

# **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 Members 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**

### 2.1      **Composition and eligibility**

- (a)      **Composition.** The Council shall comprise 70 Members. With the exception of Park Hill and Whitgift which shall return one Member, and the following Wards which shall each return two Members: 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, and Shirley South, three Members 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.
- (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 Member.

### 2.2      **Election and terms of Members**

The regular election of Members shall be held on the first Thursday in May every four years. The terms of office of Members 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 Members.**

- (a)      **Key roles.** All Members 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 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.

**2.4 Conduct**

Members shall at all times observe the Members’ Code of Conduct Members and co-opted Members as set out in Part 5I of this Constitution.

**2.5 Allowances**

Members shall be entitled to receive allowances in accordance with the Scheme of Members’ Allowances set out in Part 6A of this Constitution.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 3 Citizens and the Council

### 3.1 Citizens' Rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- (a) **Voting.** Citizens on the electoral roll for the Borough have the right to vote in local, national and European elections in accordance with statutory provisions.
- (b) **Petitions.** i) Citizens on the electoral roll for the Borough may sign a petition to request a referendum for an Elected Mayor form of Constitution. ii) Local People (working, studying or resident in the Borough) may sign a petition to request particular actions.
- (c) **Information.** Citizens have the right to:
  - (i) attend meetings of the Full Council, its Committees and Sub Committees, the Cabinet 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 Cabinet 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 Members 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 Leader (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 Leader 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 Mayor and notes the appointment of the Deputy Mayor;
- (e) appointing and removing the Leader;
- (f) agreeing and amending the terms of reference for non-executive Committees, deciding on their composition and making appointments to them; [The Council Solicitor 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 Leader and Cabinet or the Council Solicitor, after consultation with the relevant Cabinet Member may make appointments to outside bodies as necessary during the year. In respect of Non-Executive appointments the General Purposes and Audit Committee or the Council Solicitor after consultation with the Chair of the General Purposes and Audit 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 Committee 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 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 Leader 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; and
- (q) 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 Leader 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 Admission arrangements for Community schools;
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      The Mayor

### 5.1      Role and functions of the Mayor

A Mayor shall be elected by the Council annually and shall have the following roles and functions:

- (a)      The Mayor shall be the ceremonial representative of the Council, taking precedence on all such occasions.
- (b)      The Mayor, or in the Mayor's absence the Deputy Mayor, 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 Mayor 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 Members 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 Mayor spans full Council elections the Mayor shall, unless he/she resigns or becomes disqualified, continue in office and remain as a Member of the Council until his/her successor becomes entitled to act as Mayor notwithstanding that he/she does not seek or achieve re-election as a Member.

In a year when the term of office of the Deputy Mayor spans full Council elections the Deputy Mayor shall, unless he/she resigns or becomes disqualified, continue in office until his/her successor

becomes entitled to act as Deputy Mayor, but shall not remain as a Member of the Council unless he/she achieves re-election as a Member.

### **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, he/she 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 he/she 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) make reports or recommendations on matters affecting the area or its inhabitants;
- (f) question and gather evidence from any other person and conduct research and consultation in the analysis of policy issues and possible options;
- (g) 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;

- (h) 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;
- (j) recommend that a key decision made by the Executive but not yet implemented be reconsidered by the Executive;
- (k) 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;
- (l) receive the reports and recommendations of its Sub- Committees;
- (m) report annually to the Council on its work;
- (n) 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

The Council has allocated to the Leader under the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007, and any subsequent related legislation, all the powers and duties of the Authority, other than those reserved to the Council or delegated to a non-executive Committee or Sub-Committee, or the Chief Executive of the Council by Statute or this Constitution.

### 7.2      Form and composition

The Cabinet shall consist of the Leader appointed by Full Council together with not more than 9 other Members appointed by the Leader at least one of whom shall be the Statutory Deputy Leader.

### 7.3      Leader

1.      The Leader shall be a Member appointed to the position of Leader by the Council, normally at the Annual Meeting or at the next meeting of the Council after a vacancy arises. Except in an election year when the Leader's term of office ends on the day of the post election Annual Council meeting, the Leader shall hold office for four years or until he/she:

- (a)      resigns from office; or
- (b)      is suspended from being a Member under relevant statutory provisions (although he/she may resume office at the end of the period of suspension); or
- (c)      he/she ceases to be a Member except where the Leader fails to be returned as a Member following an ordinary election of all Members when, unless the Leader resigns, he/she is disqualified or is otherwise removed from office he/she shall continue as Leader until the day of the Annual Meeting; or
- (d)      is removed from office by resolution of the Extraordinary Council meeting (such a resolution may only be moved on 10 working days' notice in writing to the Head of the Paid Service of the Council); or
- (e)      by resolution of the Council where he/she fails for six months to attend any meeting of the Cabinet, or any Cabinet Committee or, acting alone, fails to discharge any functions which are the responsibility of the Leader then unless the failure was due to

some reason approved by the Council, he/she shall cease to be a Member of the Council.

2.
  - a. Where the Annual Council Meeting or any other meeting of the Council fails to elect a Leader an Extraordinary Meeting of the Council shall be held within a maximum of ten working days for the purpose of electing a Leader.
  - b. Where a meeting of the Council removes a Leader from office then a new Leader is to be elected at that meeting.
  - c. Where a Leader resigns then an Extraordinary Meeting of the Council shall be held within ten working days of the receipt of the letter of resignation for the purpose of electing a Leader.

3. In the period between the ordinary election of Members and the appointment of a Leader, if for any reason there is not a Leader in place then any Executive decisions normally reserved to Members which need to be taken as a matter of urgency to protect the interest of the Council or which cannot be delayed until after the appointment of the Leader shall be taken by the Chief Executive in consultation with the Leader of the Group with the overall majority of seats following the election. In the event of there being no Group with an overall majority of seats the Chief Executive shall consult with all Group Leaders.

4. Where the Leader ("Original Leader") ceases to be a Leader in accordance with 7.03.1 (above) the Statutory Deputy Leader shall exercise the powers of the Leader until a new Leader is appointed by the Full Council ("New Leader"). The New Leader shall hold the office for the balance of the remaining term of office of the Original Leader or until such of the conditions of paragraph 7.03.1 shall apply.

#### **7.4 Statutory Deputy Leader**

The Leader shall appoint one Cabinet Member to the position of Statutory Deputy Leader. The Statutory Deputy Leader shall hold office for a period determined by the Leader until he/she:

- (a) resigns from office;
- (b) is suspended from being a Member under relevant statutory provisions;
- (c) is no longer a Member; or
- (d) is removed from office by the Leader.

#### **7.5 Cabinet Members**

1. Cabinet Members shall be Members appointed by the Leader to the position of Cabinet Member with a specific portfolio responsibility

for a period determined by the Leader. Cabinet Members shall hold office until they:

- (a) resign from office;
  - (b) are suspended from being Members under relevant statutory provisions;
  - (c) are no longer Members; or
  - (d) are removed from office by the Leader.
2. In an election year, the Cabinet Members shall continue to hold office until the day of the Election.

#### **7.6 Cabinet Committees**

The Leader may establish one or more Cabinet Committees to exercise specified delegated executive functions.

#### **7.7 Deputies to Cabinet Members**

The Leader 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 Leader of the Council.

#### **7.8 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 Committee</b> independent voting co-optees for specified purposes	6 Members + 2
<b>Ethics Committee</b>	6 Members + 2 independent non-voting co-optees
<b>General Purposes &amp; Audit Committee</b>	10 Members + 1 independent Chair for Audit Purposes (non-voting co-optee) and 1 independent non-voting co-optee (for Audit Purposes)
<b>General Purposes &amp; Audit Urgency Sub-Committee</b>	3 Members drawn from the membership of the General Purposes and Audit Committee excluding Independent Chair and independent non-voting co-optee.

## **Committee**

## **Membership**

### **Health and Wellbeing Board**

5 Majority Group Members (voting) –such members to include the Cabinet Member for Families Health and Social Care and the Cabinet Member for Children, Young People and Learning  
2 Minority Group Members (voting)  
Executive Director  
People (non-voting)  
Director of Public Health (non-voting)  
CCG Representative (voting)  
Croydon Health Services NHS Trust Chair (non-voting)  
Healthwatch (Croydon) Representative (voting)  
South London & Maudsley NHS Foundation Trust Representative (non-voting)  
Croydon Voluntary Action Representative (non-voting)

### **Licensing Committee**

12 voting members (+ pool of 12 reserve Members)

### Licensing Sub-Committee (ad hoc)

3 voting members drawn from Membership of Licensing Committee

### **Mayoralty & Honorary Freedom Selection Sub- Committee**

5 Members

### **Pension Board**

Independent non-voting Chair and 3 Employer representatives (one to be a Councillor) & 3 Employee representatives

<b>Committee</b>	<b>Membership</b>
<b>Pension Committee</b>	8 Members + 1 voting co-optee and 2 non-voting co-optees
<b>Planning Committee</b>	10 Members
Planning Sub-Committee	5 Members drawn from the membership of the Planning Committee
<b>Scrutiny &amp; Overview Committee</b>	6 Members + 1 non-voting co-optee in respect of crime & disorder matters
Children & Young People Scrutiny Sub-Committee	8 Members + 4 voting and 1 non-voting co-optees
Health & Social Care Scrutiny Sub-Committee	6 Members + 1 non-voting co-optee from Healthwatch (Croydon)
Streets Environment and Homes Scrutiny Sub Committee-	7 Members

## **8.2 Delegations**

The Council delegations to the above Committees are as set out in Responsibility for Functions contained in Part 3 of this Constitution.

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 9      **The Ethics Committee**

### 9.1      **Ethics Committee**

The Council has established an Ethics Committee.

### 9.2      **Composition**

- (a)      The Ethics Committee shall be composed of five Members (none of whom shall be the Mayor or Leader).
- (b)      No Cabinet Member appointed to the Committee shall be eligible to Chair meetings of the Ethics Committee.
- (c)      Appointed "Independent Persons" shall be entitled to attend and may vote at meetings of the Ethics Committee, where the committee is dealing with a specific allegation against a Member.

### 9.3      **Role and Function**

The roles and functions of the Ethics Committee are set out in Responsibility for Functions contained in Part 3 of this Constitution.

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

## **ARTICLE 10      Community Governance**

The Council may, at its discretion, create, facilitate or participate in neighbourhood partnerships, area forums, area committees, focus groups and service or user based consultative groups as part of its community leadership role and in order to aid transparent and accountable decision-making. If invited to do so, the Council may appoint representatives to serve on existing (and any subsequently established) community forums/partnerships.



# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 11 Joint Arrangements

### 11.1 Arrangements to promote well-being

The Council or the Leader 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 Leader 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 Leader 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 Leader 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 Leader 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 Leader 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 Leader may delegate executive functions to the executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

### **11.5 Contracting Out**

Any contracting out arrangements which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994 will appear at Schedule 2 to this article.

## **ARTICLE 11 - SCHEDULE 1**

### **The Bandon Hill Cemetery Joint Committee**

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

### **The Coast to Capital Joint Committee**

### **The Croydon/Lewisham Street Lighting Joint Committee**

The joint governance of a street lighting PFI contract.

### **South London Partnership Joint Committee**

The setting and reviewing of objectives for strategic growth, regeneration and investment with the London Boroughs of Merton, Sutton and Richmond upon Thames and the Royal Borough of Kingston upon Thames.

### **South London Waste Partnership Joint Committee**

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

### **London Councils**

The effective coordination and formulation of policy and discharge of functions and any other related Joint Committees acting on behalf of the constituent authorities and as set out in the Schedules of the Agreement made under sections 101 and 102 of the Local Government Act 1972.

### **The Pensions Collective Investment Vehicle (CIV) Sectoral Joint Committee**

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

**ARTICLE 11 - SCHEDULE 2**

None

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## ARTICLE 12 Staff

### 12.1 Definition

“Staff” includes all persons with a permanent, short term, fixed or temporary contract with the Authority.

### 12.2 Management Structure

- (a) **General.** The Authority may engage such staff as it considers necessary to carry out its functions.
- (b) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.**

The Council designates the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Executive Director of Resources and Council Solicitor	Monitoring Officer
Director of Finance Investment and Risk	Chief Finance Officer and Section 151 Officer

### 12.3 Functions of the Chief Executive as Head of Paid Service

- (a) **Discharge of functions by the Council.** The Chief Executive shall report to the Council on the manner in which the discharge of the Council’s functions is co-ordinated and the staff required for the discharge of functions.
- (b) **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.

- (c) **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

#### 12.4 **Functions of the Monitoring Officer (Council Solicitor)**

- (a) **Maintaining the Constitution.** The Monitoring Officer shall maintain an up-to-date version of the Constitution including making such changes as envisaged by paragraph 15.02 and shall ensure that it is widely available for Members, staff and the public to consult.
- (b) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Chief Executive and the Chief Finance Officer, the Monitoring Officer shall report to the Full Council, or the Leader 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.
- (c) **Supporting the Ethics Committee.** The Monitoring Officer shall contribute to the promotion and maintenance of high standards of conduct through provision of support to the Ethics Committee.
- (d) **Conducting investigations.** The Monitoring Officer shall conduct investigations into matters referred by the Ethics Committee and make reports and recommendations in respect of them to the Ethics Committee.
- (e) **Dispensations where Disclosable pecuniary interests exist:** The Monitoring Officer shall consider applications for a grant of a dispensation for a Member with a Disclosable Pecuniary Interest in the following circumstances:

- i. That so many Members of the decision-making body have disclosable pecuniary interests (DPIs) 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 in consideration of this matter.

And may refer the dispensation request to the Ethics Committee to advise on or express a view should the Monitoring Officer consider it appropriate to do so. Granting dispensations in other circumstances is a matter reserved to the Ethics Committee.

- (f) **Proper Officer for Access to Information.** 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.
- (g) **Advising whether decisions are within the Budget and Policy Framework.** The Monitoring Officer shall advise whether decisions of the Council, a Committee, or Sub-Committee, the Leader, the Cabinet, or Cabinet Committee or an Officer under their allocated or delegated powers are in accordance with the budget and policy framework.
- (h) **Contributing to corporate management.** The Monitoring Officer shall contribute to the corporate management of the Council, in particular through the provision of professional legal advice.
- (i) **Providing advice.** The Monitoring Officer shall provide advice on the scope of powers and authority to take decisions, maladministration, probity and Policy Framework issues to all Members.
- (j) **A Monitoring Officer Protocol** is included at Part 5C of this Constitution.
- (k) **Restrictions on functions.** The Monitoring Officer cannot be the Chief Finance Officer or the Chief Executive.

## 12.5 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision-making.** 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.

- (b) **Administration of financial affairs.** The Chief Finance Officer shall have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer shall contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer shall provide advice on the scope of powers and authority to take financial decisions, financial impropriety, probity and budget issues to all Members and shall support and advise Members and staff in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer shall provide financial information to the media, members of the public and the community.
- (f) **Restrictions of Functions.** The Chief Finance Officer cannot be the Monitoring Officer.

## 12.6 **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.

## 12.7 **Conduct**

Staff shall comply with the Staff Code of Conduct and the protocol on Staff-Member Relations as set out in Part 5B of this Constitution.

## 12.8 **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 Leader, the Cabinet - Cabinet Committees - Cabinet Member - delegations to the Chief Executive.

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 Leader, 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 are 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 and Audit 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 Leader and Cabinet**

Subject to article 13.8, the Leader 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 Executive Director People 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.

# **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 Council Solicitor 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 Council Solicitor 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 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.

# 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 Leader, Cabinet, General Purposes and Audit 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)    Provision exists within the remit of the General Purposes and Audit Committee to approve changes on the grounds of urgency. The Leader 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 Council Solicitor is authorised, after consultation with the Leader or Committee Chair, to make any necessary amendments to the Constitution consequent on legislation or a decision of the Council, the Leader, the Cabinet or a Committee.
- (c)    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.
- (d)    The Council Solicitor 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.
- (e)    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

- (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 and Audit 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 Council Solicitor may give a copy of this Constitution to every Member at an appropriate time.
- (b) The Council Solicitor 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 Leader 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