

Croydon Council
For General Release

REPORT TO:	ETHICS COMMITTEE 29 June 2015
AGENDA ITEM NO:	9
SUBJECT:	CONSIDERATION OF THE CODE OF CONDUCT FOLLOWING SPECIAL INQUIRY REPORT
LEAD OFFICER:	BOROUGH SOLICITOR, DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES
CABINET MEMBER:	COUNCILLOR SIMON HALL
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT: The Council has determined that the Ethics Committee shall be responsible for receiving and considering reports on matters of probity and ethics and to consider and recommend revisions to the Code of Conduct.	
FINANCIAL IMPACT Implementation of the recommendations contained in this report shall be contained within existing budgets	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A	

1. RECOMMENDATIONS

The Committee is asked to:

- 1.1 Note the Special Inquiry Report and consider whether there are any changes required to the Code of Conduct or Members' Scheme of Allowances as a result of the report.

2. EXECUTIVE SUMMARY

- 2.1 On 26 January 2015 full Council received a report on actions taken by the Leader in relation to the outcome of the Special Inquiry report into Members' Allowances. One of the action points arising was for this Committee to consider the Members Code of Conduct and in light of the Special Inquiry report and determine if any changes to the Code ought to be recommended to full Council as a result.

3. DETAIL

3.1 In September 2014, Councillor Tony Newman, Leader of the Council, commissioned a Special Inquiry to enquire into the take up of Special Responsibility Allowances (SRAs) by the Conservative administration during their term of office between 2010-2014 and subsequently under the provisions of the Members' Allowance Scheme 2010 (the "Scheme").

3.2 The Terms of Reference of the Special Inquiry were:

- To clarify the level of SRAs taken by Councillor Mike Fisher during 2010/14.
- To clarify the level of additional or 'top-up' payments of SRAs for 2010/14 by Councillor Mike Fisher.
- To clarify which Conservative Members requested payment of their full allowances for 2014.
- To review the robustness of payment pathways and to make recommendations for improvement to prevent a reoccurrence.
- To review the 2010/14 Members' Scheme of Allowances in relation to the Members' Code of Conduct.
- To review the Council's approach to the publication of data in respect of Members' Allowances.
- To make recommendations to the Leader of the Council in respect of these matters to ensure an improved level of openness, transparency and public accountability.

3.3 The Special Inquiry Panel (the "Inquiry") consisted of three independent members of the public:

- Mrs Anne Smith (Chair), former independent Chair of the Council's Standards Committee and current independent member of the Council's Ethics Committee.
- Mr Damian Luke, a Borough Dean and Chair for the Black Majority Churches in Croydon.
- Mr Joseph Trickey, a former lead inspector for Ofsted.

Summary of the Inquiry findings:

3.4 The Inquiry was of the view that there was an ambiguity in the approach and presentation of the Scheme in 2010 and in setting new rates. This resulted in a lack of both clarity and robustness in payment pathways. Inherent in the consequent operation of the Scheme was a duality of options: the higher SRA rates for some Members' roles recommended by the London Panel and adopted by the Council, and the lower rates which Members took. The only indication as to which SRA a Member would claim was the "asterisk reference" which provided that "*Recipients have indicated that, at this time, their total remuneration shall not exceed those paid to equivalent post holders in 2009/10*". This reference was introduced specifically for the Scheme in 2010 and does not appear in any previous or subsequent Schemes, including the current scheme approved in July 2014.

3.5 The Inquiry accepted that taking the higher rate payment was not unlawful. However being mindful of what was stated in the asterisk in the Scheme, it

would call into question whether it was proper or in the public interest to take the increase without publically communicating that decision in advance.

- 3.6 The Inquiry found, as a matter of fact, that only Cllr Mike Fisher took the higher rate of payment provided for under the scheme and only in the 2013/14 financial year. No other Members or former Members of the former Conservative administration were found to have done so.
- 3.7. The Inquiry endorsed the decision not to include the asterisk reference in the 2014 Members allowance Scheme.
- 3.8 The Inquiry was of the view that the Members' Code of Conduct covers the conduct that should have been expected in this instance.
- 3.9 As a result of the outcome of the Inquiry, the Leader has referred the Special Inquiry Report to this Committee to undertake a review of the Scheme of Members' Allowances and Member's Code of Conduct in light of the Special Inquiry Report and make such recommendations for Council's consideration as are considered appropriate.
- 3.10 A full Copy of the Special Inquiry Report is attached at Appendix 1 and the Code of Conduct and Scheme of Members Allowances are appended at Appendix 2 and 3 respectively, for Members ease of reference.
- 3.11 In considering the Code of Conduct, Members may wish to assess whether the current threshold of £50 for the declaration of gifts and hospitality remains relevant and appropriate given the greater emphasis on transparency and openness. Of the London boroughs which regulate and publicise the receipt of gifts and hospitality by their Members, more than half (16 Boroughs) have the threshold set at £25, three other boroughs have the threshold set at £50 as Croydon does, two have it set at £100 and one at £35. The City of London has their thresholds set at £250 for a one off gift or £500 from a single donor over the period of a financial year.
- 3.12 Whilst the Inquiry were satisfied that the Code of Conduct covered the behaviour to be expected of Members in setting and claiming allowances, Members may wish to consider if there is any additional wording which might usefully strengthen the Code in this regard without cutting across the obligations already imposed on the Council by the Local Authorities (Members' Allowances) (England) Regulations 2003.
- 3.11 Members of this Committee will be aware that Full Council recently reviewed and updated the Members' Scheme of Allowances to make clear that there would be no automatic uplift of allowances and that any consideration of such an uplift would take place no more regularly than annually. As a result of this amendment, and the fact that the Council is not permitted to update its scheme of allowances more regularly than annually, the Committee cannot make in-year recommendations for changes to the Members Allowances Scheme for the current year therefore any such suggestions would need to be implemented from the next financial year.

4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

4.1 There are no direct financial implications arising from this report.

5. LEGAL CONSIDERATIONS

5.1 The Members' Allowances Scheme 2010/14 (the "Scheme") for Croydon was reviewed in 2010 and was contained within Part 6 of Croydon's Constitution.

5.2 The relevant legislation is the Local Authorities (Members' Allowances) (England) Regulations 2003 (the "Regulations"). This authorises the establishment by the Association of London Government (now London Councils) of an Independent Remuneration Panel (the "London Panel") to make recommendations in respect of the members' allowances payable by London Boroughs. Such a Panel was established and reported in 2001, 2003, 2006 and 2010. The London Panel's recommendations have led to substantial convergence of members' allowances across London.

5.3 It is a statutory requirement for the Council to take into account the recommendations of the London Panel when reviewing its own Members' Allowance Scheme (the "Scheme"), but it is not bound by their recommendations.

5.4 In accordance with the Regulations local authorities are required to publish the total sum paid to Members each year under the Scheme. The Scheme is broken down into various allowances: basic allowance; special responsibility allowance; dependent carers allowance; travel and subsistence allowance. In addition to publication requirement, it is also a legal requirement that a review of the Scheme is undertaken (as a minimum) every four years.

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BACKGROUND DOCUMENTS:

None