

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## PART 1

### SUMMARY AND EXPLANATION

#### 1 INTRODUCTION

- 1.1 Croydon Council (the London Borough of Croydon) has established decision-making arrangements that comply with the requirements of the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007 and the Localism Act 2011. They are known as the Mayor and Cabinet model.
- 1.2 This constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that decisions are taken efficiently and transparently, and that those who make the decisions are accountable to local people. Some of these procedures are legal requirements while others are how the Council has chosen to conduct its business.
- 1.3 This part of the Constitution is a guide to the basic principles of how the Council works and what decisions can be made and by whom. Whilst it provides an overview it nevertheless forms part of the constitution and should be read as such and in connection with all other parts.
- 1.4 Part 2 of the Constitution (the Articles) sets out the rules and framework which govern the operation of the Council, and Parts 3 to 6 provide further details on responsibility for functions, procedure rules, codes and protocols for specific parts of the decision-making structure.
- 1.5 The Mayor, all elected and co-opted members and officers of Croydon Council are governed by the Constitution.

#### 2 HOW THE COUNCIL WORKS

2.1 The Council is led by a Mayor who is elected directly by the people of the Borough of Croydon. The Council is made up of the Executive (the Mayor and Cabinet), the Full Council and staff employed by the Council. The Executive makes decisions on those functions which are not reserved for the Full Council to decide or delegate to others. Article 4 of the Constitution sets out the functions which are reserved to the Full Council. Staff employed by the Council are responsible for the day to day operational and managerial decisions made on behalf of the Council.

##### **Full Council**

2.2 Full Council comprises the Mayor together with the 70 Members (also referred to as Councillors), each of whom is elected for a 4 year term and who represent the 28 wards of the Borough which is set out in Article 2 of the Constitution. The overriding duty of Councillors is to the whole community but they have a special responsibility to the constituents of their ward, including those who did not vote for them. The role, rights and duties of Councillors are also set out in Part 2, Article 2 of the Constitution.

All Councillors and the Mayor meet together as the Full Council. These meetings are open to the public and the press and are also broadcast live on the Council's webcast facility, except when there are items on the agenda which require the public to be excluded for that item.

2.3 The Council (or 'Municipal') Year begins in May each year with an Annual Meeting that appoints a new **Civic Mayor, and Deputy Civic Mayor for a one year term. It also makes appointments** to Committees, Sub-Committees, Working Parties and Outside Bodies for that Municipal Year. The Meeting receives the Mayor's scheme of delegation, including any executive appointments to Outside Bodies.

2.4 The Civic Mayor is also the Chair of Council. This role is a ceremonial one and therefore does not include making decisions on behalf of the Council. The postholder is a councillor and cannot be a member of the Executive.

2.5 Ordinary Full Council meetings are held on six other occasions during the Council Year. One of the Ordinary Meetings is to set the Council Tax. Extraordinary and Special Meetings of the Full Council may also be convened.

2.6 Although the Mayor shall make proposals in relation to the Budget and Policy Procedure Rules only the full Council meeting may set the Budget for the Authority or approve the policies, plans and strategies that are specified in the Council's "Policy Framework", as defined in Article 4.02 of this Constitution. Specific procedures apply where the Council does not agree to the Mayor's proposals in respect of the budget and policies and strategies in the Policy Framework. These are set out in the Budget and Policy Framework Procedure Rules, Part 4C of this Constitution.

2.7 At Ordinary Meetings of the Full Council, the Mayor and Cabinet:

- Reply to questions from the public (except at the meeting of the Council at which the Council sets the rate of Council Tax);
- Present a Report including any recommendations for decision and replies to Members' questions on the Report; and
- Reply to questions asked by Members.

2.8 Ordinary Full Council Meetings also deal with:

- The formal presentation to the Council of petitions by Members;
- Petitions from Members of the Public for Debate in accordance with the Part 4A , 3.12 of this Constitution; and
- Motions for Debate.

**How decisions are made** 2.9 Decisions are taken either by Full Council, the Mayor, members of the Executive (either individually or collectively with the Mayor), committees, or officers, according to rules set out in this constitution.

2.10 The Mayor makes proposals to the Council about its main policies and budget. Once they are agreed the Mayor is responsible for putting those policies into effect. Within that framework, the Mayor is responsible for all decisions which are not the responsibility of the Council or any of its committees by law. The Mayor can either personally take these decisions, delegate them to other individual councillors on the Executive, take them collectively with Executive colleagues, or delegate them to a committee of the executive or officers of the authority.

2.11 Some decisions, due to legislation, or as a matter of local choice, can only be taken by Full Council. In some cases, Full Council can delegate these decisions to committees of councillors or specified officers.

2.12 Each year at its Annual Meeting, the Council adopts a scheme of delegation which sets out details of those decisions which the Council makes itself, and those which it delegates to committees, employees, and joint arrangements it has with other authorities.

2.13 Having presented a scheme of delegation for executive decisions to the Annual Meeting of the Council in each year, the Mayor is entitled to amend the delegations they have made during the course of the year, and any such amendments will be incorporated into the scheme of delegation.

2.14 Part 3 of the Constitution sets out the responsibilities of different parts of the Council for different decisions and Part 4 of the Constitution sets out the procedures for those decisions such as the procedures for public access to information.

#### **Conduct and behaviour**

2.15 The Mayor and the 70 Councillors have committed to follow a Code of Conduct to ensure high standards in the way they undertake their duties. Compliance with the Code of Conduct is overseen by the Ethics Committee. The Code of Conduct is included in Part 5 of this constitution.

### **3 THE MAYOR AND CABINET**

#### **Roles and functions.**

3.1 The Mayor is the primary decision maker and is given executive functions. The Mayor must create a Cabinet of councillors and may delegate executive powers to them. Together the Mayor and Cabinet form the Executive.

3.2 The Mayor will carry out the following roles:

i) be the Council's principal public spokesperson;

- ii) give overall political and strategic direction to the Council;
- iii) appoint the Cabinet and Deputy Mayor from within the Cabinet;
- iv) decide on the scheme of delegation for executive functions;
- v) chair meetings of the Cabinet; and
- vi) represent the Council on external bodies (where the function of the outside bodies relates to executive functions of the Council) and appoint Members to outside bodies).

### **Mayor as a Member of the Council.**

3.3 The Mayor is a Member of the Council and is to be treated as a Member of the Council or a Councillor for the purposes of such laws as are specified by the Secretary of State in regulations and orders. Except where stated or is obvious from the context, references in this constitution to Members or Councillors include the Mayor. In particular, the Mayor:

- i) is subject to the same rules about qualification and disqualification as any other Councillor;
- ii) must follow the rules about disclosure of interests and comply with the Members' Code of Conduct set out in Part 5 of this Constitution;
- iii) must act in the interests of the borough as a whole;
- iv) may be a Member of, attend and speak at any meeting of the Council, its Committees and Sub-Committees, except the Ethics and Scrutiny and Overview Committees. The Mayor may only speak at a Scrutiny and Overview Committee when invited to do so and may not vote at those meetings;
- v) if a member of a political group, will be taken into account when calculating seat allocations on Committees and Sub-Committees of which they are a member, if they have to reflect the political composition of the Council as a whole in accordance with the Local Government and Housing Act 1989;
- vi) is subject to the Members' Allowance Scheme as set out in Part 6 of the Constitution;
- vii) will attend Full Council meetings to answer questions from Members and the public as set out in the Council's Procedure Rules;
- viii) is subject to the same rules about casual vacancies as apply to all Councillors.

### **Deputy Mayor**

- 3.4 At the first meeting of the Council after their election, the Mayor will inform the Council which Member of the Cabinet will act as Deputy Mayor.
- 3.5 The Deputy Mayor will hold office until the end of the Mayor's term of office unless they are no longer a Member of the Council or the Executive, resign as Deputy Mayor, or are removed by the Mayor from the office of Deputy Mayor.
- 3.6 If for any reason the Mayor is unable to act, or the office of Elected Mayor is vacant, the Deputy Mayor will act in their place until a new Mayor is elected or again able to act. If the Mayor is unable to act or the office is vacant at the same time as the Deputy Mayor is unable to act or the office of Deputy Mayor is vacant, then the Cabinet must act in the Mayor's place, or arrange for a Member of the Cabinet to do so.
- 3.7 The Mayor may remove the Deputy Mayor from office at any time by serving a notice in writing to the Chief Executive. The notice must also appoint a new Deputy Mayor in order to be effective. The removal and appointment will take effect immediately on receipt of the notice by the Chief Executive. A change of Deputy Mayor must be reported by the Mayor to the next meeting of the Cabinet and the next meeting of the Full Council.

#### **Other Cabinet Members**

- 3.8 The Mayor appoints at least two and no more than 9 Cabinet Members from the 70 Councillors to work with them. Together they are described as the Executive. The Cabinet need not be politically proportionate. Members of the Cabinet will hold office until:
- a) they are removed from office by the Mayor who must give written notice of any removal to the Chief Executive. The removal will take effect immediately on receipt of the notice by the Chief Executive;
  - b) they are no longer councillors; or
  - c) they are disqualified from being Councillors under the Localism Act 2011.
- 3.9 Details of the responsibilities and functions allocated by the Mayor to the Cabinet as a whole or to individual Cabinet Members are set out fully in the Mayor's Scheme of Delegation. For the avoidance of doubt, such Cabinet arrangements may include provisions for job-share portfolios however there may not be more than 10 acting Members of Cabinet inclusive of the Mayor at any one time and any non-acting job share Cabinet Member may not exercise any executive functions whilst not Acting Cabinet Member for the relevant portfolio.
- 3.10 The Executive has to make decisions which are in line with the Council's Budget and Policy Framework. If it wishes to make a decision which is outside the Budget and Policy Framework, this must be referred to the Council as a whole to decide.

- 3.11 The Mayor is responsible, in consultation with others, for shaping the plans and strategies which form the Council's Budget and Policy Framework and recommending them to the Council; and for taking decisions on executive matters within that framework. The Mayor gives political direction to the Chief Executive and Corporate Directors in relation to the way in which services are managed within the budgets allocated to them. The Mayor may establish one or more Cabinet Committees to exercise specified executive functions.
- 3.12 All meetings of the Cabinet are open to all Members, the public and press to attend. In the event of there being confidential or exempt business to discuss in accordance with the Council's Access to Information Procedure Rules, that part of the meeting is held in private. Notice of meetings and availability of papers prior to a meeting shall also comply with the Council's Access to Information Procedure Rules set out at Part 4 of the Constitution.
- 3.13 Certain decisions made by the Executive are defined as "Key Decisions" as defined in Article 13 and the Access to Information Procedure Rules in Part 4B of the Constitution. In summary, these are decisions to incur significant expenditure or savings or which have a significant impact on communities in two or more wards in the borough. When major decisions are to be discussed or made, these are published in the Forward Plan as far as they can be anticipated and at least with 28 days' notice before the decision is taken.

#### **4 THE CIVIC MAYOR**

- 4.1 Although the title of Mayor may only be used by the Elected Mayor, on appropriate ceremonial occasions the Chair of the Council may bear the title of Civic Mayor.
- 4.2 The Council has decided, in agreeing its Executive Arrangements, that the Civic Mayor will be the first citizen of the Borough and will perform the majority of civic and ceremonial duties for the Borough. The Mayor will perform those functions as the Council's representative where they relate to the promotion of, or business of, the Council. Any future change to these arrangements will be a matter for the Council to determine.
- 4.3 The Civic Mayor and the Deputy Civic Mayor will be elected by Council annually. Their responsibilities are set out in Article 5 of this Constitution.

#### **5 HOW THE COUNCIL IS SCRUTINISED**

- 5.1 The Scrutiny and Overview function is part of the Council's executive arrangements as required by the law. The Council has one overarching

Scrutiny and Overview Committee encompassing all scrutiny functions required by Statute. Seats are allocated according to the rules of proportionality, which provide for the allocation of seats on committees so that they continue to reflect the overall political composition of the Council.

- 5.2 The Scrutiny and Overview Committee ensures the efficient and effective conduct of its responsibilities through the work of a number of Sub-Committees, and “task and finish” groups.
- 5.3 The Scrutiny and Overview Committee and its Sub-Committees hold the executive to account, monitor the performance of Council services and investigate matters affecting the wellbeing of Croydon. In addition the Scrutiny and Overview function has a statutory duty to scrutinise Health Services, Community Safety issues and education matters. They carry out these roles in a number of ways including:
  - Reviews of services which often cut across organisational boundaries and roles.
  - The scrutiny of Action Plans and Implementation. In certain circumstances and in accordance with the Scrutiny and Overview Procedure Rules at Part 4 of the Constitution, Members may request the review of an executive key decision taken by the Executive or a Cabinet Member but not yet implemented. This is known as ‘Call-In’ and requires the Executive to consider further comments raised by a scrutiny committee or Full Council before they are implemented.
- 5.4 Any Councillor except the Mayor or a Cabinet Member is eligible to be appointed to the Scrutiny and Overview Committee or any of its Sub-Committees.
- 5.5 The Scrutiny and Overview Committee reports annually to the Council. During the year the Committee and its Sub-Committees may make recommendations to the Leader and Cabinet and exceptionally direct to the Council.
- 5.6 Members, the Chief Executive and Executive Directors or other senior staff are under a duty to attend the Scrutiny and Overview Committee or Sub-Committee to answer questions. There is a power to co-opt non-Council members onto the Committee or any Sub-Committee. There is a statutory requirement to co-opt church and parent-governor representatives when matters related to the duties of the Council relating to education functions are considered.
- 5.7 All meetings of the Scrutiny and Overview Committee and its Sub-Committees are open to the public and press, except where confidential or exempt information is considered. Confidential or exempt business is discussed in private in accordance with the Council’s Access to Information Procedure Rules.
- 5.8 The Council will seek to ensure parity of esteem between Executive and Scrutiny: the rights of the Scrutiny and Overview function to information

to support delivery of its role are set out in the Council's Access to Information Procedure Rules and Protocol.

- 5.9 The Constitution recognises that the separation of the executive from the overview and scrutiny function, and the responsibility of the Council for approval of policy and budget creates opportunities for conflict which, if not managed, could undermine effective decision making. To minimise any potential for tension between these roles, the Council has established processes to resolve conflict between them. They are set out in the Constitution, Part 4, Budget and Policy Procedure Rules.

## **6 NON-EXECUTIVE COMMITTEES**

- 6.1 The Full Council has made arrangements to delegate various powers and duties that are not executive functions to a number of Committees, Sub-Committees and the Chief Executive for the efficient conduct of business. These Delegations are set out in 'Responsibility for Functions' contained in Part 3 of the Constitution and the Non- Executive Committee Procedure Rules at Part 4. As with the Scrutiny and Overview Committee, seats on the non-executive committees are allocated between the party groups in proportion to their respective numbers of Members.

## **7 SHADOW CABINET**

- 7.1 The Shadow Cabinet comprises the Leader of the largest group of which the Mayor is not a member and up to nine other Members nominated by the same political Group. Shadow Cabinet members hold policy portfolios that broadly mirror the portfolios held by members of the Cabinet. The Shadow Cabinet has no power to discharge any function of the Authority.

## **8 PARTNERSHIPS**

- 8.1 The Council continues to develop a wide range of partnerships and other consultative bodies. These bodies are not part of the Council's formal decision making structure but are an important part of informing the policy process and of collaborative working.

## **9 SCHEME OF MEMBERS' ALLOWANCES**

- 9.1 The Council has adopted a Scheme of Members' Allowances in accordance with the relevant Regulations. This Scheme is set out at Part 6A of the Constitution.
- 9.2 Members also known as "Councillors" are not employees of the Council. They have a role description but do not have fixed "hours of work". They carry out their duties at all and sundry times.
- 9.3 Some Members are in paid employment elsewhere. Although they are entitled to reasonable time off without pay for public duties some employers are very uncooperative and do not willingly allow the amount of time off required. However, Members have to balance the need to take time off for Council work and the impression given to their employer by the amount of time to take off work in order to perform their public duties.



## **10 COUNCIL STAFF**

- 10.1 The Council employs officers to give professional advice to the Executive and Councillors, to implement decisions taken and to manage the day to day delivery of services.
- 10.2 The Head of Paid Service is a statutory role that every Council must have. This person is responsible for managing all Council staff and decides how the Mayor, Executive and Councillors should be supported by staff.
- 10.3 There are other statutory posts including an officer who has responsibility for ensuring that the Council takes sound financial decisions (the Corporate Director, Resources) and an officer who is responsible for ensuring that all the decisions taken by the Council are lawful (Monitoring Officer). There are also statutory officers with responsibility for Children's Services, Adult Services and Public Health.

## **11. CITIZENS' RIGHTS**

- 11.1 Citizens of Croydon have a number of rights in dealing with the Mayor, the Executive and the Council. These are set out in Part 2, Article 3 of the Constitution.