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**MINUTES** of the **EXTRAORDINARY MEETING** of the **COUNCIL**, held on Monday, 12 December 2022 at 6.30 pm in Council Chamber, Town Hall, Katharine Street, Croydon CR0 1NX

## MINUTES

**Present:** Councillor Sue Bennett (Vice-Chair)

Councillors Kola Agboola, Jade Appleton, Jeet Bains, Leila Ben-Hassel, Margaret Bird, Claire Bonham, Mike Bonello, Simon Brew, Janet Campbell, Louis Carserides, Chris Clark, Jason Cummings, Patsy Cummings, Nina Degrad, Rowenna Davis, Danielle Denton, Samir Dwesar, Lara Fish, Sean Fitzsimons, Amy Foster, Simon Fox, Gayle Gander, Maria Gatland, Brigitte Graham, Griffiths, Lynne Hale, Patricia Hay-Justice, Maddie Henson, Christopher Herman, Yvette Hopley, Karen Jewitt, Mark Johnson, Humayun Kabir, Stuart King, Ola Kolade, Joseph Lee, Endri Llabuti, Enid Mollyneaux, Michael Neal, Tamar Nwafor, Ian Parker, Ria Patel, Tony Pearson, Jason Perry, Ellily Ponnuthurai, Holly Ramsey, Helen Redfern, Chrishni Reshekaron, Scott Roche, Manju Shahul-Hameed, Luke Shortland, Andy Stranack, Stewart, Esther Sutton, Catherine Wilson, Robert Ward and Callton Young

**Apologies:** Councillor Alisa Flemming, Adele Benson, Richard Chatterjee, Sherwan Chowdhury, Stuart Collins, Mario Creatura, Clive Fraser, Mohammed Islam, Stella Nabukeera, Eunice O'Dame, Nikhil Sherine Thampi and Appu Srinivasan

**Election of Chair:** Before commencement of the meeting, it was **MOVED** by Executive Mayor Jason Perry, **SECONDED** by Councillor Stuart King, and **RESOLVED** unanimously that Councillor Sue Bennett, Deputy Civic Mayor of Croydon, be appointed as Chair for the meeting.

## PART A

### 38/21 **Minutes of the Previous Meeting**

**RESOLVED** that the minutes of the previous meeting, held on 19 October 2022, be agreed as a correct record, subject to the following amendment:

That, at Minute No. 28/21 (Disclosures of Interests), it be noted that it was Councillor Esther Sutton that had declared an interest in respect of being a resident of Oval Road and not Councillor Claire Bonham as recorded.

### 39/21 **Disclosure of Interests**

There were no declarations of interest received from Members.

## 40/21 **Section 114 (3) Report and Response**

Council considered a report, which set out the details of the Section 114(3) report issued by the Council's Corporate Director of Resources and Section 151 Officer (The S151 Officer).

Members were asked to; a) consider the views stated in the Section 114(3) report; b) decide whether to agree or disagree with the views; c) consider the response by the Chief Executive to the S.114(3) report; and d) decide on proposed action to enable the Council to deliver a balanced budget for the 2023/24 financial year and beyond and return to financial sustainability.

The Deputy Civic Mayor (Vice-Chair) stated that the meeting was being held in accordance with Section 114 (3) of the Local Government Finance Act 1988, which stated that the Section 114 Reports must be considered by Members at a meeting of the Council within 21 days of the report being issued.

She added that it was a further requirement that the Council must decide whether it agreed or disagreed with the views contained within the report and what action it proposed to take as a consequence.

The Deputy Civic Mayor (Vice-Chair), having discussed with Members, and advised in the agenda of the proposed format for tonight's main item of business, moved (which was duly seconded and agreed by Council) that the matter commence with a presentation on the report provided by the Corporate Director of Resources, for up to ten minutes, after which Members would have up to 30 minutes to ask factual questions regarding the report. Then, she said, the Council would move to up to 30 minutes of Member questions to the Executive Mayor and Executive. The meeting would, she said, conclude with a debate and vote on the recommendations contained in the officer's report.

The Section 151 Officer said, by way of introduction that following the serving of the Notice, the Council should focus on understanding its overall financial position, today and for the future and that the Opening the Books Project had been an important aspect of this.

She said that although much work had also been done on identifying potential savings for future years and developing the Transformation Programme (£44m in 2023/24 – 15%), the Chancellor's Autumn Statement had made it very clear that the Council was not going to be able to balance its budget in 2023/24 or beyond.

The Section 151 Officer summarised the significant issues that faced the Council. She said that the Council's current General Fund debt was £1.3bn and the annual cost of servicing this debt was £47m. She said that the Provision for Bad Debt currently had a shortfall of at least £20m and that

parking and traffic income budgets had been overstated, which meant that expectations of a further increase next year, was not achievable.

The Section 151 Officer went on to say that whilst Housing Benefit overspend had crystallised at £9m per annum, charges to the Housing Revenue Account had been overstated by £10m per annum. She warned that the Council still had three years of outstanding accounts awaiting external audit – 2019/20, 2020/21, 2021/22.

In respect of the global and national issues that faced local government, the Section 151 Officer said that significant inflation pressures were continuing and that interest rates had increased significantly (in November 2021, the Bank of England base rate was 0.1% and 3% by November 2022) and Croydon needed to refinance up to £300m of short-term debt by April 2023).

She went on to say that there was some good news in that as cost-of-living pressures were impacting demand, this had been recognised by the Government and the Chancellor's recent budget had provided unexpected additional funding for 2023/24 and 2024/25 (an estimated extra £16m was expected next year plus additional £9m in 2024/25). Unfortunately, this fell short of fixing the Council's Budget gap.

In respect of historic balance sheet issues, the Section 151 Officer pointed out that, in three years (2017/18 – 2019/20), the Council had borrowed £545m, very little of which was contributing a return on investment. The toxic negative equity was estimated at £320m (the level of spend that did not create a physical asset) and the Council had drawn on its one-off reserves to balance its books until, by 2019/20 it had no reserves left and needed to start setting aside funding annually each year to rebuild them. It was noted that there was a need for a total of £74.6m in additional Capitalisation Directions to address historic issues from 2019/20 to 2022/23 and that there was no clear line yet on Croydon Affordable Homes/Tenures (CAH), which papers were based on the assumptions the Council was making, of £9m charge for CAH but this could be £70m.

The Section 151 Officer went on to provide a summary of future budget gaps.

In respect of the issuing of the S114 Notice, the Section 151 Officer stated that the detailed work on the Medium-Term Financial Strategy had also identified further pressures that were detailed in the full MTFS Update report that went to Cabinet on 30 November. She said that her conclusion was that, against this backdrop of legacy issues and future pressure, she had no choice but to issue a S114 Notice in respect of 2023/24 and beyond.

She said it was crucial for the Council to begin negotiations with the Government on the options available for balancing the Council's budget for future years but, most importantly, to return the Council to ongoing financial sustainability.

With regard to the impact of continuing to use capitalisation, the Section 151 Officer said that there were not enough capital receipts to pay for Capitalisation Directions, therefore would require some borrowing. She pointed out that debt payments were currently £47m (16% of net budget) but would rise significantly over next four years to between 21%-24% (typically the guide for Councils would be 5-10%).

With regard to options being discussed with Government, the Section 151 Officer detailed the following:

- Write off or deferral of current debt
- Spreading any MRP for the capitalisation directions over a longer period
- Reducing the interest rate charged by the Public Works Loan Board on the Capitalisation Directions
- Permission to increase Council Tax beyond the national cap
- Capitalisation Directions to deal with legacy issues
- Capitalisation Directions to smooth the transition

In conclusion, the Section 151 Officer said that, with regard to the timescale with Government, that a high-level request had already been made to the Department of Levelling Up, Housing and Communities (DLUHC) setting out assumptions and there was a clarification period with DLUHC and Improvement and Assurance Panel (IAP) up to Christmas.

She said that efforts were being made to try to finalise adjustments with Grant Thornton by Christmas and that the Provisional Local Government Settlement was expected on 21 December. The finalisation of the request for support was due early in January and finalisation of figures from DLUHC were required by early February to set the Council Tax and withdraw the S114 Notice.

As agreed, there then followed a period of up to thirty minutes to put factual questions about the report to the Section 151 Officer.

- a) In response to a question on whether the Government would permit the Council to raise Council Tax above 5% and what minimum and maximum level increase would the Administration propose, the Cabinet Member for Finance said that it was impossible to say now, in isolation and that it depended upon debt write-off and waiting to see what the Government's financial package for the Council was.
- b) In response to a question as to the meaning of "toxic debt" it was explained that the term was an analogy with banks when they had crashed or health services that had no assets and where the Government wrote-off bad debt since there was no other way of clearing it.
- c) In response to a question as to how the directorate transformation project would mitigate service provision to the Borough's most

vulnerable residents, it was advised that this would need to be monitored by Cabinet and CMT to make sure it was working i.e., reducing costs, keeping community resilience, working with partners across Croydon to get better outcomes for individuals and residents.

- d) In response to a question as to whether the Council had the right staff and capability to deal with this, it was advised that the Cabinet report set out the programme and the support needed to deliver services. It was noted that money was coming from Capital this year, £10m next year, reducing to £5m moving forward. It was recognised that the Council did need additional resources to ensure it delivered and that, in future years, would need to have that capacity built in.
- e) In response to a question as to why there was no itemised list or breakdown given re £100m savings, it was advised that this had been done for commercial confidentiality reasons as the Council was going out to market at that time. It was further advised that it was not clear what assets were going to be sold and therefore did not have a full, item-by-item list. With regard to what was considered as commercially sensitive, Members were referred to Appendix E to the Cabinet report.
- f) In response to a question as to when those Council accounts, which had not been signed-off, were to be finalised, it was advised that, hopefully the 2019 accounts would be finalised by the end of March 2023; 2020 accounts by the end of calendar year 2023 latest and that a good team of auditors were on site to get the job done.
- g) In response to a question as to why a flat profile had been adopted as opposed to using the £100m in the first year of the MTFs, to being of greater benefit, it was advised that the profile started in 2022/23 and the reason why the flat profile had been chosen was because there had been some large numbers where it was unclear whether these would fall into this year or next year. The Section 151 Officer said that by the time the Council was due to set its Council Tax, she would have a better idea but, at this moment in time, given there was a lot of shifting between this year, next year and the year after, she had opted for the flat profile.
- h) In response to a question as to what legacy would this have on the Council's Housing Revenue Account (HRA), it was advised that the Council required to collate those numbers as it was difficult to know what had happened in previous years. It was recognised that some backpay would need to be paid back into the HRA reserves by way of a lump sum.
- i) In response to a question as to how much money had been collected through capitalisation, it was advised that those figures were not to hand but there had been a mix of capital receipts and borrowing.

- j) In response to a question as to what effect the Notice would have on core services, it was advised that all core services were contracted because they supported vulnerable people. It was further advised that, even under S114, a minimum level was always covered to protect core services for residents and vulnerable people and that transformation work was also allowed under S114 because the outcome was to improve the Council.
- k) In response to a question as to whether there would be any impact on contracts, it was advised that these would have to go through that same control process and would be tested against 115 criteria. It was noted that these were unlikely to be rejected as to do so would make the Council's position worse. It was further advised that others could be paused under S115.
- l) In response to a question as to how much of the £10m charged to the HRA had been identified, it was advised that the figure was for the current year but was required still to be tested. It was further advised that this was a very detailed piece of work but would be included in budget papers in February 2023.
- m) In response to a question as to whether the Council was still able to recruit to vacant posts, it was advised that the Council was able to recruit to vacant posts, however these required to be tested against S115 criteria to make sure they fitted-in with what was required.
- n) In response to a question as to whether the Opening the Books project would cover the £43m spent by the Council's previous Chief Executive under Gold Command during the pandemic and which had not yet been returned to Croydon by Central Government despite promises made, it was advised that the Opening the Books project had not identified this, and officers had not yet got to the bottom of the matter. As the history to the matter pre-dated the arrival of the current Section 151 Officer, she said that a response clarifying the position would be provided to Members by the February meeting.
- o) In response to a question in respect of any impact on pensions, it was confirmed that there would be no impact because of the S114 Notice.
- p) In response to a question as to what access Members would have so they could assure themselves that any new spend had been authorised properly, it was advised that this was a matter that would not normally be reported back to Members in detail since it was largely administrative and that the report set out the rules as to how officers make those decisions.
- q) In response to a question as to which of the statements in the report was correct and which one was the Council being asked to agree, it was advised that the Corporate Director of Resources and Section 151

Officer would need to reach a view to be able to lift the S114 and would then inform the Executive Mayor to move that forward.

Some supplementary questions were put and responded to accordingly.

As agreed, there then followed a period of up to thirty minutes to put questions to the Executive Mayor and the Executive.

- i) In response to a question as to whether the Executive Mayor agreed that residents would expect him to put differences aside as the Council sought a fair and sustainable future in the months to come, the Executive Mayor said that his Administration would, of course, listen to constructive proposals from Members of other parties and reminded the Member that his party did not support the previous administration's budget and had voted against it.

He added that the Council was moving forward and had initiated the Opening the Books project due to the failings of the previous administration.

The Cabinet Member for Finance added that Members had been deceived by what had been put before them, which was why his party had voted against the last budget. He echoed the sentiments of the Executive Mayor by welcoming positive suggestions moving forward.

- ii) In response to a question as to whether there would be any action taken towards the toxic legacy left by the previous administration, the Executive Mayor said he was determined to bring to bear those responsible through proper channels and backed-up with the necessary evidence.
- iii) In response to a question as to how the Council would prevent cuts to services etc. the Executive Mayor said that the Council's community assets were important and that he was keen for the Council not to sell these off but instead, to reassess these and how they might be used moving forward.
- iv) In response to a question as to whether the Executive Mayor would commit to a cross-party review of the Council's governance structures, including scrutiny, the Executive Mayor responded by saying that he pledged that the political opposition would run and Chair the Council's scrutiny and overview function and that a cross-party Constitution Working Group had been established.
- v) In response to a question as to whether poor judgement had been shown by the Council's officers, the Executive Mayor asked that the question be withdrawn and added that the budget that had been left by the Party to which the questioner was a member of, was not a balanced budget.

The Cabinet Member for Finance added that anyone could create a balanced budget when putting figures together that would never be achievable, and that the Administration had corrected mistakes made by the previous administration.

- vi) In response to a question as to whether the Executive Mayor had agreed with the issuing of the S114 Notice, the Executive Mayor said that he did agree with the issuing of the Notice and entirely supported the Council's statutory officer for doing so.
- vii) In response to a question as to whether the relocation, nationally, of asylum seekers and ex-offenders made the Executive Mayor seem uncaring, the Executive Mayor said he was not sure he fully understood the question and that this matter was about other bodies putting additional costs on the Council. He said that Croydon had had other London Boroughs place more people in Croydon over the past few years than it had, and that the Council could not continue to support wider London in this matter.
- viii) In response to a question as to whether the missing £43m had been looked into, the Council's Corporate Director of Resources and Section 151 Officer said she would look into the matter since the whole process was about getting the Council's finances back under control. She said she hoped that Councillor Campbell could shed some light on where the £43m had come from.
- ix) In response to a question in respect of how the Council was managed and what progress had been made by the Council in 2020/2021, the Executive Mayor said that a lot of work had been done over past two years, to help the Council resolve the issues, but many were still to be dealt with.
- x) In response to a question as to what the Assurance and Improvement Panel thought about all of this, the Executive Mayor said that the Panel was working with the Council and was feeding back into Government.

Some supplementary questions were put and responded to accordingly.

As agreed, Council now moved to the debate on the recommendations contained within the report.

Executive Mayor Perry moved the recommendations in the report.

He said that the S114 Notice referred to next year (not this year) and highlighted the scale of the challenge faced in the financial restructuring of the Council. He stressed that the level of damage that had been done to the Council was not to be underestimated. He said that most Local Authorities never had to serve a S114 Notice, yet Croydon had had three since it had been allowed to rack up millions of pounds in debt by playing Monopoly and



failing miserably. He said that for those who had been found to have done wrong should be brought to bear and as Executive Mayor, he wanted to bring sustainable local government back to Croydon and rebuild pride in the Borough.

Councillor Jason Cummings (Cabinet Member for Finance) seconded the motion and reserved his right to speak.

Councillor Stuart King, Leader of the Opposition Group, said that the Council was now going backwards. He said that 12 years of austerity and the impact of COVID had had an effect on the Council's finances. Nationally, he said, the Government's crashing of the economy had led to sky high inflation rates.

Councillor King acknowledged that this was a shared problem and needed a shared solution in the interests of Croydon's residents, who were in the middle of a crisis. He said that the Council had been underfunded by £10m since 2014 and that it was time the Council got a fairer deal from the Government in the settlement due later this month. In conclusion, he said that his party was committed to working together in the interests of all who called Croydon "home".

Councillor Janet Campbell (Shadow Cabinet Member for Adult Social Care) said she was still deeply concerned about the Executive Mayor's plans to help residents. She asked the Executive Mayor not to close libraries and to open these as warm hubs. She also asked if the Executive Mayor would chase the £43m due to Council and would he seek fair funding for 1,000 asylum seekers in hotels in Croydon. Councillor Campbell also asked how the Executive Mayor would support residents through treacherous winter?

Councillor Lynne Hale (Deputy (Statutory) Executive Mayor and Cabinet Member for Homes) *said* that the previous administration had also left housing in a terrible state and an absence of key data, with poor stock and maintenance etc. She said there had been a lack of any priorities and the lack of respect for residents had been staggering. Councillor Hale said it had been good to hear from the Housing Improvement Board about the new housing transformation programme. In terms of temporary accommodation, she said that administration had spent millions of pounds and that the serving of the S114 Notice was inevitable.

Councillor Callton Young OBE (Shadow Cabinet Member for Finance) said that he was keen to see all Members working together as this was in the best interests of the people of Croydon. He said that the Conservative Government had cut the Council's core grant by £81m and owed the Council £43m. He said the Council would play its part and hoped that Central Government would do likewise.

Councillor Jason Cummings (Cabinet Member for Finance), who had reserved his right to speak, said that it was a grave affair to have a S114 Notice imposed, yet alone three as was the case with Croydon. He said that the issuing of the Notice was the right thing to do and the Council's S151 Officer

had his full support for doing so. He said the issuing of the Notice had nothing to do with Covid and that the Labour Group had used this as a smokescreen to cover its failings.

Councillor Cummings went on to say that, about government funding, Croydon had had a raw deal but that it was not alone.

Councillor Cummings went on to say that it is was not all officers' fault and that there was once a code, which stated responsibility lay with Councillors. He said that the Labour Group should stop blaming officers as it was shameful and had only begun since the Group lost control of the Council.

Councillor Cummings said that, in February 2020, and in the presence of Councillor King, he had questioned the figures and predicted a crash for this Council. He said that former Leader, Councillor Newman had mocked him as a result. He went on to say that the Labour Group had the opportunity to work together but did not offer it and said that if suggestions were brought to him, he would listen to them.

In conclusion, Councillor Cummings said that the Council could turn this around and that a deal would be struck. He warned it would be a painful process, but the Council would see it through.

The Chair then moved to the vote on the recommendations as contained in the report. She said that Council would vote on recommendations 1.1, 1.2, 1.3, 1.4, 1.5 and 1.6 as one and, once prompted, Members would have 20 seconds to cast their vote via the microphone base in front of them.

At the end of the vote, the Chair declared that the ayes had it and accordingly, it was **RESOLVED** that the recommendations 1.1 to 1.6 in the report, be approved.

The meeting ended at Time Not Specified

**Signed:**

**Date:**

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