

## For General Release

<b>REPORT TO:</b>	<b>ETHICS COMMITTEE 22 NOVEMBER 2012</b>
<b>AGENDA ITEM NO:</b>	<b>7</b>
<b>SUBJECT:</b>	<b>PROPOSED PROTOCOL WITH THE POLICE: ETHICS COMPLAINTS</b>
<b>LEAD OFFICER:</b>	<b>COUNCIL SOLICITOR, DIRECTOR OF DEMOCRATIC AND LEGAL SERVICES &amp; MONITORING OFFICER</b>
<b>CABINET MEMBER:</b>	<b>N/A</b>
<b>WARDS:</b>	<b>ALL</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT:</b> The Council has determined that the Ethics Committee shall be responsible for receiving reports from the Monitoring Officer on matters of probity and ethics for consideration.	
<b>FINANCIAL IMPACT</b> Implementation of the recommendations contained in this report shall be contained within existing budgets	
<b>FORWARD PLAN KEY DECISION REFERENCE NO.:</b> N/A	

### 1. RECOMMENDATION

The Committee is asked to:

- 1.1 Consider and comment on the proposed protocol between the Council and the police.

### 2. EXECUTIVE SUMMARY

- 2.1 Following statutory amendments to the ethics regime, full Council adopted a new Code of Conduct. The Police now have a role in investigating allegations that Members have failed to comply with their statutory duties in respect of disclosure and registration of Disclosable Pecuniary Interests. In order to facilitate the procedure, a draft protocol has been prepared for consideration.

### 3. DETAIL

- 3.1 Under Section 31 of the Localism Act 2011 ("the Act"), a Member or co-opted Member who has a disclosable pecuniary interest (DPI) must register these interests on the register held by the Monitoring Officer. In addition, where a DPI arises in a matter to be considered or being considered at a meeting of the

authority at which that Member or co-opted Member is present and the DPI is one which the Member or co-opted Member is aware of, the Member or co-opted Member may not participate or participate further in any discussion or vote on the matter at the meeting unless he/she has first obtained a dispensation in accordance with the Council's dispensation procedure.

- 3.2 In addition, there is an obligation on Members, where a DPI arises at a meeting at which the Member is present and which is not already on their register of interests, to notify the Monitoring Officer of that interest within 28 days of the meeting in question so that their register may be updated.
- 3.3 If a Member fails to register their DPI's or participates or votes on any matter where they have a DPI, in the absence of a dispensation, it is an offence under Section 34 of the Localism Act. A Member found guilty of an offence under this provision is liable on summary conviction to a fine not exceeding level 5 of the standard scale, which is currently £5,000.
- 3.4 In addition, a court dealing with a person for an offence under the above section may, by order, disqualify the person for a period not exceeding 5 years from being or becoming a member of the authority or any other relevant authority.
- 3.5 A prosecution for an offence under these provisions of the Localism Act may only be instituted by the Director of Public Prosecutions.
- 3.6 The Council's Code of Conduct has set out that the Council will not be involved in investigating allegations that a Member has committed an offence under the Localism Act as this is a matter in respect of which the police have jurisdiction.
- 3.7 In order to facilitate the process, bearing in mind the interaction between the Council's Code of Conduct and allegations to the Police that a Member may have failed to comply with the DPI requirements on registration or disclosure a draft protocol has been prepared for discussion between the Council and the Croydon branch of the Metropolitan Police.
- 3.8 The draft protocol aims to identify a named contact so that there can be an exchange of information so that both the Council and the Police are aware of issues as they arise and there is a clear indication of which roles the two parties will play.
- 3.9 Members are asked to consider and comment on the proposal and the draft protocol, Appendix 1, so that this may be taken into account in the discussions between the Monitoring Officer and the Borough Commander with a view to agreeing a protocol between the Council and the Croydon Branch of the Metropolitan Police. An oral update will be provided to Members at the meeting on any matters arising from these discussions.

#### **4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

- 5.1 There are no direct financial implications arising from this report.

## **5. LEGAL IMPLICATIONS**

- 5.1 The protocol is aimed at facilitating the interaction between the Council and the police and, if necessary, may involve a specific data sharing agreement which would be formulated having regard to the parties' data protection responsibilities.
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**CONTACT OFFICERS:** Julie Belvir, Council Solicitor, Director of Democratic and Legal Services and Monitoring Officer (ext 64985)

**BACKGROUND DOCUMENTS:** None

## **Draft Protocol between the Monitoring Officer and Croydon Branch of the Metropolitan Police**

Purpose – to agree a protocol for the reporting of potential criminal offences arising from the failure to register or declare disclosable pecuniary interests or from participating and voting where a Member has a disclosable pecuniary interest and has not first sought a dispensation

- 1) In the event that the Monitoring Officer receives a complaint regarding a potential DPI offence they will make immediate contact with the Police through the nominated single point of contact currently .....
- 2) Similarly if the Police receive a complaint from a member of the public they will inform the Monitoring Officer of the receipt of that complaint by contacting Julie Belvir: [julie.belvir@croydon.gov.uk](mailto:julie.belvir@croydon.gov.uk) .
- 3) The Code of Conduct and arrangements adopted by the London Borough of Croydon specify that the Council will not have a role in investigating any allegations arising from the failure to register or declare disclosable pecuniary interests or from participating and voting where a Member has a disclosable pecuniary interest and has not first sought a dispensation. Investigation of such matters is solely a matter for the police.
- 4) The Police contact will register the complaint and will advise the Monitoring Officer if they require any initial and/or background information from the Monitoring Officer to assist in their investigation.
- 5) If the Police consider that an offence is made out but decide not to prosecute in the public interest that shall be the end of the matter and no referral will be made to the Monitoring Officer. If the Police consider that the offence is not made out but that there is a breach of the London Borough of Croydon's Members' Code of Conduct, they may, with the consent of the complainant, pass the relevant evidence to the Monitoring Officer so that the question of whether a Code of Conduct breach is to be pursued can be considered. To facilitate this, the Monitoring Officer and the Metropolitan Police may enter into a data sharing agreement.
- 6) In the event that the Council decides to pursue the matter further following a referral from the Police in terms of a Code of Conduct breach, the Monitoring Officer will inform the Police Contact of their decision.