

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.A – Protocol for Decision Making

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

The Leader, 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 Leader, 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 An Executive 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 Council Solicitor (except to the extent that they agree otherwise in respect of certain clauses of reports);
  - (b) other officers as appropriate; and
  - (c) Executive 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 Council Solicitor
- (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 Executive 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 and Crime and Disorder implications and
- (u) a list of any background papers.

1.5 At least 5 clear working days before the proposed date and time for taking the final decision, the Council Solicitor 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 Executive 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 Executive Director shall use his 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 Executive Director is of the opinion that it should be treated as a relevant decision.

#### 1.9 Amendments/ variation to this protocol

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