such consequential changes to this Protocol as are necessary to take such changes into account.

## **ANNEX 1 - Procedure for Licensing Sub-Committee Hearings**

Note: (1) This procedure shall normally be followed for all Hearings held by the Licensing Sub-Committee(s). The Chair may vary the procedure in respect of any hearing if he/she considers that this would facilitate the proper consideration of the application or notice before the Licensing Sub-Committee.

Note: (2) The hearing shall take the form of a discussion led by the Licensing Sub-Committee. Cross-examination shall not be permitted unless the Licensing Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice before it.

1. The Licensing Sub-Committee will elect a Chair from amongst their number
2. The Chair will introduce those present, Parties to indicate their names and who they represent. Chair to ascertain who will speak.
3. The Chair of the Licensing Sub-Committee will inform the Parties whether their applications to have certain people attend the hearing (e.g. witnesses) have been granted or refused (Note this relates to people other than those attending on behalf of a Party in the capacity as a representative of the Party).
4. The Chair will explain to the Parties the procedure to be followed at the hearing and to consider any request made by a Party in accordance with the Regulations for permission for another person to appear at the hearing (Such permission shall not be unreasonably withheld).
5. The Licensing Sub-Committee will confirm or vary the time limits set out below to be applied to contributions from the Parties. (Note: under the Regulations an equal maximum time period must be allowed to the Parties to exercise their rights under the Regulations).
6. The Chair will summarise the paperwork before the Licensing Sub-Committee and confirm that all present have copies; will ascertain whether any representations have been or are now to be withdrawn, and will hear any requests to adduce additional documentary or other information.
7. The Licensing Officer will outline:
  - details of the application and relevant representations received from the Parties; and the outcome of any discussions
  - relevant legislation;
  - relevant Licensing Policy; and
  - the time limit in which the Council must reach a determination.
8. The Chair will invite each of the Parties or their representative in turn to address the Licensing Sub-Committee and call any person/s to whom permission has been granted to appear. Each Party will be allowed a maximum period of 10 minutes in which to address the Licensing Sub-Committee and call persons on his/her behalf, and clarify any points on which the Licensing Sub-Committee has sought clarification prior to the hearing. This

10 minute period should be uninterrupted unless a member of the Licensing Sub-Committee or Legal Adviser considers that the speaker is making submissions that are irrelevant, frivolous or vexatious.

9. Members of the Licensing Sub-Committee or their Legal Adviser may ask questions of any Party, at any time throughout the proceedings.
10. The sequence in which each of the Parties will be invited to address the Licensing Sub-Committee will normally be in the order of:
  - the Police;
  - the Fire Authority;
  - the Health Authority
  - the Licensing Authority
  - the Health and Safety at Work Enforcing Authority;
  - the Local Planning Authority;
  - the Local Environmental Health Authority – Noise and Nuisance Officers;
  - the Local Trading Standards Authority;
  - the Authority Responsible for the Protection of Children from Harm;
  - any Other Person(s) that has submitted representations in respect of the application, certificate, notice or other matter appearing before the Licensing Sub-Committee (if there are a large number of Other Persons present who are making relevant representations they may be invited to share the maximum time available or to nominate a spokesperson to speak on their behalf); and
  - the Party that has submitted the application, certificate, notice or other matter appearing before the Licensing Sub-Committee.
11. At the discretion of the Licensing Sub-Committee the above order may be varied.
12. Parties may give their evidence by making a statement or if appropriate by being questioned by the person calling them.
13. If the Licensing Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice as the case may require, a period of up to 5 minutes cross-examination shall be allowed after each submission.
14. The Sub-Committee will then ask any outstanding points requiring clarification.
15. The Chair will ask the Applicant whether in the light of any representations made, they wish to amend their application or offer any additional conditions to overcome the representations and/or promote the licensing objectives.
16. If the Applicant makes any comments in relation to 15 above, the Licensing Sub-Committee will ask the other Parties whether they wish to make any further comment in relation to any amendment or additional comments offered by the Applicant.
17. The Chair will invite the Parties to indicate if they wish to make any final



comments. If any Party wishes to do so they will be given a maximum of 3 minutes to do so and the other Parties will be given the same maximum period, finishing with the Applicant.

18. The Licensing Sub-Committee will deliberate on and determine the matter under consideration. The Licensing Sub-Committee may withdraw to a private room to do this.
19. The Licensing Sub-Committee will return to open session. The Chair will ask the Legal Adviser to inform the Parties of any legal advice given during the Licensing Sub-Committee's private discussion that has informed their decision.
20. The Chair will then announce in open session to all Parties the decision of the Licensing Sub-Committee and reasons, unless (where permitted by the Regulations) the decision is to be communicated at some later time.

## **ANNEX 2 - Procedure for Remote Licensing Sub-Committee Hearings**

Note: (1) This procedure shall normally be followed for all Hearings held by the Licensing Sub-Committee(s). The Chair may vary the procedure in respect of any hearing if he/she considers that this would facilitate the proper consideration of the application or notice before the Licensing Sub-Committee.

Note: (2) The hearing shall take the form of a discussion led by the Licensing Sub-Committee. Cross-examination shall not be permitted unless the Licensing Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice before it.

Note: (3) Having regard to the Licensing Act 2003 (Hearings) Regulations 2005, The Coronavirus Act 2020 (in so far as it impacts on licensing proceedings) and The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020: any reference to hearing may be to a virtual or remote hearing which is not limited to a meeting of persons all of whom, or any of whom, are present in the same place and any reference to a "place" 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 "present", "appear" and "attend" shall be construed accordingly.

1. The Licensing Sub-Committee will elect a Chair from amongst their number
2. The Chair will invite those present to introduce themselves, Parties to indicate their names and who they represent. Chair to ascertain who will speak.
3. The Chair of the Licensing Sub-Committee will inform the Parties whether their applications to have certain people attend the hearing (e.g. witnesses) have been granted or refused (Note this relates to people other than those attending on behalf of a Party in the capacity as a representative of the Party).
4. The Chair will explain to the Parties the procedure to be followed at the hearing and to consider any request made by a Party in accordance with the Regulations for permission for another person to appear at the hearing (Such permission shall not be unreasonably withheld).
5. The Licensing Sub-Committee will confirm or vary the time limits set out below to be applied to contributions from the Parties. (Note: under the Regulations an equal maximum time period must be allowed to the Parties to exercise their rights under the Regulations).
6. The Chair will summarise the paperwork before the Licensing Sub-Committee and confirm that all present have copies; will ascertain whether any representations have been or are now to be withdrawn, and will hear any requests to adduce additional documentary or other information.
7. The Licensing Officer will outline:
  - details of the application and relevant representations received from the

- Parties; and the outcome of any discussions
  - relevant legislation;
  - relevant Licensing Policy; and
  - the time limit in which the Council must reach a determination.
8. The Chair will invite each of the Parties or their representative in turn to address the Licensing Sub-Committee and invite any person/s to whom permission has been granted to appear. Each Party will be allowed a maximum period of 10 minutes in which to address the Licensing Sub-Committee and call persons on his/her behalf, and clarify any points on which the Licensing Sub-Committee has sought clarification prior to the hearing. This 10 minute period should be uninterrupted unless a member of the Licensing Sub-Committee or Legal Adviser considers that the speaker is making submissions that are irrelevant, frivolous or vexatious.
  9. Members of the Licensing Sub-Committee or their Legal Adviser may ask questions of any Party, at any time throughout the proceedings.
  10. The sequence in which each of the Parties will be invited to address the Licensing Sub-Committee will normally be in the order of:
    - the Police;
    - the Fire Authority;
    - the Health and Safety at Work Enforcing Authority;
    - the Local Planning Authority;
    - the Local Environmental Health Authority – Noise and Nuisance Officers, Waste Management Officers;
    - the Local Trading Standards Authority;
    - the Authority Responsible for the Protection of Children from Harm;
    - any Other Party that has submitted representations in respect of the application, certificate, notice or other matter appearing before the Licensing Sub-Committee (if there are a large number of Other Persons present who are making relevant representations they may be invited to share the maximum time available or to nominate a spokesperson to speak on their behalf); and
    - the Party that has submitted the application, certificate, notice or other matter appearing before the Licensing Sub-Committee.
  11. At the discretion of the Licensing Sub-Committee the above order may be varied.
  12. Parties may give their evidence by making a statement or if appropriate by being questioned by the person calling them.
  13. If the Licensing Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice as the case may require, a period of up to 5 minutes cross-examination shall be allowed after each submission.

14. The Sub-Committee will then ask any outstanding points requiring clarification.
15. The Chair will ask the Applicant whether in the light of any representations made, they wish to amend their application or offer any additional conditions to overcome the representations and/or promote the licensing objectives.
16. If the Applicant makes any comments in relation to 15 above, the Licensing Sub-Committee will ask the other Parties whether they wish to make any further comment in relation to any amendment or additional comments offered by the Applicant.
17. The Chair will invite the Parties to indicate if they wish to make any final comments. If any Party wishes to do so they will be given a maximum of 3 minutes to do so and the other Parties will be given the same maximum period, finishing with the Applicant.
18. The Licensing Sub-Committee will deliberate on and determine the matter under consideration. The Licensing Sub-Committee may withdraw to do this privately.
19. Where a decision is required to be made at the conclusion of the hearing, the Licensing Sub-Committee will return to open session following their private deliberations. The Chair will ask the Legal Adviser to inform the Parties of any legal advice given during the Licensing Sub-Committee's private discussion that has informed their decision. The Chair will then announce in open session to all Parties the decision of the Licensing Sub-Committee and reasons, unless (where permitted by the Regulations) the decision is to be communicated at some later time.
20. Where a decision is not one which is required to be made at the conclusion of the hearing, the meeting will be concluded and thereafter the Members will undertake their deliberations. Parties will be notified of the decision of the Sub Committee and the reasons for that decision in writing within 5 working days following the conclusion of the hearing.

### ANNEX 3 – Delegation of Functions

Applications and other matters shall be determined under delegated powers in accordance with the following schedule:

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COMMITTEE</b>	<b>SUB-COMMITTEE</b>	<b>OFFICERS</b>
Application for personal licence		If a police objection is raised	If no objection is made
Application for personal licence, with unspent convictions		All cases	
Application for premises licence/club registration Certificate		If a relevant representation is made	If no relevant representation is made
Application for provisional statement		If a relevant representation is made	If no relevant representation is made
Application to vary premises licence/club registration Certificate		If a relevant representation is made	If no relevant representation is made
Application to vary designated premises supervisor		If a police Representation is made	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection is raised	All other cases
Application for interim authorities		If a police objection is raised	All other cases
Application to review premises licence/club registration Certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application.		All cases	
Determination of a police objection to a temporary event notice		All cases	

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.G – Protocol for Licensing Hearings under the Gambling Act 2005

Protocol adopted by the Licensing Committee on: 10th October 2007 - Effective from: 22nd November 2007. Amended: 30 September 2020 - - approved by the Licensing Committee on 30 September 2020 pursuant to Article 15 of the Council's Constitution

### 1. DEFINITIONS

1.1 In this Protocol:

- **'The Act'** means the Gambling Act 2005.
- **'The Regulations'** mean the Gambling Act 2005 (Proceedings of Licensing Committees & Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007.
- **'Applicant'** means the person who makes an application under the Act. This includes an applicant making an application for a premises licence for an adult gaming centre, casino, bingo premises, betting premises, track or licensed family entertainment centre, travelling fair permits or for a variety of permits and temporary or occasional use notices. The term Applicant also refers to a person representing the Applicant.
- **'The relevant committee'** means the Licensing Committee or Licensing Sub-Committee, empowered under the Act and the Council's Constitution to determine applications under the Act.
- **'Party to the hearing'** means a person to whom a notice of hearing is required to be given in accordance with Regulation 5(1) of the Regulations including the Applicant, Responsible Authorities and Interested Parties and "Party" and "Parties" shall be construed accordingly. "Party" includes a person representing the Applicant, Responsible Authority and Interested Parties.
- **'Responsible Authority'** means a public body as defined by s.157 of the Act and the Regulations that must be notified of applications and is entitled to make representations. They are the Licensing Authority, the Gambling Commission, HM Revenue and Customs, the Police, the Fire Authority, Planning Officers, Noise and Nuisance Officers and the Croydon Children's Safeguarding Board. "Responsible Authority" includes a person representing the Responsible Authority.
- **'Interested Party'** means any of the following:
  - a) a person who lives sufficiently close to the premises likely to be affected by the authorised activities;
  - b) a person who has business interests that might be affected by the authorised activities; or
  - c) a person who represents the persons who satisfy para.a) or b)."Interested Party" and "Interested Parties" shall be construed accordingly.

## **2. INTRODUCTION/APPLICATION OF PROTOCOL**

- 2.1 This protocol applies to hearings held by the London Borough of Croydon under the Act. It sets out how the Licensing Committee and its Sub-Committees will manage their business under the Act and the procedure to be followed in determining applications/requests for review and at hearings. It includes the matters required to be explained in the notice of hearing under Regulation 6(1) of the Regulations.
- 2.2 The protocol shall comply with the Regulations and any regulations or enactment amending or replacing the same. The protocol applies to all applications which are required under the Act to be determined by the relevant committees, and to the conduct of all Members whether or not Members of the Licensing Committee or its Sub-Committees.
- 2.3 This protocol does not apply to the consideration of any licensing matter outside of the Act's scope by the Licensing Committee or to non-decision making matters related to the Act (i.e. recommendations) from the Licensing Committee. In either instance the Licensing Committee can use their Reserve Members when considering such matters. Reserve Members are appointed when any of the 12 Voting Licensing Committee Members are unable to attend a Meeting. Reserve Members will be notified in advance by Democratic Services and, subject to availability, their selection and appointment will be confirmed at the outset of the Meeting. 'Non-decision matters' in this context do not include fee setting pursuant to s212 of the Act.

## **3. DETERMINATION OF APPLICATIONS**

- 3.1 Both unopposed applications and those where a hearing is required under the Act shall be heard by one of the Licensing Sub-Committees.
- 3.2 Applications and other matters shall be determined in accordance with the guidance issued under section 25 of the Act.

## **4. THE LICENSING SUB-COMMITTEES**

- 4.1 The membership of each Licensing Sub-Committee shall be three Members, drawn from the pool of 12 Voting Members of the Licensing Committee. The Council Solicitor, Director of Legal Services, shall, after consultation with the appropriate Group Whip(s), nominate members to serve on meetings of the relevant committee taking into account member availability, group proportionality and the need to avoid any potential conflict of interests.
- 4.2 The quorum of the relevant committee is three members and all three members must be present throughout the hearing.
- 4.3 Each Political Group shall nominate a reserve member for each meeting of the relevant committee to provide for the eventuality that a member is unavailable at short notice.



- 4.4 The relevant committee shall be subject to the ‘access to information’ rules applying to committees and sub-committees appointed under Section 102 of the Local Government Act 1972 and the Council’s Access to Information Procedure Rules set out in Part 4B of this Constitution, provided always that the relevant committee may at any time decide to withdraw to private session to deliberate on any matter.
- 4.5 The relevant committee shall be subject to the ‘political balance’ rules applying to committees and sub-committees appointed under Section 102 of the Local Government Act 1972. The Licensing Sub-Committee shall appoint a chair for the meeting from amongst its membership at the start of each meeting.

## **5. HEARINGS**

- 5.1 Hearings will be convened and conducted in accordance with the procedures at Annex 1 and Annex 2 to this protocol (as applicable).
- 5.2 Hearings shall normally take place at the Town Hall, Katharine Street, Croydon though as at Annex 2, hearings may also be held remotely, online. Hearings may take place during the daytime or evening.
- 5.3 The agenda for meetings of the relevant committee shall be agreed by the Council Solicitor, Director of Legal Services, after any necessary consultation with the relevant Chair. The Council Solicitor, Director of Legal Services, after consultation with the Chair and the Licensing Officer, shall determine how many applications shall be heard at each meeting of the relevant committee and in what order, taking into account all relevant factors including the number of parties who are present for each item.
- 5.4 Hearings shall be arranged to commence as soon as is reasonably practicable after the expiry of any period for representations. If the hearing is to be held on more than one day it must be arranged to take place on consecutive working days.

## **6. NOTIFICATION OF HEARINGS**

- 6.1 Interested Parties shall be notified of the hearing in accordance with the timescales set out in the Regulations. Information to accompany the notice of hearing shall be provided in accordance with the Regulations, and shall include:
- a copy of this Protocol;
  - confirmation that a Party may be assisted or represented by a person whether or not that person is legally qualified;
  - confirmation that a Party to the hearing may address the Authority, give further information on a point on which the Authority requires clarification and, if considered by the relevant committee to be required, question another Party to the hearing;
  - the consequences of not attending or being represented at a hearing (which normally will be that the hearing will proceed in the Party’s absence); and
  - a note of any particular points on which the Authority wants clarification.

- 6.2 In order to consider whether there are any issues of clarification to be requested from Applicants or those making representations, Members of the relevant committee may meet with the Clerk and/or Legal Adviser in advance of the hearing. No decisions will be made or discussions held regarding the substantive merits of the application or submissions at this meeting. Subject to any restrictions in the Regulations, a Party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.
- 6.3 All Parties upon whom a notice of hearing has been served are required to give to the Authority, in accordance with the timescales set out in the regulations, notice of:
- whether they wish to attend, address, or to be assisted or represented at the hearing;
  - whether or not they consider a hearing to be unnecessary; and
  - whether they wish to request that another person appear at the hearing (other than their representative). If such a request is made, it should be accompanied by details of the name of that person and a full description of the points about which that person may be able to assist the Authority.
- 6.4 The Authority may dispense with the requirement to hold a hearing if all Parties agree that such a hearing is unnecessary provided (1) all the Parties involved in the application agree to dispense with a hearing and (2) all Parties have each notified the Authority that a hearing is unnecessary. Where all the persons required by the Act to agree that a hearing is unnecessary have done so in accordance with paragraph 6.4 above, the Authority, if it agrees that a hearing is unnecessary, shall as soon as is reasonably practicable, give notice to the Parties that the hearing has been dispensed with and proceed to determine the application or review. Once the application has been determined the Authority will notify the Parties of its decision forthwith.
- 6.5 Subject to the requirement to determine an application within the timescale set out in the regulations and to any other restrictions contained in the Regulations, the Authority has the power to extend a time limit specified in the Regulations for a specified period where it considers this is necessary in the public interest, or to adjourn a hearing to a specified date. Where the Authority has exercised its discretion to extend a time limit or adjourn a hearing, it must forthwith give notice to the Parties, stating the period of the extension and the reasons why it considers it is necessary in the public interest, or the date, time and place to which the hearing has been adjourned, as appropriate.

## **7. FAILURE OF PARTIES TO ATTEND THE HEARING**

- 7.1 If a Party, who has not given prior notice of his/her intention not to attend the hearing, is absent from the hearing or has left the hearing in circumstances which would enable the relevant committee to reasonably conclude that he does not intend to participate further, the relevant committee may either adjourn the hearing or hold the hearing in the Party's absence. Where the hearing is held in the absence of a Party, the relevant committee will still consider the application, representation or notice submitted by that Party.

## **8. OFFICERS TO ATTEND THE HEARING**

- 8.1 The hearing will be attended by a Legal Officer, a Democratic Services Officer who shall act as the clerk, and a Licensing Officer. The officers are present to provide advice and are not Parties to the hearing.
- 8.2 The role of the Legal Officer is to provide legal advice relating to the application and submissions. Any legal advice that may be given to the relevant committee in private shall be repeated when the relevant committee returns in open session.
- 8.3 The role of the Clerk is to record the hearing and the decisions of the relevant committee, and ensure efficient administration.

## **9. LICENSING OFFICER'S REPORT TO THE RELEVANT COMMITTEE**

- 9.1 The Licensing Officer shall prepare a report for consideration by the relevant committee including:
- a brief summary of the application;
  - a brief summary of representations by responsible authorities and Interested Parties;
  - relevant aspects of the Council's Statement of Principles and National Guidance;
  - other information as appropriate and as included in the Council's standard report format.
- 9.2 The Licensing Officer's report shall be sent to the Parties and will be accompanied by the relevant documentary material that has been submitted by the Parties.
- 9.3 After having heard the representations and prior to retiring to make its decision the relevant committee may, if it wishes, seek the guidance of the licensing officer regarding possible suitable conditions in respect of any particular application.

## **10. REPRESENTATIONS**

- 10.1 An Interested Party or Responsible Authority may make written representations about an application for a premises licence within a period of 28 days beginning on the date on which the application was made to the Authority. A copy of all relevant representations will be provided, in full, to the Applicant. The papers for the relevant committee hearing will be available to the press and public. Correspondence submitted anonymously will not be considered.
- 10.2 Relevant committee members will not enter into correspondence or discussion with Applicants, their agents or representatives, other Interested Parties or Responsible Authorities about the merits of the application(s) they may be called upon to decide.
- 10.3 Where an application is to be decided at a hearing by the relevant committee, Applicants and those who have made relevant written representations in connection with the application will be invited to attend.

- 10.4 Representations or requests for review will only be relevant if they relate to one or more of the three licensing objectives:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - Ensuring that gambling is conducted in a fair and open way; and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 10.5 At the hearing a Party shall be entitled to:
- address the relevant committee on any relevant matter;
  - call witnesses to give evidence on any relevant matter;
  - give further information in response to a point upon which the Authority has given notice that it will want clarification; and
  - if given permission by the relevant committee, question any other Party.
- 10.6 Members of the relevant committee may question any Party or other person appearing at the hearing.
- 10.7 Statements made by people in support of a Party's representation who are not present at the hearing, must be signed by the maker, dated and witnessed by another person. The statement must also contain the witness's full name and occupation.
- 10.8 A Party who wishes to withdraw any representations they have made, may do so by giving written notice to the Authority no later than 24 hours before the day on which the hearing is scheduled to be held, or orally at the hearing.
- 10.9 The relevant committee has the discretion to consider whether to take into account any documentary or other evidence produced by a Party before the hearing. Any documentary or other evidence produced by any Party in support of an application, representations or notice of hearing, which has not been produced before the hearing can only be heard with the consent of all other parties present, and the relevant committee. During the hearing no new matters may be raised without the express consent of the Chair of the relevant committee.

## **11. HEARINGS TO BE OPEN TO THE PUBLIC**

- 11.1 The hearing will take place in public. However, the relevant committee may decide that all or part of the hearing will be in private if it is necessary in all the circumstances of the case having regards to:
- any unfairness to a Party that is likely to result from a hearing in public; and
  - the need to protect as far as possible, the commercial or other legitimate interests of a Party.
- 11.2 The relevant committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner, or in breach of conditions specified under this paragraph, to leave the hearing and:

- refuse to permit him to return; or
- permit him to return only on such conditions as the relevant committee may specify.

The relevant committee may allow a person who is attending the hearing and in their opinion is behaving in a disruptive manner, or in breach of conditions specified under paragraph (11.2), to remain at the hearing only on such conditions as the committee may specify.

Where a person is required to leave the hearing in accordance with paragraph (11.2), the relevant committee must:

- permit him to submit in writing, before the end of the hearing, any information which he would have been entitled to give orally had he not been required to leave; and
- take into account that information in reaching a determination of the application or review.

11.3 The relevant committee may retire into private session during or at the end of the hearing to deliberate on any matter or decide how it wishes to determine the application. The relevant committee may be accompanied by the Clerk and the Legal Adviser who will be available to assist the relevant committee with any legal problems but will not participate in any decision making of the relevant committee.

## **12. DETERMINATION OF APPLICATIONS**

12.1 Normally the relevant committee shall make its determination at the conclusion of the hearing and in all cases the relevant committee shall make its determination before the end of five working days starting with the day after the last day of the hearing. That time limit may be extended if it is considered to be in the public interest, in which case, as soon as is reasonably practicable, the relevant committee must give notice of the extension to the Parties stating the period of the extension and the reasons for it.

12.2 Where all Parties have notified the Authority that a hearing is not required and the Authority agrees that a hearing is not required, the application shall be determined as soon as is reasonably practicable.

12.3 The relevant committee shall give reasons for its decision and these shall be recorded in the minutes of the meeting.

12.4 The Authority shall notify Parties of its determination, and provide any accompanying information in accordance with the Regulations. The Chief Officer of Police shall also be notified even in a case where the Police have not made a representation.

### **13.1 RECORD OF PROCEEDINGS**

13.1 The Authority shall keep a record of the hearing in a permanent and intelligible form for 6 years from the date of the determination or, where an appeal is brought against the determination of the authority, from the disposal of the appeal.

### **14. CODE OF CONDUCT AND PRINCIPLES OF DECISION-MAKING**

14.1 Members shall at all times comply with the provisions of the Members' Code of Conduct.

14.2 In making their determinations under the Act, Members shall have regard to:

- the material relevant facts in light of the evidence presented;
- the relevant statutory provisions;
- relevant national guidance and the policy statement;
- the licensing objectives; and
- the individual merits of the case.

14.3 Applications shall be determined on the basis of whether they promote the licensing objectives in the Act, namely:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

14.4 The relevant committee shall disregard any information or evidence given which is not relevant to the application, representations or notice; or to the promotion of the licensing objectives.

14.5 Decisions must not be influenced by any political party direction whether given at a previous party group meeting or otherwise.

14.6 Members of the Licensing Committee or its Sub-Committee(s) must act without bias or predetermination, must have no disclosable pecuniary interest in any application before them, and must keep an open mind on all applications until they have considered all of the evidence and arguments presented. They shall not take or express any view on the merits of an application, nor organise support for or opposition to any application in advance of a hearing. Any Member who does so shall not be eligible to serve on the relevant committee meeting that hears the application.

### **15. MEMBERS' INTERESTS: GENERAL**

15.1 Members must at all times comply with the Members' Code of Conduct in relation to the disclosure disclosable pecuniary interests, participation in relation to disclosed interests and registration of financial and other interests

and of gifts and hospitality.

## **16. MEMBERS' INTERESTS: MEMBERS OF THE LICENSING COMMITTEE**

- 16.1 A Member of the relevant committee who has been involved in a licence application shall not serve on the relevant committee hearing at which the licence application is to be determined.
- 16.2 No Member sitting on the relevant committee can represent one of the interested parties or applicant. If a Member wishes to do so s/he must excuse him/herself from membership of the relevant committee which is considering the application and address the relevant committee as a representative for an Interested Party (subject to 17.2 below).
- 16.3 Members involved in Council meetings which approved the Licensing Policy (or any amendment to it), will not be excluded from membership of the relevant committee solely on this basis.

## **17. MEMBERS' INTERESTS: WARD MEMBERS AND OTHER MEMBERS**

- 17.1 Under the Members' Code of Conduct a Member who has a disclosable pecuniary interest must, if the interest is not one which is already on the register of interests or subject to a pending notification to the Monitoring Officer, disclose the existence of that interest to the meeting and thereafter notify the Monitoring Officer of that interest within 28 days of this disclosure.
- 17.2 Where a Member has a disclosable pecuniary interest in relation to the application under consideration they may not sit on that sub-committee.
- 17.3 Any Member with a disclosable pecuniary interest is also precluded from making representations orally to the Sub-Committee or from making representations on behalf of a party to the hearing. They can still present their views through other means. For example, the Member can:
- make written representations in their private capacity. The existence and nature of the interest should be disclosed in such representations and the Member should not seek preferential consideration for their representations. Such written representations should be addressed to officers rather than other Members of the Authority;
  - use a professional representative to make an application on the Member's behalf; or
  - arrange for another Member of the Authority to represent the views of the Member's constituents on matters in which their ward Member has a disclosable pecuniary interest.
- 17.4 The Member who has a disclosable pecuniary interest but has been asked to represent the views of a party making representations should advise them about that interest and inform them that another Member may represent their views on the issue. When representing those views the other Member should make it clear to the relevant committee or officers that he or she is acting in

place of the original Member because of that Member's disclosable pecuniary interest.

## **18. LOBBYING**

- 18.1 If a Member of the relevant committee is approached by a person(s) wishing to lobby him/her on a licence application then that Member should explain that they cannot discuss the matter and refer the lobby person(s) to the Licensing Officer or his/her Ward Member who can explain the process of decision making. Any written representations received by a Member of the relevant committee should be passed to the Licensing Officer and reported at the hearing at which the application is being determined. Requests for procedural advice with regards to licensing applications should be referred to Council Officers for advice and information.
- 18.2 Other Members must not lobby Members who sit on the relevant committee, directly or indirectly, before or after a meeting, in writing or otherwise, in respect of items to be decided by the relevant committee. Any representation by other Members, on behalf of an Interested Party, should be sent to the relevant Licensing Officer for inclusion in his/her report. A Member shall not attempt to use her/his status as a Member to influence consideration of a submission, or try to get officers to change a decision or recommendation.

## **19. SITE VISITS**

- 19.1 The relevant committee may undertake a site visit to the premises which are the subject of an application. If required, the site visit may occur prior to the hearing or the relevant committee may adjourn the hearing part way through to undertake a site visit. The Chair of the relevant committee shall give reasons justifying the need for a site visit and these shall be notified to the Parties.
- 19.2 If a site visit is necessary the following procedure should be observed:
- the visit should be undertaken as a group visit attended by all the relevant committee Members and its purpose should be confined to that indicated by the Chair;
  - the visit should be attended by an officer who may be asked factual questions by the Members;
  - no indication of the likely outcome of the application should be given on the visit;
  - no representation from the applicant or from those making representations shall be heard or accepted on the visit; and
  - a record should be kept of those attending the visit, the questions asked, and answers given.

## **20. APPLICATIONS SUBMITTED BY THE LOCAL AUTHORITY OR BY ANOTHER PUBLIC AUTHORITY**

- 20.1 Where the Authority is the applicant for a licence, that application shall be determined in accordance with the normal procedure. The relevant committee



shall give no regard to the interests of the Council itself, aside from receiving relevant representations on this issue. Members who were part of the Authority's decision to apply for the licence, or who express a view in respect of such an application, shall not serve on the relevant committee to determine the application.

- 20.2 A Member who also serves on another local authority, or carries out a function for another public authority, or is appointed by Croydon Council as its representative on another body, shall not serve on the relevant committee to determine an application which has been made by that other authority or body, or on which that other authority or body has made a representation.

## **21. VARIATION/AMENDMENT OF THIS PROTOCOL**

- 21.1 The relevant committee may waive, vary or modify any part of this protocol in relation to a particular case if it considers that this is necessary to ensure fairness to the Parties and/or proper consideration of the application in question, provided always that this does not result in any contravention of the Regulations.
- 21.2 This protocol may be amended by the Licensing Committee.
- 21.3 Where amendments to this Protocol are necessary due to legislative changes, the Council Solicitor, Director of Legal Services, may make such consequential changes to this Protocol as are necessary to take such changes into account.

## **ANNEX 1 - Procedure for Licensing Sub-Committee Hearings**

Note: (1) This procedure shall normally be followed for all Hearings held by the Licensing Sub-Committee(s). The Chair may vary the procedure in respect of any hearing if he/she considers that this would facilitate the proper consideration of the application or notice before the relevant committee.

Note: (2) The hearing shall take the form of a discussion led by the relevant committee. Cross-examination shall not be permitted unless the relevant committee considers that cross-examination is required for it to consider the representations, application or notice before it.

1. The relevant committee will elect a Chair from amongst their number
2. The Chair will introduce those present, Parties to indicate their names and who they represent. Chair to ascertain who will speak.
3. The Chair of the relevant committee will inform the Parties whether their applications to have certain people attend the hearing (e.g. witnesses) have been granted or refused (Note this relates to people other than those attending on behalf of a Party in the capacity as a representative of the Party).
4. The Chair will explain to the Parties the procedure to be followed at the hearing and to consider any request made by a Party in accordance with the Regulations for permission for another person to appear at the hearing (Such permission shall not be unreasonably withheld).
5. The relevant committee will confirm or vary the time limits set out below to be applied to contributions from the Parties (Note: under the Regulations an equal maximum time period must be allowed to the Parties to exercise their rights under the Regulations).
6. The Chair will summarise the paperwork before the relevant committee and confirm that all present have copies; will ascertain whether any representations have been or are now to be withdrawn, and will hear any requests to adduce additional documentary or other information.
7. The Licensing Officer will outline:
  - details of the application and relevant representations received from the Parties; and the outcome of any discussions
  - relevant legislation;
  - relevant Licensing Policy; and
  - the time limit in which the Council must reach a determination.
8. The Chair will invite each of the parties or their representative in turn to address the relevant committee and call any person/s to whom permission has been granted to appear. Each Party will be allowed a maximum period of 10 minutes in which to address the relevant committee and call persons on his/her behalf, and clarify any points on which the relevant committee has sought clarification

prior to the hearing. This 10 minute period should be uninterrupted unless a member of the relevant committee or Legal Adviser considers that the speaker is making submissions that are irrelevant, frivolous or vexatious.

9. Members of the relevant committee or their Legal Adviser may ask questions of any party, at any time throughout the proceedings.
10. The sequence in which each of the Parties will be invited to address the relevant committee will normally be in the order of:
  - the Gambling Commission
  - the Police;
  - the Fire Authority;
  - the Licensing Authority
  - Her Majesty's Revenue & Customs (HMRC);
  - the Local Planning Authority;
  - the Local Environmental Health Authority – Noise and Nuisance Officers;
  - the Authority Responsible for the Protection of Children from Harm;
  - any other Interested Party that has submitted representations in respect of the application, certificate, notice or other matter appearing before the relevant committee (if there are a large number of Interested Parties present who are making relevant representations they may be invited to share the maximum time available or to nominate a spokesperson to speak on their behalf).
  - the Party that has submitted the application, certificate, notice or other matter appearing before the relevant committee.
11. At the discretion of the relevant committee the above order may be varied.
12. Parties may give their evidence by making a statement or if appropriate by being questioned by the person calling them.
13. If the relevant committee considers that cross-examination is required for it to consider the representations, application or notice as the case may require, a period of up to 5 minutes cross-examination shall be allowed after each submission.
14. The relevant committee will then ask any outstanding points requiring clarification.
15. The Chair will ask the Applicant whether in the light of any representations made, they wish to amend their application or offer any additional conditions to overcome the representations and/or promote the licensing objectives.
16. If the Applicant makes any comments in relation to 15 above, the relevant committee will ask the other Parties whether they wish to make any further comment in relation to any amendment or additional comments offered by the Applicant.
17. The Chair will invite the Parties to indicate if they wish to make any final

comments. If any Party wishes to do so they will be given a maximum of 3 minutes to do so and the other Parties will be given the same maximum period, finishing with the Applicant.

18. The relevant committee will deliberate on and determine the matter under consideration. The relevant committee may withdraw to a private room to do this.
19. The relevant committee will return to open session. The Chair will ask the Legal Adviser to inform the Parties of any legal advice given during the relevant committee's private discussion that has informed their decision.
20. The Chair will then announce in open session to all Parties the decision of the relevant committee and reasons, unless (where permitted by the Regulations) the decision is to be communicated at some later time.

## **ANNEX 2 - Procedure for Remote Licensing Sub- Committee Hearings**

Note: (1) This procedure shall normally be followed for all Hearings held by the relevant committee(s). The Chair may vary the procedure in respect of any hearing if he/she considers that this would facilitate the proper consideration of the application or notice before the relevant committee.

Note: (2) The hearing shall take the form of a discussion led by the relevant committee. Cross-examination shall not be permitted unless the relevant committee considers that cross-examination is required for it to consider the representations, application or notice before it.

Note: (3) Having regard to the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licenses and Provisional Statements) (England and Wales) Regulations 2007, The Coronavirus Act 2020 (in so far as it impacts on licensing proceedings) and The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020: any reference to hearing may be to a virtual or remote hearing which is not limited to a meeting of persons all of whom, or any of whom, are present in the same place and any reference to a “place” 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 “present”, “appear” and “attend” shall be construed accordingly.

1. The relevant committee will elect a Chair from amongst their number
2. The Chair will invite those present to introduce themselves, Parties to indicate their names and who they represent. Chair to ascertain who will speak.
3. The Chair of the relevant committee will inform the Parties whether their applications to have certain people attend the hearing (e.g. witnesses) have been granted or refused (Note this relates to people other than those attending on behalf of a Party in the capacity as a representative of the Party).
4. The Chair will explain to the Parties the procedure to be followed at the hearing and to consider any request made by a Party in accordance with the Regulations for permission for another person to appear at the hearing (Such permission shall not be unreasonably withheld).
5. The relevant committee will confirm or vary the time limits set out below to be applied to contributions from the Parties. (Note: under the Regulations an equal maximum time period must be allowed to the Parties to exercise their rights under the Regulations).
6. The Chair will summarise the paperwork before the relevant committee and confirm that all present have copies; will ascertain whether any representations have been or are now to be withdrawn, and will hear any requests to adduce additional documentary or other information.

7. The Licensing Officer will outline:
  - details of the application and relevant representations received from the Parties; and the outcome of any discussions
  - relevant legislation;
  - relevant Licensing Policy; and
  - the time limit in which the Council must reach a determination.
8. The Chair will invite each of the Parties or their representative in turn to address the relevant committee and invite any person/s to whom permission has been granted to appear. Each Party will be allowed a maximum period of 10 minutes in which to address the relevant committee and call persons on his/her behalf, and clarify any points on which the relevant committee has sought clarification prior to the hearing. This 10 minute period should be uninterrupted unless a member of the relevant committee or Legal Adviser considers that the speaker is making submissions that are irrelevant, frivolous or vexatious.
9. Members of the relevant committee or their Legal Adviser may ask questions of any Party, at any time throughout the proceedings.
10. The sequence in which each of the Parties will be invited to address the relevant committee will normally be in the order of:
  - the Police;
  - the Fire Authority;
  - the Health and Safety at Work Enforcing Authority;
  - the Local Planning Authority;
  - the Local Environmental Health Authority – Noise and Nuisance Officers, Waste Management Officers;
  - the Local Trading Standards Authority;
  - the Authority Responsible for the Protection of Children from Harm;
  - any Other Party that has submitted representations in respect of the application, certificate, notice or other matter appearing before the Relevant committee (if there are a large number of Other Persons present who are making relevant representations they may be invited to share the maximum time available or to nominate a spokesperson to speak on their behalf); and
  - the Party that has submitted the application, certificate, notice or other matter appearing before the relevant committee.
11. At the discretion of the relevant committee the above order may be varied.
12. Parties may give their evidence by making a statement or if appropriate by being questioned by the person calling them.
13. If the relevant committee considers that cross-examination is required for it to consider the representations, application or notice as the case may require, a period of up to 5 minutes cross-examination shall be allowed after each submission.

14. The relevant committee will then ask any outstanding points requiring clarification.
15. The Chair will ask the Applicant whether in the light of any representations made, they wish to amend their application or offer any additional conditions to overcome the representations and/or promote the licensing objectives.
16. If the Applicant makes any comments in relation to 15 above, the relevant committee will ask the other Parties whether they wish to make any further comment in relation to any amendment or additional comments offered by the Applicant.
17. The Chair will invite the Parties to indicate if they wish to make any final comments. If any Party wishes to do so they will be given a maximum of 3 minutes to do so and the other Parties will be given the same maximum period, finishing with the Applicant.
18. The relevant committee will deliberate on and determine the matter under consideration. The relevant committee may withdraw to do this privately.
19. Where a decision is required to be made at the conclusion of the hearing, the relevant committee will return to open session following their private deliberations. The Chair will ask the Legal Adviser to inform the Parties of any legal advice given during the relevant committee's private discussion that has informed their decision. The Chair will then announce in open session to all Parties the decision of the relevant committee and reasons, unless (where permitted by the Regulations) the decision is to be communicated at some later time.
20. Where a decision is not one which is required to be made at the conclusion of the hearing, the meeting will be concluded and thereafter the Members will undertake their deliberations. Parties will be notified of the decision of the relevant committee and the reasons for that decision in writing within 5 working days following the conclusion of the hearing.

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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.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.1

### MEMBERS' CODE OF CONDUCT

#### Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint subcommittee of the authority; and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

#### Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you.

It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

#### General principles of councillor conduct

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).

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and

- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

### **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct.

### **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken. This may include a hearing by a sub-committee of the Ethics Committee which has powers to take action in respect of individual Members in order to promote and maintain high standards of conduct. A list of the possible sanctions which the Hearings Panel may apply appears in the Hearings Panel: Rules of Procedure.

Guidance is given at Appendix C to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

As a councillor:

- 1.1 I treat other councillors and members of the public with respect.
- 1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

2. Bullying, harassment and discrimination

As a councillor:

- 2.1 I do not bully any person.
- 2.2 I do not harass any person.
- 2.3 I promote and value equality and diversity and do not discriminate unlawfully against any person.

3. Impartiality of officers of the council

As a councillor:

- 2.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

4. Confidentiality and access to information

As a councillor:

- 2.1 I do not disclose information:
  - a. given to me in confidence by anyone
  - b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
    - i. I have received the consent of a person authorised to give it;
    - ii. I am required by law to do so;
    - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
    - iv. the disclosure is:
      - 1. reasonable and in the public interest; and
      - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and
      - 3. I have consulted the Monitoring Officer prior to its release.

- 2.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

- 2.3 I do not prevent anyone from getting information that they are entitled to by law.

5. Disrepute

As a councillor:

- 2.1 I do not bring my role or local authority into disrepute.

6. Use of position

As a councillor:

- 2.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

7. Use of local authority resources and facilities

As a councillor:

- 7.1 I do not misuse council resources.
- 7.2 I will, when using the resources of the local authority or authorising their use by others:
  - a. act in accordance with the local authority's requirements; and
  - b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

## 8. Complying with the Code of Conduct

As a Councillor:

- 2.1 I undertake Code of Conduct training provided by my local authority.
- 2.2 I cooperate with any Code of Conduct investigation and/or determination.
- 2.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
- 2.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.
- 2.5 I comply with the Council's Constitution, all relevant Protocols contained within it and any such reasonable guidance issued from time to time by the Chief Executive, Chief Finance Officer and/or Monitoring Officer. [In the event that one of the Council's Statutory Chief Officers issues such guidance, it will be reported to the next meeting of the Ethics Committee.]
- 2.6 I undertake essential Councillor training provided or commissioned by the Council.
- 2.7 Protecting your reputation and the reputation of the local authority

## 9. Interests

As a councillor:

- 2.1 I register and disclose my interests in accordance with detailed provisions set out at Appendix B.
- 2.2 I make all decisions on merit, without discrimination or bias.

## 10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £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 within 28 days of its receipt.
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

## **Appendix A – The Seven Principles of Public Life**

The 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 – REGISTERING INTERESTS

Within 28 days of becoming a member or your re-election or re-appointment to office you must register **with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registrable Interests)**.

**“Disclosable Pecuniary Interest”** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### **Non participation in case of disclosable pecuniary interest**

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in Table 1, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

### **Disclosure of Other Registrable Interests**

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registrable Interests (as set out in **Table 2**), you must disclose the interest and not vote on the matter unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.

### **Disclosure of Non-Registrable Interests**

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the



meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) affects the financial interest or wellbeing:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

you may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have an Other Registrable Interest or Non-Registrable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	<p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>

<p><b>Contracts</b></p>	<p>Any contract made between the councillor or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
<p><b>Land and Property</b></p>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<p><b>Licenses</b></p>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer. Corporate tenancies Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<p><b>Securities</b></p>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and Subject Description</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the</p>

	<p>total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>
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\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registrable Interests**

You must register as an Other Registrable Interest:

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
  - i. exercising functions of a public nature
  - ii. directed to charitable purposes or
  - iii. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management.

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**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 \(also module 18, chpt 2 in HR Handbook\)](#)

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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.	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

Type	Description	Examples
	This means any harassing conduct based on gender or sexuality.	unwanted gifts, using suggestive language, making 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,	Inappropriate gestures, mimicking, derogatory comments based upon religion or belief, making jokes or derogatory comments regarding religious

Type	Description	Examples
	hostile, degrading, humiliating or offensive environment for that person due to their religion or belief	dress (e.g. skull cap, turban, hijab), criticism of religious practices e.g. for taking time off 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

Type	Description	Examples
		activity in and outside work).
<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	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

Type	Description	Examples
	than a strong or authoritarian management style, it is destructive rather than constructive, it is criticism of a person rather than their mistakes, it publicly humiliates rather than privately corrects them and it results in them feeling threatened or compromised.	reprimanding or humiliation, belittling, sarcastic or patronising comments, persistent reminders of past failures, excessively tight supervision, 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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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.K – Protocol on Members’ rights of access to information

### 1. Introduction and background

#### 1.1 The purpose of this protocol is to:

- a) set out the rights of access to Council information that members of the Council have to enable them to carry out their duties as Members; and
- b) provide guidance to Members and Officers on the approach to be adopted in exercising these rights in relation to the availability of Cabinet and Committee Reports and to information held by the Council generally.

#### 1.2 This protocol does not deal with the wider rights of access of the public and the press which are set out in the Access to Information Procedure Rules at Part 4B of the Constitution. Members are advised to refer to Part 4B which also sets out members’ statutory rights to information: this protocol expands on those rights.

#### 1.3 The Council is committed to ensuring that Members have the information they need in a timely way to carry out their duties, in line with Members’ statutory and common law rights to access information.

#### 1.4 The term ‘Member’ as used throughout this Protocol includes both elected Councillors and any individuals co-opted to Council Committees and Sub-Committees. Co-optees’ rights under this Protocol apply only in relation to the function(s) of the committee or sub-committee for which they are co-opted and are subject to specific advice from the Director of Legal Services to ensure information is not disclosed when it is not legally permissible to do so.

#### 1.5 Statutory rights and guidance: summary

- a) The Local Government Act 1972, as amended primarily by the Local Government (Access to Information) Act 1985 governs the statutory rights that Members have, along with the public, to access agendas, background documents, reports to meetings and minutes. The Act also gives Members rights to see exempt information (i.e. information which would be kept off the public agenda and public part of the meeting) if it falls into certain categories of information;
- b) The Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 give anyone the right to access information held by the Council, provided that information is not determined to be exempt under the Act (e.g. personal information about others, information that is about to be published, confidential information or information that would prejudice the commercial interests of the Council or others if released). Many of the

exemptions are subject to a Public Interest Test to determine whether the information should be withheld.

Members have the same rights to access to information under the FOIA as anyone else. Members' rights of access may overlap with rights under the FOIA or may allow Members access to information (or documents) that would not be available to them under the FOIA. For example, it is not necessary to say why information is wanted if it is requested under the FOIA but it would be necessary to state this if a Member was relying on their need to know as a Member. Information that is not available to a Member under the FOIA (because it is covered by an exemption) may be available to them on the basis of their rights as a Member. So, in some respect the FOIA rights are wider than Members' other rights and in some respects they are narrower.

- c) The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 include additional rights for Members of the Council and for Members of an Overview and Scrutiny Committee to see information held by the executive, including exempt or confidential information. Where a Scrutiny Member or Committee requests information in relation to matters which they are scrutinising, the executive must provide it no later than ten clear working days after the executive receives the request;
- d) For Members carrying out casework, there are rights to access the personal information of individuals within protections set out in the Data Protection Act 2018 and General Data Protection Regulation 2018 (more information is provided in the Members' Handbook);
- e) The Government has published statutory guidance on the conduct of overview and scrutiny which states that:

*A scrutiny committee needs access to relevant information the authority holds, and to receive it in good time, if it is to do its job effectively.*

and

*While each request for information should be judged on its individual merits, authorities should adopt a default position of sharing the information they hold, on request, with scrutiny committee members.*

1.6 The statutory guidance includes the following points:

- Scrutiny members need access to a regularly available source of key information about the management of the authority, including information on performance, management and risk;
- Officers should speak to Scrutiny Members to ensure they understand the request and the reasons why information is needed, so that the authority is better able to provide relevant and timely information in a format that meets the recipient's needs;
- In instances where it is legitimate for a council to withhold information, the executive is required to provide a written statement to the Scrutiny Committee setting out its reasons for that decision;

- Before deciding not to share information, the council should give serious consideration to whether that information could be shared in closed session;
- Scrutiny committees can require Cabinet members and Officers to attend before them to answer questions.

### 1.7 Case law

Members have certain 'common law' rights to information in addition to the statutory rights outlined above, which have been established through historic case law and which intersect with the Freedom of Information Act and statutory guidance. **Members are entitled to see documents which are reasonably necessary to enable them to carry out their duties as a Member.** This is generally described as the 'need to know' principle.

1.8 There is no simple definition of the 'need to know', but there is no right for Members to access information if it does not relate to carrying out their role as a Member (e.g. where the reason is to do with their position as a party member, as a resident or as a member of an association). Extra care will be needed when considering the application of this right in cases which are legally sensitive, e.g. where there is litigation underway or contemplated, where the Council is acting as a quasi-judicial body (such as planning or licensing matters), employment or conduct related matters, or any matter relating to an individual or entity where that individual/ entity has right of appeal or review which is pending.

1.9 The following principles relate to the 'need to know':

- i) A Member will generally have a need to know information a constituent had asked the Member to obtain on their behalf if the constituent would themselves be entitled to that information.

Members have a legitimate role as advocates for their constituents as a group and as individuals. Members seeking information about individual constituents will need to demonstrate that they have the agreement of their constituent to the disclosure by the Council of the information. This must be by way of written confirmation, especially in the case of sensitive personal information. Ward members cannot use their role as a Member to obtain for constituents information to which the constituents themselves would not be entitled.

- ii) Ward Members may have a particular need to know about matters affecting their ward. This does not mean they are entitled to access all information the Council has concerning matters affecting their ward. For example, if the information is confidential and could not in any event be passed on by the Ward Member to constituents, it would be necessary to establish a clear 'need to know' for reasons that did not involve sharing the information with constituents.
- iii) The Party Leaders are likely to have a greater need (but no absolute right) to have access to exempt reports than ordinary Members with no special role.

- iv) Members of the Scrutiny Committees are entitled to have access to exempt or confidential reports relevant to an action or decision being reviewed or scrutinised.

#### 1.10 Principles

All Officers and Members are expected to adhere to the Seven Principles of Public Life which include the principle of 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.*

- 1.11 Croydon Council has adopted a number of values which define the way that Officers will work on a day to day basis: this includes the principle 'Honest and open'.

- 1.12 When requesting information, Members will:

- be mindful of the resource implications of providing a response and will ensure that their enquiries are proportionate and focused on enabling them to carry out their duties as Members;
- understand that Officers will, as part of undertaking good governance, seek to understand the basis on which the Member is requesting the information (for example, as a Ward Member or as a Scrutiny Member).

- 1.13 This protocol has been drafted to ensure compliance with relevant legislation, statutory guidance, current case law and the above principles.

## **2. The process**

### 2.1 Information requests from all Members

The Council has established a Members' Enquiries system which is designed to ensure that Members receive timely responses to requests for information and resolution of casework issues. The process works as follows:

- i) Members enter their enquiry on the desktop member enquiries app and can see the case number allocated;
- ii) An immediate acknowledgement is sent in response via email, showing the case number against the subject of the request identified by the Member;
- iii) A response is provided within ten clear working days of receipt of the request.
- iv) If a full response is not provided within ten clear working days, the Member Enquiries system will chase a response from the relevant Officer and continue to chase until the response is provided.

- 2.2 Use of the Members' Enquiries system enables the production of reports on speed of response, (enabling areas for improvement to be identified and addressed) and generation of information on enquiry trends, to inform the proactive provision of briefings and other information for Members.



2.3 Members should use the Members' Enquiries' system to follow up casework issues on behalf of their constituents when normal procedures and timescales (for example, reporting fly tipping, applying for Housing Benefit) have not led to an appropriate outcome. Issues raised as a Members' Enquiry at the same time as a resident raises the same matter as a complaint to the Council will result in duplication of effort and reduced resources available to respond to other matters. Officers will ensure that Members are well-briefed on the routes for members of the public to use when reporting issues and making requests to the Council.

2.4 Officers will follow these principles when responding to Members' enquiries:

- i) Officers will seek clarification from the Member at the earliest possible opportunity as necessary to ensure that the request (and the intent behind the request) is fully understood, to enable a full and appropriate response to be given;
- ii) If an Officer considers that meeting a request for information would involve an unreasonable commitment of resources (for example a request to compile information which does not already exist in the form requested by the member):
  - the relevant Director will take legal advice to ensure that the Member's right to information is not being inappropriately denied;
  - the Officer will discuss with the Member what information is currently available and whether the request can be adjusted to reflect that availability;
  - the Member will be informed of the outcome within ten clear working days of making the request, including reference to the legal reason for the decision. The Officer will provide the Member with any parts(s) of their request which can be provided through reasonable expenditure of resources;
  - the Executive Leadership Team will receive regular reports on any instances of non-provision of information in response to Member requests to ensure an appropriate and consistent approach;
- iii) Draft documents compiled in the context of Council policy development and draft Committee reports will not normally be supplied in response to Member enquiries;
- iv) Where a response would otherwise lead to the dissemination of particularly sensitive information (see section 2.11 below) which cannot be made available, Officers will either:
  - a) redact source material only to the extent necessary to ensure that information not appropriate for dissemination is obscured or
  - b) give the Member an explanation of the reason why the information cannot be provided, with reference to the relevant definition of exempt information (as set out in Appendix 1, Part 4B of the Access to Information Procedure Rules) or any other relevant reason, on the advice of the Director of Legal Services.

This response will be provided to the Member within ten clear working days of making the request;

- v) Where a request for information in relation to the Cabinet would otherwise lead to the dissemination of the advice of a political adviser or assistant, Officers will either
  - a) redact source material only to the extent necessary to ensure that information not appropriate for dissemination is obscured or
  - b) give the Member an explanation of the reason why the information cannot be provided, with reference to the relevant definition of exempt information.

This response will be provided to the Member within ten clear working days of making the request;

- vi) Where it is not possible to provide the information for any other reason (e.g. the information is not held by the Council) the Member will be provided with a full explanation within ten clear working days of making the request;
- vii) Officers will aim to respond quicker than the ten clear working days timescale wherever resources and other priorities permit.

2.5 Both Members and Officers will act in accordance with the Protocol for Staff-Councillor relations as set out in the Council's Constitution when requesting and responding to requests for information.

#### 2.6 Access to reports

All reports will be despatched to the members of the relevant committee or other body and all published reports will be available to all Members via the ModGov app.

2.7 Except where reports contain particularly sensitive information (as set out in section 2.11 and following below), exempt reports to Cabinet will additionally be accessible to Shadow Cabinet Members, Scrutiny Leads (majority and minority groups), Group Whips (majority and minority groups) and the Majority Group Secretary. The Director of Legal Services retains discretion not to make exempt reports automatically available in appropriate cases (for example if a report concerned a matter in which the Member had a Disclosable Pecuniary Interest).

2.8 Any Member may request a copy of an exempt report, demonstrating their 'need to know'. The Director of Legal Services reserves the right not to provide exempt information to any Member not ordinarily entitled to it if they believe the 'need to know' has not been demonstrated, or the information is wanted for an improper purpose or if the member has a financial or personal interest relating to the matter... In such cases, the Director of Legal Services will advise the Member of the legal reason/s why access to the exempt report has been denied. (see also section 2.11 below).

2.9 In some cases it may be appropriate for a Member to be given an opportunity to see the report without a copy being supplied to take away.

2.10 Members automatically sent exempt reports, or receiving them after making a request, are not entitled to share the reports with other members of their party group but may alert them to the opportunity to request a copy of the report from the Head of Democratic Services. Such a request would be dealt with in accordance with the principles set out in this section and at 2.11 below.

2.11 Categories of particularly sensitive information

It would not normally be appropriate for exempt information covered by categories 1, 2 and 4-7 in Appendix 1 of Part 4.B (Access to Information Procedure Rules) of this Constitution to be made available on request or automatically circulated. The 'public interest' test states that the right to disclosure of exempt information does not apply when the public interest in maintaining the exemption outweighs the public interest in disclosing it. Reports containing information falling into these exempt categories will only be provided to (or in some cases made available to) Members who are not members of the relevant Committee if they are able to positively demonstrate to the Director of Legal Services that they have a need to have a copy of or see the report in order properly to carry out their duties as a Member and where complying with the councillor's request would not breach the terms of the Data Protection Act or General Data Protection Regulation.

2.12 Reports containing information falling into category 3 to which Members are not automatically entitled (for example, terms proposed in the course of negotiations for a contract) may also be particularly sensitive. These reports may be made available or copied to Members on their specific request. However, where the report is particularly sensitive this will not happen. This may be the case for example where negotiations are ongoing in relation to price or price sensitive aspects of the contract.

2.13 The advice of the Director of Legal Services will be sought in response to requests for information in cases which are legally sensitive, for example where there is litigation underway or contemplated, where the Council is acting as a quasi-judicial body (such as planning or licensing matters), employment or conduct related matters, or any matter relating to an individual or entity where that individual/ entity has right of appeal or review which is pending.

2.14 Additional rights of access to information for Scrutiny

Scrutiny committee members are entitled to a copy of any document in the possession or under the control of the Council's executive which:

- contains material relating to any business that has been considered at a Cabinet meeting or a meeting of any other decision-making executive body; and/or
- any executive decision that has been made by an individual Cabinet Member or Officer

where that document relates to a matter they are scrutinising. In making requests for information, members should have regard to the relevance of that request to the scrutiny workplan in order to ensure that scrutiny's attention and resource is appropriately focused.

2.15 Scrutiny Members may additionally request information which relates to the Council's functions in relation to the borough and/or the borough's residents and which the Committee reasonably requires to carry out its functions. Such requests

will be made in writing through the Statutory Scrutiny Officer or their direct reports, who will:

- coordinate requests to avoid duplication of activity;
- ensure that requests are passed to the relevant Officer for response;
- track and chase responses as appropriate;
- support Officers to clarify requests for information as required, including consideration as to the best format to enable Members to assimilate the information.

2.16 Information supplied in response to requests from scrutiny members will be copied to the relevant Cabinet Member and/or the Leader of the Council.

2.17 The Scrutiny Officers will also work with Scrutiny Chairs and Officers to agree appropriate timescales for the scheduling of reports for scrutiny meetings, as part of a planned and prioritised scrutiny work programme.

2.18 Where a Scrutiny Member requests such a document Officers must provide it as soon as reasonably practicable and in any case no later than ten clear working days after the request is received.

2.19 The above entitlement to documents does not apply to any document or part of a document if:

- i) it contains advice provided by a political adviser or assistant; or
- ii) it would be a breach of confidence for the Council to share that information; or
- iii) disclosure would, or would be likely to prejudice the Council's ability to exercise its functions or to prejudice the legitimate interests of any person or the Council;
- iv) it contains personal information as defined by the Data Protection Act 1988 (unless the Act permits its disclosure); or
- v) any other legislation prohibits its disclosure.

Officers will ensure that, where iii) has previously applied, this is not used to deny requests by Scrutiny for information if the conditions which led to a decision about actual or likely prejudice no longer apply.

Where iv) applies, Officers will revise the information so that the individual concerned cannot be identified and, having checked that disclosure is now permitted under the Data Protection Act 2018 and the General Data Protection Regulations, disclose it.

2.20 Where a Scrutiny Member requests information which is classified as exempt (Part 4B of the Constitution, Appendix 1) or confidential, this will only be supplied if 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).

2.21 Before a decision not to share information is taken, Officers will give serious consideration to whether that information could be shared in an informal briefing or meeting from which the public are excluded. Once the Scrutiny Committee has received exempt or otherwise sensitive information, the Statutory Scrutiny Officer and their direct reports will support Members to consider how the matter can be discussed by the Committee if it includes confidential or sensitive information.

2.22 Where a Scrutiny Member is denied a copy of a document or part of any such document, the Executive will provide Scrutiny with a written statement, usually no later than ten clear working days after the request is received setting out its reasons for that decision.

### **3. Proactive provision of information to Councillors**

3.1 Officers will take action to ensure that Members are appropriately briefed to enable them to carry out their duties, including, but not limited to:

- i) Members' bulletin;
- ii) Forward Plan of reports for Member decision;
- iii) Regular reports to Cabinet on delivery against Council plans and financial monitoring;
- iv) Informal briefings of topics of relevance to Ward Members;
- v) Proactive publication on the Council's website of information identified as being of public interest through Members' Enquiries.

Additionally, Scrutiny Members will be provided with regular digests of finance, performance and risk information to support them to prioritise their workplan.

### **4. Applying the principle of openness when writing reports**

4.1 Reports to Committees and the Cabinet will only be marked as exempt when this cannot reasonably be avoided in order to protect the interests of the Council and/or third parties in accordance with the statutory rules on exempt reports.

4.2 When Officers are preparing a report that contains information about terms proposed in the course of negotiations for a contract they will separate the exempt from the non-exempt information so the latter can be freely circulated. Sometimes information in reports can be made anonymous without the effectiveness of the report being reduced. This is one way of ensuring that as many reports, and as much information, are made accessible as possible. This applies in all cases and not just where category 3 of Appendix 1 of Part 4B of the Access to Information Procedure Rules is relied on. There will still inevitably be a number of reports which are marked exempt.

### **5. Confidentiality and restrictions on the use of information**

- 5.1 Members have a duty to comply with the requirements of the Member Code of Conduct, including provisions relating to the treatment of confidential information. Members must be alert to whether the information they receive from the Council is and/or continues to be confidential.
- 5.2 Officers will ensure that confidential information is clearly marked as such before its release to Members.
- 5.3 Members should only use information obtained in the course of their official duties and which is not public information for the specific purpose of fulfilling their work as a member of the Council. This information should not be shared further except in specific circumstances: any Member considering doing so should seek advice from the Monitoring Officer.
- 5.4 There are detailed provisions concerning the use of personal data by elected representatives contained in the Data Protection Act and General Data Protection Regulations (GDPR), and advice is included in the Members' Handbook.
- 5.5 A request from a Member acting in a personal capacity will be treated in the same confidence as an enquiry from a member of the public. Officers are also under a duty not to relate any information disclosed privately by a Member(s) (for example during Part B discussions at Committee or informal briefings) to another Member, Officer or person not already privy to that information.
- 5.6 The duty of Officers to observe a Member's confidence will however not apply if the information disclosed relates to something which could severely damage the Council or which is illegal or constitutes maladministration. In this event, the Officer will refer the matter to the appropriate Corporate Director and/or Monitoring Officer and Chief Executive for further investigation and action as appropriate. Officers are also expected to seek advice from senior officers as part of any query they may have on their interaction with a Member.

## **6. Implications of disclosure of personal or commercially sensitive information**

- 6.1 Much of the information kept by the Council relates to individual clients: Officers and Members are expected to be discreet in their handling of such information which is disclosed to them.
- 6.2 Inappropriate disclosure of information can have significant consequences for the Council and individual Members. Members and Officers have obligations to individuals or organisations about whom the Council holds confidential information to respect that confidentiality. If information was wrongfully disclosed, this could lead to legal action against the Councillor and/or Council. Information is often provided by people to the Council for a particular purpose and to disclose or use it for another purpose can lead to a Data Protection Act breach or criminal sanctions under the Data Protection Act. The Council itself could be damaged by information wrongfully disclosed. Wrongful disclosure of information by a Member could also result in action under the Members' Code of Conduct.

## **7. Procedure for handling queries or disputes in relation to this protocol**

- 7.1 Members should seek advice from the Monitoring Officer on any matters relating to duties, obligations or requirements related to access to information.
- 7.2 Any disputes relating to the rights of access of any person under these rules or any statutory provision or common law rights shall be referred to the Monitoring Officer of the Council.
- 7.3 On the rare occasion that a Member disagrees with the Monitoring Officer's decision on a dispute relating to rights of access under these rules, statutory provision or common law rights, the matter shall be escalated to the Chief Executive for decision. In such cases, the Member shall detail the grounds on which they believe that their request is consistent with the provisions of this Protocol.

## **8. Review**

- 8.1 This Protocol will be reviewed annually by Ethics Committee.

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# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## PART 6A

### SCHEME OF MEMBERS' ALLOWANCES

- 1 The Council has adopted a scheme of Members' allowances that complies with the Local Authorities (Members Allowances) (England) Regulations 2003 (No. 1021) as amended and having considered the recommendations of the London Councils' Independent Panel 2022 on the Remuneration of Members in London.

The Croydon scheme provides for:

- Every Member (for clarity, does not include the directly elected Mayor) to receive a basic allowance which shall be inclusive of all travel costs incurred within the Borough;
- Members appointed by the Annual Council, or subsequently by virtue of the office they hold, shall receive a Special Responsibility Allowance;
- No Member shall receive more than one Special Responsibility Allowance;
- Out-of-Borough travel and subsistence allowances shall be reviewed by the General Purposes Committee and paid in line with levels set by the Committee, unless already prescribed by Statutory Instrument or Circular. Costs related to travel and subsistence outside the Borough only when incurred undertaking an approved duty shall be eligible for reimbursement;
- The scheme for reimbursement of costs associated with providing childcare or care for a dependent relative incurred by a Member when undertaking an approved duty is set out in Appendix A and it shall be reviewed periodically by the General Purposes Committee;
- Any Member may elect to forego all or part of the Basic Allowance and if appropriate the Special Responsibility Allowance, to which they are entitled, by writing to the Monitoring Officer. Otherwise, all allowances due to each Member shall be paid automatically each calendar month on the basis of one 12<sup>th</sup> of the total;
- Members do not have access to the Local Government Pension Scheme;
- The scheme does not provide for the payment of any allowances to co-optees, with the exception of the Independent Chair of Audit and Governance Committee (who receives a special responsibility allowance but no other allowances as a 'co-optee allowance'). Where a co-opted

As amended 02.2019, 08.2019, 03.2021 and 05.2022, and March 2023

member is suspended or partially suspended from their responsibilities or duties any co-optees' allowance payable to them in respect of the responsibilities or duties from which they are suspended or partially suspended may be withheld by the authority.

- Members shall only be entitled to a pro-rata payment in respect of a term of office which is not for a complete year, which would include any job share arrangements;
  - The term of office of the Independent Chair of the Audit and Governance Committee is four years and the allowance is payable annually under this Scheme. They shall only be entitled to a pro-rata payment in respect of the annual allowance for any period which is not served as a complete year.
  - In all other respects, the scheme of allowances as set out here shall remain in place until such time as the Council decides otherwise.
- 2 The respective levels of Basic and Special Responsibility Allowances payable from April 2023 are set out in Appendix B.
  - 3 The Civic Mayor and Deputy Civic Mayor shall receive allowances for expenses in accordance with relevant legislation in relation to the discharge of their ceremonial and other duties. The level of expenses paid to the Civic Mayor and Deputy Civic Mayor are as shown in Appendix B.
  - 4 The level of the Basic Allowance, Special Responsibility Allowances, Civic Mayor's and Deputy Civic Mayor's Allowances shall be subject to annual adjustment in accordance with the annual local government staff pay settlement however Members may review this aspect no more frequently than annually to determine whether there will be an adjustment for the upcoming Council year.
  - 5 All Members shall continue to receive their Basic Allowance in full in the case of maternity, adoption, shared parental, paternity and sickness leave (subject to the six-month councillor attendance at meetings requirement under Section 85 of the Local Government Act 1972).
  - 6 In specific circumstances the payment of a Special Responsibility Allowance may continue during a period of absence in the case of maternity, adoption, shared parental, paternity and sickness leave. Where the SRA is paid at a reduced level the payment will be applied proportionately during the period of absence. Where members have elected not to receive their SRA no payment will be made. The Council, relevant committee/body or Mayor in case of Cabinet Members, as appropriate, may depending on the circumstances, appoint a temporary replacement to cover the period of absence, who will be entitled to an SRA pro-rata for the period of the temporary appointment.

As amended 02.2019, 08.2019, 03.2021 and 05.2022, and March 2023

- 7 Full details of entitlement to leave and allowances as a result of maternity, adoption, shared parental, paternity and sickness are attached at Appendix C.

## **DEPENDENT CARERS, TRAVEL AND SUBSISTENCE ALLOWANCE SCHEMES**

Members are entitled to claim reimbursement of expenditure incurred on the provision of the care of their children and dependent relations requiring care when undertaking an Approved Duty, subject to the provisions of the scheme set out below. Members are also entitled to claim travel and subsistence expenses incurred in the performance of an Approved Duty.

### **Approved Duties**

An Approved Duty shall be one that is specified in the relevant statutory Regulations, which currently provide for the following activities:

- 1 A meeting of the Executive.
- 2 A meeting of a Committee of the Executive.
- 3 A meeting of the Authority.
- 4 A meeting of a Committee or Sub-committee of the Authority.
- 5 A meeting of any other body to which the Member has been appointed or nominated by the Authority.
- 6 A meeting of a Committee or Sub-Committee to which the Member has been appointed or nominated by the Authority.
- 7 A meeting which has been authorised by the Authority, a Committee or Sub-Committee or a joint Committee of the Authority or one or more other authorities, or a Sub Committee of a joint Committee and to which representatives of more than one political group have been invited.
- 8 A meeting of a local authority association of which the Authority is a member.
- 9 Duties undertaken on behalf of the authority in connection with the discharge of any function of the Authority conferred by or under any enactment and empowering or requiring the Authority to inspect or authorised the inspection of premises.

The following Rates of Allowances shall be monitored by the General Purposes Committee, who shall also have power to revise them.

**RATES OF  
DEPENDENT CARERS, TRAVEL AND SUBSISTENCE ALLOWANCES  
TO MEMBERS OF THE COUNCIL**

The following allowances will be paid as a reimbursement of **INCURRED** expenditure **FOR AN APPROVED DUTY**, following the submission of receipts or other supporting documents, within 2 months of the expenditure being incurred.

**DEPENDENT CARERS ALLOWANCE**

1. Expenditure not less than the London Living Wage, currently £11.05 per hour, incurred in respect of care provided by a person that is not a member of the Member's household, for:
  - The care of children 15 years of age or under living in the Member's household; or
  - The care of other dependants where there is medical or social work evidence that care is required.

**TRAVEL ALLOWANCES (payable only for Out-of-Borough travel)**

**Rail or other Public Transport**

Ordinary or cheap fare, at first class rates, plus actual expenditure on:

- [a] Pullman car or similar supplements; reservation of seats; deposit or portorage of luggage.
- [b] Sleeping accommodation for an overnight journey (subject to thirty-three and one third percent reduction of any subsistence allowance payable for that night).

**Taxi-Cab or Cab**

- [a] In cases of urgency or where no public service is reasonably available, the amount of the actual fare and any reasonable gratuity paid;
- [b] In other cases, the equivalent fare for travel by an appropriate public transport.

## Private motor vehicle

The rate for travel by a Member's private motor vehicle shall not exceed the following rates:

- [i] motorcycle, tricar or motor car of cylinder capacity 500cc **25.9p per mile**
- [ii] not exceeding 999cc **34.6p per mile**
- [iii] 1000cc - 1199cc **39.5p per mile**
- [iv] 1200cc and above **48.5p per mile**
- [v] For the carriage of each additional Member of the Council (not exceeding four): 3.0p per mile for the first passenger and 2.0p per mile for second and subsequent passengers.
- [vi] Expenditure on tolls, ferries, parking fees.
- [vii] Reimbursement of overnight parking charges.

## Private bicycle

The rate for travel by a Member's private bicycle shall not exceed **24.0p per mile**.

## Hired Cars

The rate which would have been applicable had the vehicle belonged to the Member who hired it. Subject to the approval of the General Purposes Committee, the rate may be increased to an amount not exceeding the actual cost of hiring.

## **SUBSISTENCE ALLOWANCES (payable only for Out-of-Borough subsistence)**

**Breakfast Allowance** **£4.92**

More than 4 hours away from normal place of residence or a lesser period before 11am.

**Lunch Allowance** **£6.77**

More than 4 hours away from normal place of residence or a lesser period including the lunchtime between noon and 2pm.

**Tea Allowance** **£2.67**

More than 4 hours away from normal place of residence or a lesser period including the period 3pm to 6pm.

**Evening Allowance** **£8.38**

More than 4 hours away from normal place of residence or a lesser period ending after 7pm.

**Overnight Absence** **£79.82**

From usual place of residence

**Overnight Absence in London** **£91.04**

Or for the purpose of attendance at an annual conference (including or not including an annual meeting) of the Association of County Councils, the Association of Metropolitan Authorities and the Association of District Councils or such other association of bodies as the Secretaries of State may for the time being approve for the purpose.

For the purposes of the above paragraph, London means the City of London and the London Boroughs of Camden, Greenwich, Hackney, Hammersmith & Fulham, Islington, Kensington & Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth and Westminster.

**NOTE:** Any Subsistence Allowances claimed should be reduced by an appropriate amount in respect of any meal provided free of charge by the Council or body in respect of the meal or the period to which the allowance relates. Additionally, where main meals are taken on trains during a period for which there is an entitlement for a day subsistence allowance, the reasonable cost of the meals (including VAT) may be reimbursed in full. In such circumstances, reimbursement for the reasonable cost of a meal replaces the entitlement to the day subsistence allowance for the appropriate meal period.

**COUNCILLORS' BASIC AND SPECIAL RESPONSIBILITY ALLOWANCES**  
**April 2023**

		<b>(£)</b>
<b>Basic Allowance</b>	All Members	11,692
	Civic Mayor's Allowance	15,900
	Deputy Civic Mayor's Allowance	7950.40
<b>Special Responsibility Allowances - Paid in addition to Basic Allowance</b> (Unless otherwise stated)		
	Elected Mayor of the Council (inc. Basic Allowance)	81,894.36
	Statutory Deputy Mayor	30,352.80
	Cabinet Members (up to 7 positions)	27,503.20
	Deputy Cabinet Members (up to 5 positions)	5,491.36
	Chair - Scrutiny and Overview Committee	20,942
	Deputy Chair - Scrutiny and Overview Committee	8,585.60
	Conservative Group Secretary	8,268
	Conservative Chief Whip	12,121.80
	Chair - Licensing Committee	8,246.40
	Chair - Planning Committee	13,224.80
	Chair - Pension Committee	7,368
	Chair – General Purposes Committee	5,615.20
	Leader of the Labour Group	17,956
	Deputy Leader of the Labour Group (Up to 2 positions)	6,567.60
	Shadow Cabinet Members (up to 6 positions)	5,615.20
	Labour Chief Whip	5,615.20
	Labour Group Secretary	5,505.60
	Vice Chair - Scrutiny and Overview Committee	8,585.60
<b>Co-optee allowance</b>	Chair - Audit and Governance Committee	8,000.00

As amended 02.2019, 08.2019, 03.2021 and 05.2022, and March 2023



## **APPENDIX C**

### **PARENTAL AND SICKNESS LEAVE ARRANGEMENTS**

#### Introduction

This Appendix sets out Members' entitlement to maternity, paternity, shared parental adoption leave and sickness leave and relevant allowances.

The objective is to ensure that insofar as possible Members are able to take appropriate leave at the time of birth or adoption that both parents are able to take leave, and that reasonable and adequate arrangements are in place to provide cover for portfolio-holders and others in receipt of Special Responsibility Allowances (SRA) during any period of leave taken.

Improved provision for new parents will contribute towards increasing the diversity of experience, age and background of local authority Members. It will also assist with retaining experienced Members – particularly women – and making public office more accessible to individuals who might otherwise feel excluded from it.

There is at present no legal right to parental leave of any kind for elected Members. This applies to MPs as well as Members and these arrangements can therefore only currently be implemented on a voluntary basis by individual Councils.

#### **1. Leave Periods**

##### *Maternity*

1.1 Members giving birth are entitled to up to 6 months maternity leave from the due date, with the option to extend up to 52 weeks by agreement if required.

1.2 In addition, where the birth is premature, the Member is entitled to take leave during the period between the date of the birth and the due date in addition to the 6 months' period. In such cases any leave taken to cover prematurity of 28 days or less shall be deducted from any extension beyond the initial 6 months.

1.3 In exceptional circumstances, and only in cases of prematurity of 29 days or more, additional leave may be taken by agreement, and such exceptional leave shall not be deducted from the total 52 week entitlement.

##### *Paternity*

1.4 Members shall be entitled to take 2 weeks paternity leave if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren). The Member may take one week at a time or two consecutive weeks of paternity leave, but not single days or less than a week's duration. Paternity leave must be taken within two months of the birth or adoption.

### *Shared parental leave*

1.5 A Member is entitled to Shared Parental Leave if they have (or share with the other parent) the main responsibility for the care of the child and are either the Mother, Father, Main Adopter or Other Adopter of the child, or the spouse, civil partner or partner of the Mother/Main Adopter.

A Member may share up to 50 weeks leave if the Mother/Main Adopter curtails their maternity/adoption leave before using their full entitlement of 52 weeks. The number of weeks available as Shared Parental Leave will be reduced by the number of weeks maternity or adoption leave that has already been taken by the Mother or Main Adopter.

Shared Parental Leave can be taken as one continuous block or in multiples of complete weeks, but must end no later than one year after the birth/placement of the child.

1.6 Where both parents are Members leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks. Special and exceptional arrangements may be made in cases of prematurity.

### *Adoption*

1.7 A Member who adopts a child through an approved adoption agency shall be entitled to take up to six months adoption leave from the date of placement, with the option to extend up to 52 weeks by agreement if required.

### *Sickness*

A Member who is sick will continue to receive the basic allowance as long as they remain a councillor and comply with the attendance requirements regarding council meetings under section 85 of the Local Government Act 1972. They will also continue to receive any SRA for a period of up to six months during any 12 month period subject to review and a possible extension by six months.

### *General*

1.8 Any Member who takes maternity, shared parental, adoption or sickness leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six month period.

1.9 Any Member intending to take maternity, paternity, shared parental, adoption or sickness leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council as set out in paragraph 4 below, both in terms of the point at which the leave starts and the point at which they return.

1.10 Any member taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

## **2 Basic Allowance**

2.1 All Members shall continue to receive their Basic Allowance in full whilst on maternity, paternity, adoption or sickness leave as long as they remain a Member (subject to the six month councillor attendance at meetings requirement in section 85 of the Local Government Act 1972).

## **3. Special Responsibility Allowances**

3.1 Members entitled to a Special Responsibility Allowance shall continue to receive their allowance in full in the case of maternity, paternity, shared parental, adoption or sickness leave for a period of 6 months followed by a further period of 6 months at half rate.

3.2 Where a temporary replacement is appointed to cover the period of absence that person shall also receive an SRA on a pro rata basis for the period of the temporary appointment.

3.3 The payment of Special Responsibility Allowances, whether to the primary SRA holder or a temporary replacement, during a period of maternity, paternity, shared parental, adoption or sickness leave shall continue for a period of six months subject to a possible extension for a further six month period or until the Member or temporary replacement ceases to be appointed to a position entitling an SRA or is up for election whichever is the sooner.

3.4 Should a Member appointed to act as a temporary replacement for the Member on maternity, paternity, shared parental, adoption or sickness leave already hold a remunerated position, the ordinary rules relating to payment of more than one Special Responsibility Allowances shall apply.

## **4. Notification**

4.1 Maternity Leave: The Member should notify the Head of Democratic Services of their intention to take maternity leave in writing no later than 28 days before the date they wish the period of maternity leave to start and:

- i) Confirm the expected date of childbirth; ii) ) Provide a copy of the MATB1 (available from a doctor or midwife);
- iii) Confirm the dates which the Member will be absent.

4.2 Paternity Leave: The Member should notify the Head of Democratic Services of their intention to take paternity leave in writing no later than 28 days before they wish the period of paternity leave to start and:

- i) Confirm the expected date of childbirth; or date the child is expected to be placed for adoption (UK Adoption); or the date on which the date on which the child is expected to enter Great Britain (Overseas Adoption);

- i) Provide a copy of the MATB1 or matching certificate/official notification;
- iii) Confirm the dates which the Member will be absent.

4.3 Adoption Leave: The Member should notify the Head of Democratic Services of their intention to take adoption leave in writing no later than 28 days before the date they wish the period of adoption leave to start and:

- i) Confirm they are the Main Adopter and the date the child is expected to be placed for adoption (UK Adoption) or the date on which the date on which the child is expected to enter Great Britain (Overseas Adoption); ii) ) Provide a copy of the matching certificate/official notification;
- iii) Confirm the dates which the Member will be absent

4.4 Shared Parental Leave: The Member should notify the Head of Democratic Services of their intention to take shared parental leave in writing no later than 28 days before the date they wish the period of shared parental leave to start and:

- i) Confirm their entitlement to shared parental leave and the expected (or actual) date of birth/placement;
- ii) Confirm the start and end dates of the Mother/Main Adopter's maternity/adoption leave, the amount of shared parental leave available and how much each parent intends to take; iii) Provide a copy of the MATB1 or matching certificate/official notification;
- iv) Confirm the dates which the Member will be absent.

4.5 Sickness Leave. The Member should notify the Head of Democratic Services where they are likely to be sick for a period in excess of 2 months.

4.6 If the Member wishes to change the start date of a period of leave they should write to the Head of Democratic Services no later than 28 days before either the original start date or the new start date (whichever is earlier).

4.7. If the Member wishes to change the end date of a period of leave they should write to the Head of Democratic Services at least 28 days before either the original end date or the new end date (whichever is earlier).

4.8. The Head of Democratic Services will provide confirmation that the information on revised dates has been received and that relevant re-instatement or adjustment of any SRA has taken place within 10 working days.

## **5. Resigning from Office and Elections**

5.1 If a Member decides not to return at the end of their maternity, paternity, and shared parental, adoption or sickness leave they must notify the Council at the

As amended 02.2019, 08.2019, 03.2021 and 05.2022, and March 2023

earliest possible opportunity. All allowances will cease from the effective resignation date.

5.2 If an election is held during the Member's maternity, paternity, shared parental, adoption or sickness leave and they are not re-elected, or decide not to stand for re-election, their Basic Allowance and SRA, if appropriate, will cease from the Monday after the election date when they would technically leave office.

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

## **PART 6D**

### **SCHEME OF CO-OPTION**

- 1.1 This scheme applies to all Co-opted Members whether they are voting or non-voting. The scheme covers the co-option of voting and non-voting co-opted Members onto current Committees as detailed in sections 2 - 10 below.
- 1.2 The purpose of this scheme of co-option is to:
- Bring together in one document the various provisions in place for co-option across the Committees and statutory Boards of the Council. Outline the role and expected contribution of co-opted Members
  - Clarify the induction to be provided to co-opted Members and the support and training to be made available
- 1.3 Co-opted Members can provide committees with outside knowledge, experience and skills that can inform the work of the Committee and supplement the role of councillors.
- 1.4 All Co-opted Members (voting and non-voting) and any appointees to Task and Finish Groups are subject to the Members' Code of Conduct, Part 5I of the Constitution.
- 2. Co-opted Members on Scrutiny and Overview Sub-Committees required by Statute**
- 2.1 The Parent Governor representatives and the arch/diocesan representatives on the Scrutiny Sub-Committees exercising education function are required by law (*The School Standards and Framework Act 1998 for Parent Governors and the Education Act 1996 for Diocesan representatives*). The legislation explains that these co-opted Members will have full speaking and voting rights for any decisions relating to education and school matters. Parent Governor representatives are elected by the Borough's parent governors, but once co-opted their role is to be an apolitical voice for *all* parents in the area. The Church of England and Roman Catholic representatives are nominated by the Bishop and Archbishop of Southwark respectively. Voting Co-opted Members on Scrutiny and Overview have the same rights of access to information as councillors in relation to their role on Scrutiny and Overview.
- 3. Co-opted Members on Scrutiny and Overview Sub-Committees appointed at the Committee's discretion**
- 3.1 Currently in Croydon there are two non-statutory co-opted Members: a teacher

representative and the Healthwatch (Croydon) representative. These “non-statutory” co-opted Members do not have voting rights and are co-opted at the discretion of the Scrutiny & Overview Committee, which can also rescind the appointment if it feels it is necessary.

3.2 The Scrutiny and Overview Committee has the power to appoint these additional co-opted Members if it is judged that they will be beneficial to the committee as it carries out its work. Before recommending any additional co-opted Members to full Council for appointment, the committee should demonstrate that it has considered the composition of the local community to ensure it is as representative as possible. An over-representation of any particular specialist area should also be avoided and the elected Members of the committee should always have a majority over co-opted Members.

3.3 These co-opted Members will usually (but not exclusively) be representatives of specific organisations relevant to the work of the committee. The recommending committee should invite the organisation to make an appropriate nomination, although a vacancy can be advertised more widely if the committee agrees it would be beneficial. Anyone who lives, works (including voluntary work) and/or studies in Croydon is eligible to be a co-opted Member, except if they are a Croydon Council Member or Croydon Council Officer. In approving an appointment, the committee will be mindful of the potential for any ongoing prejudicial interests between, for example, the co-opted Member's paid employment and the work of the committee and there are declaration requirements placed on any such appointees.

#### **4. Appointments and Disciplinary Committee Co-opted Members**

4.1 The independent voting Co-optees on the Appointments and Disciplinary Committee are appointed to consider specified disciplinary matters.

4.2 Where the Appointments and Disciplinary Committee is giving consideration to dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer, the Appointments and Disciplinary Committee shall include at least two voting co-opted Independent Persons.

#### **5. Ethics Committee Co-opted Members**

5.1 The Independent non-voting Co-optees are required to be appointed by statute and are invited to attend all meetings of the Ethics Committee and their views are sought and taken into consideration before the Ethics Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

#### **6. Audit and Governance Committee Co-opted Members**

6.1 Appointments and Disciplinary Committee recommends to Council the appointment of the independent (non-voting) Chair of Audit and Governance Committee. The Audit and Governance Committee appoints one further independent non-voting co-opted committee member.



## **7. Pensions Committee Co-opted Members**

- 7.1 The Pensions committee includes 1 Staff Side non-voting co-opted member and 2 Pensioner Side co-opted Members (1 of whom is a voting co-opted member and one of whom is a non-voting co-opted member).
- 7.2 Staff side and Pensioners' side members are appointed on an annual basis following consultation with the Staff side and Pensioners of the Pension Fund.
- 7.3 Two representatives of Pensioners of the Fund are elected by ballot of Pensioners of the Fund, one of whom shall be a voting member and one of whom shall be a non-voting member. The representative with the most votes following the ballot of Pensioners of the Fund shall be the voting member. The other representative of the Pensioners of the Fund shall be non-voting however is permitted to exercise a vote only in the absence of, and on behalf of, the voting representative. The ballot is normally undertaken every 3-4 years.

## **8. Appointees to Panels/Forums**

- 8.1 Panels and forums are not regarded as Committees of the Council, nor are appointees to such forums regarded as co-optees. As such they are not subject to the Code of Conduct requirements placed either on voting or non-voting co-optees of the Council.

## **9. Terms of Office**

- 9.1 Subject to the requirements of the Committee in question, Co-opted Members will usually be invited to serve for a term of office of four years but be appointed annually at Full Council. Towards the end of a term of office, the relevant committee will consider whether any non-statutory co-opted post is still required. If it is, the committee shall advertise the vacancy by means appropriate to the nature of the vacancy, which will usually include via the Council's website.
- 9.2 Non-statutory co-opted Members can be disqualified during their term of office if they do not attend four consecutive meetings of the committee to which they have been co-opted without giving an apology; if they fail to adhere to the Code of Conduct which applies to them or if they are subsequently elected as a Member of Croydon Council.
- 9.3 Where Co-optees are appointed on the basis of representing a particular organisation or group, then their term of office will also end if they resign from or are disqualified from being a Member of that organisation or representative of that group, or if that organisation/group ceases to exist.
- 9.4 It is the responsibility of the co-opted Member to inform the Council if a circumstance arises that they believe disqualifies them from continuing in their term of office.
- 9.5 Co-opted Members can also resign during their term of office if they feel that they can no longer fulfil the requirements of the role.

9.6 Non-statutory co-opted Members can also be appointed for a shorter period, for example, to be involved with a specific piece of work.

## **10. Powers and responsibilities**

10.1 Co-opted Members will:

- Be required to comply with the Members' Code of Conduct and register and declare/ register and notify interests as required by the Code.
- Be expected to agree, in writing, to abide by the Code.
- Be entitled to speak on any matter that is discussed by the committee to which they have been appointed provided that it falls within their remit (for example on Appointments and Disciplinary Committee and Audit and Governance Committee, the co-optees are only appointed for specific purposes)
- Be encouraged to contribute to the development of the committee work programme and propose agenda items for future meetings
- Be expected to attend all meetings of the committee to which they have been appointed having read the agenda papers
- Bring an external perspective to the work of the Committee by utilising their specialist knowledge and experience
- Be expected to represent the whole community and not just one sector or viewpoint
- Act independently of party politics and lobbying interests
- Be responsible for keeping the organisation or interest they were appointed to represent informed and engaged in the work of the Committee
- Be expected to treat other committee Members, officers and external parties with respect
- Be required to recognise that they may encounter sensitive information and to act with discretion
- Not to disclose or - other than in the performance of their role on the Committee - use exempt or confidential information
- To raise issues with the Monitoring Officer or Head of Democratic Services at the earliest possible opportunity if there are any concerns

## **11. Support for Co-opted Members**

11.1 All co-opted Members will be provided with a comparable level of support to the elected Members. This will include:

- All summons, agendas and committee reports will be sent to co-opted Members at the same time as elected Members and will comply with the public access to information regulations
- An induction will be provided for new co-opted Members that will outline their expected contribution and familiarise them with the Code of Conduct.
- Co-opted Members will be invited to attend Member training sessions that relate to their role.

11.2 With the exception of the Chair of General Purposes and Audit Committee, co-opted Members will not receive an allowance or salary.

## **12. Why co-opt**

13.1 Co-option is a way of ensuring that under represented voices are represented on Council committees. The Equality Act 2010(section 149) places a public sector equality duty on the council. The duty requires the Council to have due regard to *the need to advance equality of opportunity* between persons who share a relevant protected characteristic and persons who do not share it.

13.2 Having “due regard” to the need to advance equality of opportunity involves having due regard, in particular, to the need to *encourage persons* who share a relevant protected characteristic *to participate in public life* or in any other activity in which participation by such persons is disproportionately low.

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

### **Part 6.E – TERMS OF REFERENCE CORPORATE PARENTING PANEL**

**Established:** First established 2007 and re-established annually since then as an informal advisory body to the Cabinet Member with responsibility for Children's Services.

**Regularity of meetings:** 6 times per year.

**Membership:** 7 Members - 5:2

5 Members of the Administration, including and to be chaired by the Cabinet Member with responsibility for Children's Services.

2 Members of the Opposition

6 Co – Opted Members:

- Virtual School Head
- LAC Nurse/Doctor
- Children in Care Council
- Care leaver
- Foster carer
- Health Commissioner

**Proportionality:** Not applicable

**Democratic Services & Governance Officer:**

Michelle Gerning 0208 726 6000 ext 84246

**Lead Officers:**

- Corporate Director Children, Young People and Education
- Director of Early Help and Social Care

**Quorum:** 3

**Access to information:**

Due to the nature of the work of the Panel and its Membership, meetings of the Panel are not able to be held in public, however, agenda papers and minutes are made available on the Council's website. Agenda papers are published five clear working days in advance of Panel meetings.

Councillors that are not Members of the Panel are permitted to attend meetings at the discretion of the Panel Chair.

**Terms of Reference (Revised 2019):**

- The Corporate Parenting Panel will focus on improving outcomes for children looked after by Croydon Council.
- To support the Council's development of a corporate parenting strategy and to monitor and review its implementation.

- To monitor performance targets and priorities so far as they relate to children looked after or young people in receipt of leaving care services.
- To consider recommendations from internal and external inspections and reviews and hear the voice of children looked after and care leavers in responding to them
- To monitor the health needs of looked after children, promoting positive engagement of health partners in Corporate Parenting.
- To monitor the education needs of looked after children, promoting positive engagement of education partners in Corporate Parenting.
- To ensure the Council actively promotes opportunities for looked after children across the whole Council.
- To ensure that the voice and opinions of as wide a range as possible of children looked after and care leavers, including those with disabilities, are heard and that their views are used to co-produce services, shape policy and monitor performance.
- To advise the Lead Member for Children’s Services on issues relating to Corporate Parenting Policy.
- To report annually to the Council on the work of the Panel.

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

### **Part 6.F – TERMS OF REFERENCE for the INDEPENDENT PANEL**

The need for an 'Independent Person' was introduced by the Localism Act 2011 (the Act) on 1 July 2012 as part of the current standards regime. Under the Act, the Council has a duty to promote and maintain high standards of conduct by members and co-opted members and, among other things, must appoint an Independent Person whose views are sought and taken into account by the Council before it makes its decision on an allegation that it has decided to investigate.

**Established:** Standing panel established July 2022.

#### **Regularity of meetings**

As and when required.

#### **Membership**

Three Independent Persons appointed under s28(7) of the Localism Act 2011.

The Monitoring Officer will invite three of the Independent Persons appointed by the Council to form a Panel from time to time in accordance with the requirements of the Local Authorities (Standing Orders) (England) Regulations 2001(as amended).

In particular, the Monitoring Officer will invite Independent Persons in accordance with the following priority order:

- (a) an Independent Person who has been appointed by the Council and who is a local government elector;
- (b) any other Independent Person who has been appointed by the Council; Non-Executive Template
- (c) an Independent Person who has been appointed by another Council or Councils.

#### **Form**

The Independent Panel is constituted as an advisory committee under s102(4) of the Local Government Act 1972.

#### **Purpose**

To carry out the function of 'the Panel' referred to in the Local Authorities (Standing Orders) (England) Regulations 2001(as amended) and advise the Council on matters relating to the dismissal of relevant officers (including those officers that the statutory procedure has been extended to in the exercise of the Council's discretion).

Accordingly, the Panel can give advice, express its views and make recommendations to Council before it meets to consider whether or not to approve a proposal to dismiss a relevant officer.

#### **Quorum**

The Independent Panel cannot meet to carry out its function unless at least two Independent Persons are in attendance.

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**LONDON BOROUGH OF CROYDON**  
**EXECUTIVE MAYOR'S SCHEME OF DELEGATION**

Decision maker: Executive Mayor Jason Perry  
Date of approval: 17 May 2022  
Effective from: 17 May 2022  
Version number: v1 (2022)  
Document owner: Monitoring Officer

**Contents**

- Part 1: Introduction
- Part 2: General principles, requirements and exclusions
- Part 3: Delegations to Cabinet, Cabinet Members and Executive Committees
- Part 4: Delegation to Joint Committees
- Part 5: Delegations to Officers

**Part 1: Introduction**

1. This is the Executive Mayor's Scheme of Delegation for the exercise of the Council's executive functions under the Local Government Act 2000 (the 2000 Act) and all other enabling powers.
2. It is separate from but supplements the Council's Constitution. Unless otherwise stated, terms referred to in both this Scheme and the Constitution have the same meaning as set out in the Constitution.
3. Under s9E of the 2000 Act, the Executive Mayor has responsibility for all of the Council's executive functions and this Scheme sets out the Executive Mayor's arrangements for the discharge of those functions. Nothing in this Scheme prevents the Executive Mayor from exercising the Council's executive functions even if they have been delegated to others. Nor does this Scheme prevent the Executive Mayor from making additional arrangements on an ad hoc or specific basis.
4. To the extent that arrangements have been made for others to exercise the Council's executive arrangements, the Executive Mayor reserves the right to amend and/or revoke such arrangements (in part or in full) immediately on giving notice.
5. If the Executive Mayor amends this Scheme he will give written notice to the Monitoring Officer and to the person, body or committee concerned. The Executive Mayor will also provide the Monitoring Officer with an updated Scheme within five working days.

6. This Scheme will be kept under review and is available for inspection and published on the Council's website.

### **Part 2 General principles, requirements and exclusions**

7. The exercise of the Council's executive functions, either by the Executive Mayor personally or by others in accordance with this Scheme, must be in accordance with legal and Council requirements, including but limited to:
  - a) The law (including case law and public law principles);
  - b) The Constitution (in particular, Part 3 – Responsibility for Functions; Part 4B - Access to Information Procedure Rules (in particular, the key decision and decision recording requirements including reasons); Part 4C – Budget and Policy Framework Procedure Rules); Part 4D - Executive Procedure rules (in particular, for substantive decision making by the Executive Mayor to be in the presence of officers); Part 4E (in particular the rules on call-in); Part 4G – Delegations to Corporate Directors – Decision Making Procedure Rules; Part 4H – Financial Regulations; Part 4I – Tenders and Contracts Regulations; Part 5A - Decision Making Protocol (in particular, the requirement for a written report including financial, legal, equalities and other relevant implications) and Part 5I – Members' Code of Conduct;
  - c) Specific statutory and constitutional requirements on property transactions;
  - d) The approval of the Director of Legal Services in respect of legal proceedings and the use of external legal services;
  - e) All other Council policies and procedures;
  - f) Council values and objectives;
  - g) Financial prudence, value for money and good governance considerations;
  - h) Consultation or engagement as appropriate or required; and
  - i) Rules on interests in particular: conflict of interests, bias, pre-determination and the principles of conduct in public life.

### **Part 3 Delegations to Cabinet, Cabinet Members and Executive Committees**

8. The Executive Mayor has not delegated any executive functions to the Cabinet or to individual Cabinet Members. Further, no cabinet or executive committees have been established by the Executive Mayor.
9. The Executive Mayor's Cabinet will comprise of the following members and portfolios:

<b><u>Name of Member</u></b>	<b><u>Portfolio</u></b>
Cllr Lynne Hale	Statutory Deputy Mayor and Cabinet Member for Homes
Cllr Jason Cummings	Cabinet Member for Finance
Cllr Maria Gatland	Cabinet Member for Children and Young People
Cllr Yvette Hopley	Cabinet Member for Health and Adult Social Care
Cllr Ola Kolade	Cabinet Member for Community Safety
Cllr Jeet Bains	Cabinet Member for Planning and Regeneration
Cllr Scott Roche	Cabinet Member for Streets and Environment
Cllr Andy Stranack	Cabinet Member for Communities and Culture

10. If for any reason the Executive Mayor is unable to act, the Statutory Deputy Mayor can act in his place and exercise all of his executive powers.
11. The role of Cabinet will be to inform and assist the exercise of the Executive Mayor's executive decision making powers whenever, at the Executive Mayor's discretion, an item is referred to a Cabinet meeting for discussion prior to a decision being taken. Cabinet's proceedings will be regulated by the Executive Procedure Rules in Part 4D of the Constitution.
12. As soon as practical in each municipal year the Executive Mayor 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 decisions by the Executive Mayor 'in Cabinet' will be indicated on the corporate forward plan but may also be scheduled or rescheduled as necessary during the course of the year.

#### **Part 4 Delegation to Joint Committees**

13. The Executive Mayor confirms the Council's existing joint committee arrangements relating to the exercise of the Council's executive functions as recorded in Part 2 of the Constitution (in particular, Schedule 1 to Article 11).

#### **Part 5 Delegations to Officers**

14. References in this Scheme to 'officer' or 'officers' include permanent, contract, or temporary staff working for the Council. Unless expressly and clearly stated to the contrary, delegations are not personal and instead relate to the post current at the time and any successor post and can be undertaken on any interim, acting up or deputising basis.
15. The Executive Mayor confirms all officer general delegations set out in the Constitution and all other specific and on-going delegations relating to an executive function of the Council which have been conferred upon officers from time to time.

16. This includes the Chief Executive's emergency or extreme urgency powers as follows: the Chief Executive may exercise any executive function in cases of emergency or extreme urgency whether or not reserved to the Executive Mayor, subject to complying with any statutory requirements and following the exercise of such power will provide a written report to the Executive Mayor setting out the decision taken and the reason for it including the reasons for emergency or extreme urgency.
17. Unless specifically reserved by the Executive Mayor, the Chief Executive and Corporate Directors may make all non-key decisions relating to the discharge of the functions and services under their management. In addition, they may make all decisions which are calculated to facilitate, or are conducive or incidental to the discharge of such delegated functions and services.
18. The law and Constitution permitting, the Chief Executive, may exercise any function of the Council not reserved for a member decision and may delegate any such decision to any other officer.
19. The law and Constitution permitting, Corporate Directors may exercise any function of the Council not reserved for a member decision falling within their directorate and may delegate any such function to an officer within their directorate.
20. The exercise of executive functions by officers is not only subject to Part 2 of this Scheme in general but also the following specific requirements and considerations:
  - a) If in doubt, the advice of the Monitoring Officer (or their nominee) must be obtained on whether a decision is a key decision or not.
  - b) As a further safeguard and as set out in the Access to Information Rules, the Scrutiny and Overview Committee can require a decision maker to submit a report to Full Council explaining their reasons for concluding that a decision was not a key decision.
  - c) 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, officers must consult with the Director of Legal Services and/or the Corporate Director, Resources as appropriate, who shall, if necessary, refer the matter to the Executive Mayor or the Executive Mayor in Cabinet.
  - d) Where any function is delegated to an officer, that officer may choose not to exercise that function and may instead refer that matter to the Mayor or the Mayor in Cabinet, 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-
    - I. Whether the decision may incur a significant social, economic reputational or environmental risk.
    - II. The likely extent of the impact of the decision both within and outside of the borough.

- III. Whether the decision is likely to be a matter of political controversy.
  - IV. The extent to which the decision is likely to generate substantial public interest.
- e) Consultation with the Executive Mayor, as appropriate having regard to the significance and profile of the decision, any (and if so the nature of the) political and community sensitivities associated with the decision and the reasonable expectations of the Executive Mayor.

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