

As required by part 3 of the Constitution
RESPONSIBILITY FOR FUNCTIONS

LONDON BOROUGH OF CROYDON

LEADER'S SCHEME OF DELEGATION

COUNCILLOR TONY NEWMAN
LEADER OF CROYDON COUNCIL
June 2018

Contact:
Stephen Rowan
Head of Democratic Services and Scrutiny
Ext. 62529

Please note the Leader's Scheme of Delegation is included in the Constitution for information only. The Leader is responsible for all executive arrangements.

Scheme of Delegation

Introduction

The Leader is responsible for all executive arrangements and is required to maintain a scheme under Part 3 of this Constitution setting out who has responsibility for particular Executive functions; this may include

- The Leader;
- The Leader in consultation with an individual Cabinet Member or;
- The Leader and Cabinet collectively (Cabinet);
- The Chief Executive (or Executive Directors)
- Joint arrangements or
- Another local authority.

The scheme of officer delegation (except financial delegation) is maintained by the Monitoring Officer and is available for inspection.

Any in-year changes shall be reported to the Monitoring Officer and to the next available Ordinary meeting of the Council.

For the avoidance of doubt this delegation applies to all matters whether before or after the date herein.

For the further avoidance of doubt the Leader hereby declares that any exercise of a power by the Chief Executive or an Officer authorised by him and which, if expressly provided for by this scheme of delegation could have been lawfully exercised by an officer under powers delegated to the Chief Executive by the Leader or a committee shall be deemed to be authorised by this scheme notwithstanding that such express provision may not have been made in it; PROVIDED THAT, where an officer relies on this paragraph, the Monitoring Officer shall be informed in writing by the officer of this action.

- 1. Interpretation:** The Leader's Scheme of Delegation aims to be as comprehensive as possible but cannot be exhaustive. It needs to be flexible to deal with changing circumstances. Therefore the Scheme applies to all major corporate and service policies, strategies and initiatives whether referred to by name or not. Officers will apply the principles of the scheme when determining where and how in the structure decisions will be made. As a general rule therefore, strategic matters will be determined by the Leader in consultation with Cabinet, and operational service matters by the Chief Executive (through the relevant Executive Director) in consultation with the Leader and or relevant Cabinet Member. Where there is doubt, the Leader will be asked to decide. This scheme should be read in conjunction with the Officer Scheme of Delegations. For the avoidance of doubt, management of staff is not covered as staffing is a non-executive matter.

2. **Variations:** The Leader may make ad-hoc one off variations on particular matters. Any variation affecting the generality of any delegation set out in this scheme shall be made in writing. Such written notice to be provided to the Monitoring Officer. The variation shall be effective from the date the written notice is received by the Monitoring Officer.
3. **Plans and Strategies:** All references to Plans and Strategies mean initial approvals to them, and subsequent amendments where the impact of the amendment is significant. (If the amendment is required by law or as a result of litigation to give effect to day to day practical issues required to ensure implementation officers shall implement the change required but shall consult with the Leader and lead Members before doing so). Where the plan or strategy is a joint matter with other bodies the recommendations shall only be in respect of those matters affecting the Council.
4. **Key Decisions:** Any key decision shall be published in accordance with Access to Information Procedure Rules. Whether a matter is a key decision shall be determined in accordance with the definition of key decision.
5. **Officer decisions to be referred to Leader:** Any decision which would ordinarily fall to officers to decide but which is controversial in nature shall be referred to the Leader to determine in accordance with this scheme of delegation. Such determination might include delegating the decision to Cabinet or to an individual Cabinet Member.
6. **Decision making process:** Decisions are made in accordance with Part 4D of the Constitution (Executive Procedure Rules).

MATTERS RESERVED

A1. General Matters Reserved by The Leader of the Council to himself

The Leader may exercise any function which is designated as an executive function under the law or under the Council's Constitution.

[N.B. Section 9E of the Local Government Act 2000 (as amended) vests all executive functions in the Leader, who may delegate them to the Cabinet, a committee of the Cabinet, individual Cabinet Members, officers or joint committees. Any such delegation is without prejudice to the Leader's ability to exercise these powers notwithstanding the delegation].

A2. Specific Matters Reserved by the Leader of the Council to himself

1. To determine the appointment and dismissal of Cabinet Members, their portfolios and the scheme of delegations for executive functions.

2. The formulation, co-ordination and implementation of corporate policies and strategies and making decisions relating to such matters to the extent that they are not reserved to Full Council.
3. To chair Cabinet meetings and major partnerships as necessary and ensure the efficient despatch of business consistent with the Council's policies and strategies.
4. To be the lead spokesperson for the Council and deal with external relations with partners and other stakeholders.
5. To represent the Council in national and regional negotiations and consultations.
6. To lead on consultation and other liaison with local communities.
7. To decide who has overall responsibility for the performance framework, including the monitoring of targets.
8. To lead and co-ordinate the Council's work on key cross-cutting policy areas such as equalities, sustainability and communications.
9. To deal with any executive function not specifically delegated to another member of the Cabinet.
10. To appoint elected Members to membership of the Health and Well Being Board.

B1. Matters Reserved by the Leader to the Cabinet

After the Leader, the Cabinet will operate as the highest executive decision-making body. The following functions shall be reserved to the Cabinet:

1. The formulation and submission to Full Council of all plans and strategies that form part of the policy framework.
2. The development, formulation and submission to Full Council of the budget.
3. Any matter which the Leader decides should be dealt with by the Cabinet.
4. Any matter which is delegated to a Cabinet Member by Cabinet and that Member decides to refer the matter back to the Cabinet.

5. Any matter which straddles the portfolios of two or more Councillors and, in the opinion of the Leader, is more appropriately dealt with by the Cabinet.
6. Any executive function which is not specifically delegated to a Cabinet Member under this scheme of delegation.
7. Approval of the Council's Risk Management Strategy.
8. Any matter which, under the Council's Financial Regulations, Tender and Contract Regulations or other Council rules, requires the approval of the Cabinet.

B2

When referring or reserving a matter to the Cabinet under sub-paragraphs 3 and 4 of paragraph 81 above, the Leader or, as the case may be, the Cabinet Member may do so on a one off basis or as part of a general / standing arrangement.

C. Matters Reserved by the Leader to Individual Cabinet Members for decision

Individual Cabinet Members

Decisions relating to contractual transactions from £500,000 up to the value of £5m in accordance with Executive Protocol SA relating to their portfolio in consultation with the Cabinet Member for Finance and Resources. *Where the contract involves more than one portfolio, the decision to award shall be taken in accordance with the Leader's specific delegation.*

All Cabinet Members may establish or disestablish advisory panels or committees to assist them in discharging the duties of their office. In furtherance of this Cabinet Members may establish terms of reference and Membership.

Cabinet Member for Finance and Resources

The Cabinet Member will take decisions, including contractual transactions, which fall within their portfolio, from £500,000 up to a value of £5m; this will be in consultation with the Leader of the Council.

The Cabinet Member for Finance and Resources will take decisions relating to assets including disposals and acquisitions which will include the declaration of land and property as surplus to the Council's requirements with a value of £500,000 up to a value of £5m in consultation with the Leader of the Council. Matters valued in excess of £5m will be referred to Cabinet for a decision.

Cabinet Member for Environment Transport and Regeneration

To exercise all functions, powers and duties of the Council as the Traffic and Highway Authority in relation to Traffic Management issues, making

comments on minor applications which fall to be determined by other authorities, and determining any matters referred to the Cabinet Member by the Executive Director of Place in respect of highways and traffic management, in consultation with the Traffic Management Advisory Committee.

D. Cabinet Committee and Joint Committees

General Purposes Cabinet Committee

To deal with any matters of business allocated by the Cabinet.

The Bandon Hill Cemetery Joint Committee

The provision and management of the Bandon Hill Cemetery with London Borough of Sutton

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.

The South London Waste Partnership

The joint procurement and management of waste disposal contracts with the Royal Borough of Kingston and the London Boroughs of Merton and Sutton..

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 section 101 and 102 of the Local Government Act 1972.

The Pensions Collective Investment Vehicle (CIV) Sectoral Joint Committee

Hosted by London Councils, the joint committee is established under section 102 of the Local Government Act 1972 with a view to pooling pension investments and with functions necessary for the proper functioning of the Authorised Contractual Scheme (ACS) Operator (which is the company that would manage the ACS), including the effective oversight of the ACS Operator.

E. Other local authorities

Croydon has delegated to Birmingham City Council its role in:

- a. Enforcement of Parts III & IV of the Consumer Credit act 1974, and
- b. The enforcement functions and powers under Part XI and XII of the Consumer Credit Act 1974, and
- c. The power of prosecution under section 222 of the Local Government Act 1972

All in connection with money-lending or the activities of money lenders and / or their agents and associates, and the laundering of the proceeds of illegal money-lending.

F. Delegation to the Chief Executive and Head of Paid Service of Executive Functions

Except for Matters reserved (a) to the Leader, or (b) to the Cabinet or (c) to individual Cabinet Members or to a (d) Cabinet Committee or Joint Committee or (e) other local authorities or to an identified officer, all executive functions are delegated to the Chief Executive and Head of Paid Service. This delegation is subject to:-

1. Such protocols as may be approved by the Leader and Cabinet from time to time and deposited with the Council Solicitor, ;
2. All policies of the Authority;
3. Any consequent expenditure being included in the Council's Revenue Budget or approved Capital Programme;
4. The requirements of the Tenders and Contracts Regulations and the Financial Regulations;
5. The approval of the Council Solicitor to the instigation and conduct and settlement of legal proceedings;
6. Compliance with any legal requirements and the provisions of any statutory codes of conduct or statutory guidance.
7. Compliance with the Access to Information Procedure Rules.

For the avoidance of doubt this delegation to the Chief Executive involves the power to appoint 'proper officers' as appropriate.

G. Delegation to Executive Director Children, Families & Education: Academies

1. Subject to the Secretary of State issuing an Academy Order and entering into a Funding Agreement with maintained schools, in accordance with the terms of the Academies Act 2010, the Executive Director Children, Families & Education, in consultation with the Cabinet Member for Children, Young People and Learning, is delegated to:
 - 1.1. Authorise that the Council enters into a Commercial Transfer Agreement for the transfer of staff, assets and third party contract with the academy trust and governing bodies of the relevant schools, to enable the conversion of those schools to Academies on the existing school sites together with lease arrangements on terms satisfactory to the Executive Director Children, Families & Education, and the Council Solicitor and Monitoring Officer.
 - 1.2. Conduct all negotiations to approve and execute all relevant legal agreements, contracts, and/or documents necessary to conclude the arrangements necessary to give effect to the above recommendation for the conversion of the relevant schools, leases and transfer of sites.

In exercising this delegation, the Executive Director Children, Families & Education, should formally record decisions in accordance with Part 4B and 4G of the Council's Constitution.

H. Delegation to Council Solicitor

1. Article 14.03 of the Council's Constitution provides as follows

"The Council Solicitor is authorised to institute defend or participate in any proceedings or to settle claims where such action is necessary to give effects to decisions of the Authority, protect the interest of the Authority, the Borough or some or all of its citizens. Only the Council Solicitor may authorise the engagement of a lawyer to act for the Council."
2. For the avoidance of doubt in relation to Executive matters the following legal matters are delegated to the Council Solicitor by the Leader for decision where not already delegated to another officer and is in addition to such delegation. Such decisions must be in accordance with the overall strategic policies set by the Council, and must in all cases be made within approved budgetary provisions and financial procedures.
 - 2.1. The giving authority 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.

- 2.2. To arrange for any legal proceedings to be conducted by a Solicitor, Barrister, Legal Executive, paralegal or officer employed or engaged by the Council including appearances before any Court or Tribunal in which the officer has right of audience.
- 2.3. To authorise instruction of any counsel, solicitor or other legal adviser outside the Council's panel or framework of external legal providers as maybe in place from time to time.
- 2.4. To authorise the instructions in proceedings of any expert witnesses or advisers or cost assessors to act on behalf of the Council.
- 2.5. To authorise in consultation with the Head of Paid Service the payment of any award or damages, compensation and costs made by any court or tribunal against the Council.
- 2.6. To settle any legal proceedings on behalf of the Council, in consultation with the appropriate Chief Officer, including the agreement and payment or receipt of damages excluding legal costs.
- 2.7. To give undertakings to any court or tribunal on behalf of the Council and to give solicitors undertakings where appropriate and within the rules and guidance issued by the Law Society.
- 2.8. To issue and serve or complete and agree any legal notice or document necessary or ancillary or incidental to the given effect of any decision taken by Council, Cabinet, any Committee or Sub-Committee or any officer under the Scheme of Authorisations to Officers.
- 2.9. To have general oversight of the use made of the source in respect of covert human intelligence sources and to nominate Authorised Officers to agree applications under the Regulation of Investigatory Powers Act 2000.
- 2.10. To authorise officers who may instruct external solicitors.
- 2.11. To nominate Authorised Officers to determine Regulatory and Investigatory Powers Act requests.
- 2.12. Unless there is an express statutory requirement on a named official or category of officials, any document that is required or authorised by or under any enactment to be given made or issued by the Council in any capacity may be signed on behalf of the Council by the "Authorised Officers". The "Authorised Officer" is the Council Solicitor or any Council Officer authorised in writing by the Council Solicitor.
- 2.13. To consider representations made under the provisions of the Access to Information Procedure Rules in respect of private meetings and

publish a statement of response to such representations on behalf of the relevant decision making body.

I. Executive Director - Place: Traffic Management Orders

The Leader delegates to the Executive Director of Place:

1. Authority to introduce any Traffic Management Orders under the Road Traffic Regulation Act 1984 (as amended) which they consider are necessary to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway and for the purpose of making such Orders:
 - a. Give Public Notice of the Intention to make an Order;
 - b. Consider any objections received in response to the giving of Public Notice;
 - c. Determine whether or not to make and implement the Order.
2. The above delegation be subject to the Executive Director for Place referring to the Traffic Management Advisory Committee for consideration and onward recommendation to the Cabinet Member for Environment Transport and Regeneration any proposal for a Traffic Management Order which may:
 - involve significant expenditure or saving having regard to the Council's budget for the service or function to which the decision relates; or
 - is significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Borough; or
 - the Executive Director - Place in consultation with the Cabinet Member consider it appropriate to do so for any other reason.

J. Authentication and sealing of documents

1. The Council delegation is contained in article 14.04 of the Council's Constitution as follows:

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 Council Solicitor or other person, authorised by the Council Solicitor.

The Common Seal of the Council shall be kept in a safe place in the custody of the Council Solicitor. 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 which in the opinion of the Council Solicitor, should be sealed. The affixing of the common seal shall be attested by the Council Solicitor, a deputy Council Solicitor or some other person so authorised by the Council Solicitor. Where the affixing of the common seal follows a

decision of the Council it may instead be attested by the Mayor and Chief Executive.

2. For the avoidance of doubt this delegation applies to Executive matters as it applies to non-executive matters.

NB:

These matters are in addition to any delegations and authorisations set out in the Council Constitution.

Councillor Tony Newman
Leader of the Council
London Borough of Croydon

Date **26.06.2018**

