

Ethics Committee Agenda



To: Councillor Clive Fraser (Chair)
Councillor Pat Clouder (Vice-Chair)
Councillors Simon Brew, Patricia Hay-Justice, Joy Prince and
Helen Redfern

Independent Members: Ashok Kumar and Anne Smith

Reserve Members: Councillors Jeet Bains, Jan Buttinger, Felicity Flynn,
Karen Jewitt, Pat Ryan and Callton Young

A meeting of the **Ethics Committee** which you are hereby summoned to attend, will
be held on **Tuesday, 7 January 2020** at **6.30 pm** in **F10, Town Hall, Katharine
Street, Croydon CR0 1NX**

JACQUELINE HARRIS BAKER
Council Solicitor and Monitoring Officer
London Borough of Croydon
Bernard Weatherill House
8 Mint Walk, Croydon CR0 1EA

Annette Wiles 020 8726 6000 x64877
annette.wiles@croydon.gov.uk
www.croydon.gov.uk/meetings
Tuesday, 24 December 2019

Members of the public are welcome to attend this meeting.
If you require any assistance, please contact the person detailed above, on the
righthand side.

N.B This meeting will be paperless. The agenda can be accessed online at
www.croydon.gov.uk/meetings

AGENDA – PART A

1. Apologies for Absence

To receive any apologies for absence from any Members of the Committee.

2. Minutes of the Previous Meeting (Pages 5 - 12)

To approve the minutes of the meeting held on 16 and 20 May 2019 as an accurate record.

3. Disclosure of Interests

In accordance with the Council's Code of Conduct and the statutory provisions of the Localism Act, Members and co-opted Members of the Council are reminded that it is a requirement to register disclosable pecuniary interests (DPIs) and gifts and hospitality to the value of which exceeds £50 or multiple gifts and/or instances of hospitality with a cumulative value of £50 or more when received from a single donor within a rolling twelve month period. In addition, Members and co-opted Members are reminded that unless their disclosable pecuniary interest is registered on the register of interests or is the subject of a pending notification to the Monitoring Officer, they are required to disclose those disclosable pecuniary interests at the meeting. This should be done by completing the Disclosure of Interest form and handing it to the Democratic Services representative at the start of the meeting. The Chair will then invite Members to make their disclosure orally at the commencement of Agenda item 3. Completed disclosure forms will be provided to the Monitoring Officer for inclusion on the Register of Members' Interests.

4. Urgent Business (if any)

To receive notice of any business not on the agenda which in the opinion of the Chair, by reason of special circumstances, be considered as a matter of urgency.

5. Proposed Update to the Scheme of Co-Option (Pages 13 - 24)

For Members to consider the proposed amendments to the Scheme of Co-option and Code of Conduct for Co-opted Members.

**6. Recruitment And Appointment of Independent Persons
(Pages 25 - 30)**

For Members to consider recruitment to a pool of up to three Independent Persons.

7. Recent Case Law (Pages 31 - 34)

For Members to note the outcome of recent case law and developments in relation to Councillor conduct.

8. Dispensation Applications for Members (Pages 35 - 40)

To receive the report of the Executive Director of Resources & Monitoring Officer on Members' dispensations for consideration, if any are received.

9. Work Programme (Pages 41 - 44)

To consider the Committee work programme for the remainder of the Municipal Year.

10. Exclusion of the Press and Public

The following motion is to be moved and seconded where it is proposed to exclude the press and public from the remainder of a meeting:

“That, under Section 100A(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information falling within those paragraphs indicated in Part 1 of Schedule 12A of the Local Government Act 1972, as amended.”

PART B

11. Dispensation Applications for Members

To receive the report of the Executive Director of Resources & Monitoring Officer on Members' dispensations for consideration, if any are received.

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Ethics Committee

Meeting of held on Monday, 20 May 2019 at 8.00 pm in Council Chamber, Town Hall,
Katharine Street, Croydon CR0 1NX

MINUTES

Present: Councillor Humayun Kabir (Chair);
Councillors Clive Fraser, Pat Clouder, Simon Brew, Patricia Hay-Justice,
Joy Prince and Helen Redfern

Apologies: Independent Members: Anne Smith and Ashok Kumar

PART A

41/19 Appointment of Chair and Vice-Chair

The proposal was received for Councillor Fraser as Chair and Councillor Clouder as Vice Chair. The motion was proposed by Councillor Fraser and seconded by Councillor Clouder.

RESOLVED: The Committee resolved to agree the proposal confirming Councillor Fraser as Chair and Councillor Clouder as Vice Chair for the 2019/20 municipal year.

The meeting ended at 8.05 pm

Signed:

Date:

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Ethics Committee

Meeting of Ethics Committee held on Thursday, 16 May 2019 at 6.30 pm in Council Chamber, Town Hall, Katharine Street, Croydon CR0 1NX

MINUTES

- Present:** Councillor Clive Fraser (Chair);
Councillor Pat Clouder (Vice-Chair);
Councillors Patricia Hay-Justice, Joy Prince, Helen Redfern and Jeet Bains
- Also Present:** Jacqueline Harris Baker (Executive Director of Resources and Monitoring Officer)
- Apologies:** Councillor Mario Creatura and Independent Members Anne Smith and Ashok Kumar

PART A

33/19 Minutes of the Previous Meeting

The minutes of the meeting held on 7 March 2019 were agreed as an accurate record. The correction to 'Councillors' (plural) was noted on the recording of apologies.

34/19 Disclosure of Interests

There were no disclosures of pecuniary interests. Members confirmed their disclosure of interest forms were accurate and up-to-date.

35/19 Urgent Business (if any)

There were no items of urgent business.

36/19 Local Government Ethical Standards: A review by the Committee on Standards in Public Life

The item was introduced by the Executive Director of Resources and Monitoring Officer; an overview of the review of Local Government Ethical Standards undertaken by the Committee on Standards in Public Life had been provided at the Committee's previous meeting with the agreement to go through the best practice recommendations. Whilst it had been indicated by Government that these recommendation would be proposed for implementation in 2020, there was benefit in Croydon addressing these in advance. Each of the best practice recommendations was discussed by the Members of the Committee in turn:

Best practice 1: this related to prohibitions on bullying and harassment. The Executive Director for Resources and Monitoring Officer briefed Members on how the existing Members' Code of Conduct included provision around breaching equalities legislation and how there was a protocol on staff relations. The Code formed part of the Constitution and Members were expected to comply. However, it was acknowledged that the protocol did not include examples of what might constitute bullying. It was suggested that this could be inserted under the appropriate protocol (number six). It was recommended that the precise wording be taken from the Standards report which reflected best practice amongst other Councils.

The Members of the Committee AGREED the addition of examples of what might constitute bullying to the protocol on staff relations based on the examples provided in the Standards report.

Best practice 2: this related to the need to comply with any formal standards investigation. The Executive Director for Resources and Monitoring Officer highlighted that the Members' Code of Conduct already stated the need to comply fully with any scrutiny. It was also noted that the assessment criteria allowed for it to be determined that no further action be taken and provided for malicious accusations by members of the public. It was therefore recommended that this best practice recommendation had already been addressed.

The Members of the Committee AGREED that no change was required with regard to this best practice recommendation.

Best practice 3: this related to the regular review of and consultation on the Members' Code of Conduct. The Executive Director of Resources and Monitoring Officer highlighted that this was already achieved through the Ethic Committee. It was noted these reviews had resulted in changes to the Code such as the incorporation of the Nolan Principles of Public Life. However, it was acknowledged that this did not include consultation with the public and neighbouring authorities although it was not clear the degree to which this was necessary.

Given the Code of Conduct was regularly reviewed it was recommended that the Committee wait further guidance from Government on any further changes needed and that no change be implemented at the current time.

The Members of the Committee AGREED that no change be implemented regarding the review of and consultation on the Members' Code of Conduct.

Best practice 4: this related to the accessibility of the Members' Code of Conduct. Specifically how this is accessible to members of the public and Councillors. The Executive Director of Resources and Monitoring Officer described how the Members' Code of Conduct is part of the Constitution and accessible to all through the Council's website. It was noted that there was no change needed regarding the accessibility of the Code.

The Members of the Committee AGREED to note this best practice recommendation and that no change was needed.

Best practice 5: this related to the gifts and hospitality register being updated quarterly. The Executive Director for Resources and Monitoring Officer explained that this is done live and therefore more frequently than quarterly with a separate section on the website for the declaration of gifts and hospitality received by Members. The Committee discussed Members declaring being on any outside body even if not receiving a pecuniary interest.

The Members of the Committee AGREED that all Members be contacted and asked to declare any non-pecuniary positions and gifts.

Best practice 6: this related to the need for a clear and straightforward test of public interest against which allegations are filtered. The Executive Director for Resources and Monitoring Officer noted that this had been reviewed in 2019 by the Ethics Committee with a public interest test clearly stated in the assessment criteria. Therefore, the recommendation was that no change was required.

The Members of the Committee AGREED to note the best practice recommendation and that no change was required.

Best practice 7: this related to being able to access at least two Independent Members. The Executive Director for Resources and Monitoring Officer noted that there were two Independent Members in place who were accessible. Therefore, it was proposed that no further change was required as a result of this best practice recommendation.

The Members of the Committee debated the length of time an Independent Member should be in place before they could be considered to have lost their independence and how this should be weighed against the difficulties experienced in recruiting Independent Members.

The Members of the Committee AGREED that the Chair would consider the issue of how long an Independent Member should remain in post with this item to potentially return to the Committee for further consideration.

Best practice 8: related to consulting with an Independent Member about whether or not to undertake a formal investigation. The Executive Director of Resources and Monitoring officer described how discretion is applied in Croydon regarding consultation with the Independent Member. It was described how the Monitoring Officer and Councillors can take advantage of the ability to consult.

The Members of the Committee noted their contentment on this best practice recommendation given this was already being followed.

Best practice 9: this related to the publishing of a decision notice following a formal investigation. The Executive Director for Resources and Monitoring Officer noted that this provision already existed.

Members noted that no changes were recommended.

Best practice 10: this related to guidance on the complaints process be accessible on the Council's website. The Executive Director for Resources and Monitoring Officer noted that this was already in place with no changes recommended.

Members noted that no changes were recommended.

Best practice recommendations 11 and 12: were noted as only applying to Parish Councils and therefore were not appropriate for consideration by the Committee.

Best practice recommendation 13: related to having procedures in place to address conflicts of interest when undertaking a standards investigation. The Executive Director for Resources and Monitoring Officer explained how the Council benefits from having two deputy Monitoring Officers but consideration would also be given to appointing an external investigator should the need arise. It was therefore recommended that the issue of conflicts of interest was adequately addressed and no recommendation was required.

Members noted that no changes were recommended.

Best practice 14: related to reporting on separate bodies that have been set-up or which Councils own as part of their annual governance statement. The Executive Director for Resources and Monitoring Officer described how this was dealt with on the General Purposes and Audit Committee (GPAC) annually. As such no change was required with no recommendation made. The Executive Director for Resources and Monitoring Officer noted this will be highlighted with the Head of Audit who prepares the statement.

Members noted that no changes were recommended.

Best practice 15: related to senior officers meeting to discuss standards issues with Leaders and Group Whips of both political parties. The Executive Director for Resources and Monitoring Officer described how these meeting happened regularly and noted that both Chief Whips were members of the Ethics Committee.

Members noted that no changes were recommended.

RESOLVED: Members AGREED the recommendations in the report:

- 1.1. Noted the contents of the report;
- 1.2. Recommended to Full Council that the Protocol on Staff-Member relations, Part 5B of the Constitution, be updated to include, as detailed in paragraph 3.10, a definition of bullying and harassment;

- 1.3. Noted the current compliance with best practice items 2 – 4, 6, 7, 9-13 and 15 and that no changes be made to the Code or Committee practice in those regards;
- 1.4. Noted that best practice items 11 and 12 were currently not applicable to the Council;
- 1.5. In relation to Best Practice item 5, encourage Members to ensure that they complete the “Any other personal interest” section of the Register of Members’ Interests where they consider that there are additional matters in respect of which declarations ought to be made;
- 1.6. Noted that the Council is in compliance with the statutory requirements as they related to Best Practice item 8 and currently had one more Independent Person in post than the statutory minimum. However, given the matters highlighted within the report, recommended no changes to Council arrangements in relation to this element;
- 1.7. Noted that Best Practice item 14 is not a matter within the Ethics Committee remit but is a matter which is consider by General Purposes and Audit Committee as part of the Annual Governance Statement process and approval.

37/19 Work Programme

RESOLVED: the work programme as contained in the agenda pack (pages 31 – 34), was AGREED by the Members of the Committee.

38/19 Dispensation Applications for Members

No requests for personal dispensations were received.

39/19 Exclusion of the Press and Public

No requests for personal dispensations were received and therefore this item fell.

40/19 Dispensation Applications for Members

No requests for personal dispensations were received and therefore this item fell.

The meeting ended at 7.16 pm

Signed:

Date:

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REPORT TO:	ETHICS COMMITTEE
AGENDA ITEM NO:	7 JANUARY 2020
SUBJECT:	PROPOSED UPDATES TO THE SCHEME OF CO-OPTION IN PART 6D TO THE CONSTITUTION
LEAD OFFICER:	EXECUTIVE DIRECTOR OF RESOURCES, COUNCIL SOLICITOR & MONITORING OFFICER
CABINET MEMBER:	CLLR SIMON HALL CABINET MEMBER FINANCE AND TREASURY
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 matters relating 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 Consider the proposed amendments to the Scheme of Co-option set out in Appendix 1 hereto;
- 1.2 Consider the proposed amendments to the Code of Conduct for Co-opted Members set out in Appendix A to Appendix 1 hereto; and
- 1.3 Recommend to Full Council the adoption of the amendments to the Scheme of Co-option within Part 6D of the Constitution (which is Appendix 1 hereto); and
- 1.4 Recommend to Full Council the adoption of the amendments to the Code of Conduct for Non-Voting Co-optees and its inclusion within the Constitution as an Appendix to Part 6D of the Constitution; and
- 1.5 Recommend to Full Council the inclusion of reference, within Part 5I of the Constitution, to the application of the Code of Conduct for Members to representatives of the Pensions Board as detailed within paragraph 3.6 below and set out in Appendix 2 in this report in tracked changes.

2. EXECUTIVE SUMMARY

- 2.1 The Council has determined that the Ethics Committee shall be responsible for receiving and considering reports on matters of probity and ethics. This report details recommended changes to the Scheme of Co-option, Part 6D of the Constitution in order to set out the relevant rules for all Co-optees in one document and to incorporate the previously agreed Code of Conduct for Co-opted Members into the Constitution.

3. DETAIL

- 3.1 The current Scheme of Co-option covers only those co-optees who sit on Overview and Scrutiny or one of its sub-committees as required by the provisions of the Localism Act 2011.
- 3.2 Although procedures for Co-option onto other Committees which are required or permitted by statute are in place, they are not currently set out as part of the scheme of co-option and the purpose of the revisions is to incorporate these into a single document.
- 3.3 Following consideration by this Committee in December 2014, the Code of Conduct for Co-opted Members was approved by Full Council on 26 January 2015 and currently applies to all non-voting co-opted members on Council committees and any representatives on Task and Finish Groups.
- 3.4 Under the provisions of the Localism Act 2011, the Code of Conduct for Members applies to any voting co-opted members and any co-opted members on Overview and Scrutiny. In addition, the Pensions Board terms of reference expressly provide that co-opted members of the board shall abide by the Code of Conduct for Members.
- 3.5 With the revisions to the Scheme of Co-option to incorporate reference to all the various co-optees on Council committees and bodies, there is a need to clarify and update the Code of Conduct for Co-opted Members.
- 3.6 In addition, it is recommended that specific reference is included in the introductory paragraph of the Code of Conduct for Members, Part 5I of the Constitution, to Pension Board Members. The Pensions Board terms of Reference, Part 4M, specifically provides that members of/ representatives on the Pensions Board shall comply with the Code of Conduct for Members, Part 5I and therefore this single amendment is recommended for consistency purposes.
- 3.7 The Committee is therefore asked to consider the proposed amendments to both the Scheme of Co-option and to the Code of Conduct for Co-opted Members and recommend to Full Council the adoption of the amendments, including the incorporation of the Code of Conduct for Co-opted Members into Part 6D.

4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

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

5. LEGAL CONSIDERATIONS

- 5.1 There are no additional legal considerations arising from the contents of this report which are not set out in the body of the report.

CONTACT OFFICER: Jacqueline Harris-Baker, Executive Director of Resources, Monitoring Officer and Council Solicitor (ext 62328)

BACKGROUND DOCUMENTS: None

APPENDICES:

Appendix 1: Proposed amendments to the Scheme of Co-option

Appendix A to Appendix 1: Proposed amendments to Code of Conduct for Co-opted Members

Appendix 2: Proposed amendment to Code of Conduct, Part 5I of the Constitution

CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

PART 6D

Scheme of Co- option

- 1.1 ~~The Localism Act 2011 introduced a requirement for councils to establish a scheme of co-option for all non-elected Members with voting rights. Without such a scheme, it is no longer possible for non-elected representatives to become co-opted Members and hold voting rights. This scheme applies to all Co-opted Members whether they are voting or non-voting. The scheme does not covers the co-option of voting and independent non-voting co-opted Members onto current other Committees as detailed in sections 2 - 10 below.~~
- 1.2 The purpose of this scheme of co-option is to:
- ~~• Formalise the appointment of co-opted Members~~ Bring together in one document the various provisions in place for co-option across the Committees and statutory Boards of the Council.
 - Outline the role and expected contribution of co-opted Members
 - Clarify the induction to be provided to co-opted Members and the support and training to be made available
 - ~~• Provide the Scrutiny & Overview Committee with the opportunity to appoint further co-opted Members~~
- 1.3 Co-opted Members can provide ~~scrutiny~~ committees with outside knowledge, experience and skills that can inform the work of ~~scrutiny the Committee~~ and supplement the role of councillors.
- ~~1.3 In Croydon there are four co-opted Members with full voting rights required by statute: two Parent Governor representatives, a representative from the Church of England diocese and a representative from the Roman Catholic archdiocese. There are also two further co-opted Members who do not have voting rights: a teacher representative and a representative from the Healthwatch (Croydon).~~
2. **Statutory Co-opted Members on Scrutiny and Overview Sub-Committees required by Statute**
- 2.1 The Parent Governor representatives and the arch/diocesan representatives on the Scrutiny Sub-Committees exercising education function are required by law (*The School Standards and Framework Act 1998 for Parent Governors and the Education Act 1996 for Diocesan representatives*). The legislation explains that these co-opted Members will have full speaking and voting rights for any decisions relating to education and school matters. Parent Governor representatives are elected by the Borough's parent governors, but once co-opted their role is to be an apolitical voice for *all* parents in the area. The Church of England and Roman Catholic representatives are nominated by the

Bishop and Archbishop of Southwark respectively. Voting Co-opted Members on Scrutiny and Overview have the same rights of access to information as councillors, and are required to comply with the same code of conduct.

2.42.2 The Co-opted voting members are subject to the Members' Code of Conduct, Part 5I of the Constitution.

3. Non-statutory Co-opted Members on Scrutiny and Overview Sub-Committees appointed at the Committee's discretion

3.1 ~~Scrutiny committees, and sub-committees, can also choose to appoint non-statutory co-opted Members.~~ Currently in Croydon there are two non-statutory co-opted Members: a teacher representative and the Healthwatch (Croydon) representative. These "non-statutory" co-opted Members do not have voting rights and are co-opted at the discretion of the Scrutiny & Overview Committee, which can also rescind the appointment if it feels it is necessary.

3.2 ~~The Scrutiny and Overview Committees, or sub-committees, have~~ the power to appoint these additional co-opted Members if it is judged that they will be beneficial to the committee as it carries out its work. Before ~~recommending appointing~~ any additional co-opted Members to full Council for appointment, the committee, ~~or sub-committee~~, should demonstrate that it has considered the composition of the local community to ensure it is as representative as possible. An over-representation of any particular specialist area should also be avoided and the elected Members of the committee should always have a majority over co-opted Members.

~~3.3 Non-statutory~~ These co-opted Members will usually (but not exclusively) be representatives of specific organisations relevant to the work of the committee. The ~~appointing-recommending~~ committee should invite the organisation to make an appropriate nomination, although a vacancy can be advertised more widely if the committee agrees it would be beneficial. Anyone who lives, works (including voluntary work) and/or studies in Croydon is eligible to be a ~~non-statutory~~ co-opted Member, except if they are a Croydon Council Member or Croydon Council Officer. In approving an appointment, the committee will be mindful of the potential for any ongoing prejudicial interests between, for example, the co-opted Member's paid employment and the work of the committee and there are declaration requirements placed on any such appointees.

3.4 These co-optees are subject to the Code of Conduct for Non-Voting Co-optees, Appendix A hereto.

4. Appointments Committee Co-opted Members

4.1 The independent voting Co-optees on the Appointments Committee are appointed to consider specified disciplinary matters.

4.2 Where the Appointments Committee is giving consideration to dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer, the Appointments Committee shall include at least two voting co-opted Independent Persons.

4.3 These co-optees are subject to the Members' Code of Conduct, Part 5I of the Constitution.

5. Ethics Committee Co-opted Members

5.1 The Independent non-voting Co-optees are required to be appointed by statute and are invited to attend all meetings of the Ethics Committee and their views are sought and taken into consideration before the Ethics Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

5.2 These Co-opted members on the Ethics Committee are subject to the Code of Conduct for Non-Voting Co-optees, Appendix A hereto.

6. General Purposes and Audit Committee Co-opted Members

6.1 The General Purposes and Audit Committee appoints two independent non-voting co-opted committee members who are permitted to be involved in respect of the Audit Functions of the committee only.

6.2 The Co-optees are subject to the Code of Conduct for Non-Voting Co-optees, Appendix A hereto.

7. Health and Wellbeing Board Members

7.1 Both voting and non-voting members of the Board are subject to the Members Code of Conduct, Part 5I to the Constitution.

8. Pensions Board Members

8.1 The Pension Board, with an independent non-voting Chair, is formed of three voting employer representatives and three voting representatives of the Pension Fund. The Board secures the effective and efficient governance and administration of the Croydon Council Pension Fund.

8.2 The terms of reference of the Pensions Board (Part 4M of the Constitution) requires that all members of the Pensions Board abide by (and sign up to) the Members' Code of Conduct, Part 5I to the Constitution.

9. Pensions Committee Co-opted Members

9.1 The Pensions committee includes 1 Staff Side non-voting co-opted member and 2 Pensioner Side co-opted Members (1 of whom is a voting co-opted member and one of whom is a non-voting co-opted member).

9.2 Staff side and Pensioners' side members are appointed on an annual basis following consultation with the Staff side and Pensioners of the Pension Fund.

9.3 Two representatives of Pensioners of the Fund are elected by ballot of Pensioners of the Fund, one of whom shall be a voting member and one of whom shall be a non-voting member. The representative with the most votes following the ballot of Pensioners of the Fund shall be the voting member. The other representative of the Pensioners of the Fund shall be non-voting

however is permitted to exercise a vote only in the absence of, and on behalf of, the voting representative. The ballot is normally undertaken every 3-4 years.

9.4 The voting co-opted Member is subject to the Members' Code of Conduct, Part 5I of the Constitution.

9.5 The non-voting co-opted Members are subject to the Code of Conduct for Non-Voting Co-optees, Appendix A hereto.

10. Task and Finish Group Appointees

10.1 The Code of Conduct for non-voting Co-optees, Appendix 1 hereto, applies to any appointees to Task and Finish Groups.

11. Appointees to Panels/Forums

12.1 Panels and forums are not regarded as Committees of the Council, nor are appointees to such forums regarded as co-optees. As such they are not subject to the Code of Conduct requirements placed either on voting or non-voting co-optees of the Council.

4.12. Terms of Office

12.1 Subject to the requirements of the Committee in question, Co-opted Members will usually ~~be invited to be appointed~~serve for a term of office of four years ~~but be appointed annually at Full Council~~. Towards the end of a term of office, the ~~appointing relevant~~ committee will consider whether ~~that any~~ non-statutory co-opted post is still required. ~~If it is, the existing co-opted Member will be asked whether they wish to continue in their role. If it is, At this time,~~ the committee ~~may also decide to~~shall advertise the vacancy ~~more widely by means appropriate to the nature of the vacancy, which will usually include via the Council's website.~~

12.2 Non-statutory co-opted Members can be disqualified during their term of office if they do not attend four consecutive meetings of the committee to which they have been co-opted without giving an apology; ~~if they fail to adhere to the Code of Conduct which applies to them~~ or if they are ~~subsequently~~ elected as a Member of Croydon Council.

12.3 Where Co-optees ~~if they have been~~ are appointed on the basis of representing a particular organisation or group, then their term of office will also end if they resign from or are disqualified from being a Member of that organisation or representative of that group, or if that organisation/group ceases to exist.

12.4 It is the responsibility of the co-opted Member to inform the Council if a circumstance arises that they believe disqualifies them from continuing in their term of office.

12.5 Co-opted Members can also resign during their term of office if they feel that they can no longer fulfil the requirements of the role.

13.6 Non-statutory co-opted Members can also be appointed for a shorter period, for example, to be involved with a specific piece of work, ~~for example a task and finish group.~~

5.13. Powers and responsibilities

5.13.1 ~~C~~Statutory and non-statutory co-opted Members will:

- Be required to comply with the Members' Code of Conduct or Code of Conduct for non-voting Co-optees and register and declare/ register and notify disclosable pecuniary interests as required by the respective Codes.
- Be expected to agree, in writing, to abide by the Code which is applicable to them for their role
- Be entitled to speak on any matter that is discussed by the committee to which they have been appointed provided that it falls within their remit (for example on Appointments committee and General Purposes and Audit Committee, the co-optees are only appointed for specific purposes)
- Be encouraged to contribute to the development of the scrutiny-committee work programme and propose agenda items for future meetings
- ~~Have full voting rights on all education matters (excluding any non-statutory co-opted Members)~~
- ~~Be eligible to chair a scrutiny committee, sub-committee or task & finish group~~
- Be expected to attend all meetings of the committee to which they have been appointed having read the agenda papers
- Bring an external perspective to the work of scrutiny-the Committee by utilising their specialist knowledge and experience
- Be expected to represent the whole community and not just one sector or viewpoint
- Act independently of party politics and lobbying interests
- Be responsible for keeping the organisation or interest they were appointed to represent informed and engaged in scrutinythe work of the Committee
- Be expected to treat other committee Members, officers and external witnesses-parties with respect
- Be required to recognise that they may encounter sensitive information and to act with discretion
- Not to disclose or - other than in the performance of their role on the Committee - use exempt or confidential information
- To raise issues with the Monitoring Officer or Head of Democratic Services at the earliest possible opportunity if there are any concerns

6.14. Support for Co-opted Members

6.14.1 All co-opted Members will be provided with a comparable level of support to the elected Members. This will include:

- All summons, agendas and committee reports will be sent to co-opted Members at the same time as elected Members and will comply with the public access to information regulations
- An induction will be provided for new co-opted Members that will outline their expected contribution ~~to scrutiny~~ and familiarise them with the ~~Members'~~ Code of Conduct which applies to them in their role
- Co-opted Members will be invited to attend Member training sessions that relate to their role ~~on scrutiny~~

- Co-opted Members will not receive an allowance or salary

7.15. Why co-opt

Co-option is a way of ensuring that under represented voices are represented on Council committees. The Equality Act 2011 (section 149) places a public sector equality duty (section 146) on the council. The duty requires the Council to have due regard to *the need to advance equality of opportunity* between persons who share a relevant protected characteristic and persons who do not share it;

Having “due regard” to the need to advance equality of opportunity involves having due regard, in particular, to the need to *encourage persons* who share a relevant protected characteristic *to participate in public life* or in any other activity in which participation by such persons is disproportionately low.

LONDON BOROUGH OF CROYDON

Code of Conduct for Non-voting Co-optees

For the purposes of this Code, “non-voting co-opted Member” includes any person appointed as a non-voting co-optee on any Council Committee, or any appointee on any Council Task and Finish Group who is not a Member or Officer of the London Borough of Croydon. It does not apply to appointees to any Panels or Forums set up by the Council. It also does not apply to Members of the Health and Wellbeing Board who are instead subject to the Members’ Code of Conduct, Part 5I to this Constitution. include Statutory Co-opted Members or Non-Statutory Co-opted Members appointed to Scrutiny and Strategic Overview Committee who are subject to the provisions of the Scheme of Co-option in Part 6D of the Council’s Constitution.

1. You are a non-voting co-opted Member of the London Borough of Croydon and as such you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty, leadership and undertake to observe this Code when acting in your capacity as a non-voting co-opted Member. On appointment, you shall provide written agreement to abide by this Code.
2. When acting in your capacity as a non-voting co-opted Member:-
 - i) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate or other business or employment relationship you may have.
 - ii) You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties as a non-voting co-opted Member.
 - iii) When carrying out your public duties you must make all choices and recommendations on merit without discrimination or bias.
 - iv) When carrying out your public duties you shall not disclose sensitive information or information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential or sensitive nature.
 - v) You are accountable for your actions to the public and you must co-operate fully with whatever scrutiny is appropriate to your role as determined by the Council.
 - vi) You must be as open as possible about your decisions and actions in your role and should be prepared to give reasons for those decisions and actions.
 - vii) You must declare any private interests, both pecuniary and non-pecuniary, which relate to your role and must take steps to resolve any conflicts arising in a way that protects the public interest. This means you shall notify the Council’s Monitoring Officer of any interests set out in paragraph 3 below.
 - viii) You must, when using or recommending the use by others of the resources of the Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

ix) You must promote and support high standards of conduct when serving in your public role, in particular as characterised by the above requirements, by leadership and example, including not doing anything which breaches the equalities legislation.

3. Registering and notifying interests

i) You must, within 28 days of taking on your role as a non-voting co-opted Member or on becoming aware of the interest, notify the Council's Monitoring Officer of any of the following interests you may have:

- Any matter of business which is before the Council Committee/body to which you are co-opted/appointed for consideration or decision where it either relates to or is likely to affect—

(1) any body (including any body exercising functions of a public nature or directed to charitable purposes or which has as one of its principal purposes, the influence of public opinion or policy (which shall encompass any political party or trade union)) of which you are a member or in a position of general control or management or which has nominated you for the role of co-optee; and

(2) any contract for goods, services or works made between the Council and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (1) above;

(3) any land in which you have a beneficial interest;

(4) any land where the landlord is the Council and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (1) above is, the tenant;

(5) any land in the Council's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer;

- Any any gift(s) or hospitality the value of which exceeds £50 and which relate to your role as a non-voting co-opted Member.

ii) You may not participate in any discussion of any matter before the Committee to which you are co-opted which relates to any matter in respect of which you have notified or ought to have notified an interest as set out above.

iii) Any interests so notified to the Monitoring Officer will be retained as part of the register maintained by the Monitoring Officer for the duration of your appointment.

4. Failure to comply with this Code

Failure to comply with the requirements of this Code may result in a termination of your role as non-voting co-optee on behalf of the Council.

CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

Part 5.I - Members' Code of Conduct*

1. You are a member or co-opted member of the London Borough of Croydon or a Member of the Health and Wellbeing Board or Pensions Board and as such you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and truthfulness, leadership and undertake to observe this Code when acting in your capacity as a member or co-opted member.
2. When acting in your capacity as a member or co-opted member:-
 - i) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
 - ii) You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you inappropriately in the performance of your official duties.
 - iii) When carrying out your public duties you must make all choices, such as making public appointments, determining applications, awarding contracts or recommending individuals for rewards or benefits, on merit without discrimination or bias.
 - iv) You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office as determined by the Council.
 - v) You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
 - vi) You must declare any private interests, both pecuniary and non-pecuniary, which relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest. This means you must register and declare the interests set out in paragraph 3 below, in a manner conforming with the procedures set out therein.
 - vii) You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have

regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

- viii) You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example, including not doing anything which breaches the equalities legislation and observing the Council's Protocol on Staff - Councillor Relations.

3. Registering and disclosing pecuniary and non-pecuniary interests

- i) You must, within 28 days of taking office as a member or co-opted member, notify the Council's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
- ii) In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's Monitoring Officer of any disclosable pecuniary or non-pecuniary interest which the Council has decided should be included in the register. For these purposes the Council has determined that you will disclose any gift(s) or hospitality the value of which exceeds £50 or multiple gifts and/or instances of hospitality with a cumulative value of £50 or more when received from a single donor within a rolling twelve month period.
- iii) If an interest described in (i) above has not been entered onto the Council's register, or is not pending inclusion on the register following your notification to the Monitoring Officer then you must disclose the interest to any meeting of the Council at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹
- iv) Following any disclosure of an interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
- v) Unless a dispensation has been granted, you may not participate in any discussion of, vote on or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions the Council places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by the Council.

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REPORT TO:	ETHICS COMMITTEE 7 JANUARY 2020
SUBJECT:	SUCCESSION PLANNING FOR AND RECRUTIMENT AND APPOINTMENT OF FURTHER INDEPENDENT PERSONS
LEAD OFFICER:	JACQUELINE HARRIS-BAKER MONITORING OFFICER AND EXECUTIVE DIRECTOR FOR RESOURCES
CABINET MEMBER:	COUNCILLOR SIMON HALL
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON: <p>The proposal will ensure good governance within the Council and by councillors and supports all strategic priorities. Good governance underpins the Council's Corporate Plan.</p> <p>Corporate Plan for Croydon 2018-2022</p>	
FINANCIAL IMPACT <p>The financial implications arising from the recommendations will be contained within existing budgets.</p>	

1. RECOMMENDATIONS

Committee is recommended to:

- 1.1 Delegate to the Monitoring Officer authority to commence a recruitment process in line with section 28 of the Localism Act 2011 for the appointment of additional Independent Persons to a pool comprising up to five Independent Persons.
- 1.2 Subject to their agreement to recommend to Full Council the re-appointment of Anne Smith and Ashok Kumar as Independent Persons for a further term of four years from May 2020.
- 1.3 Agree the establishment of a Selection Panel for the purposes of selection and recommendation back to this committee of up to three further Independent Persons for appointment as detailed within the report.
- 1.4 Agree that the Selection Panel shall comprise three members of this Committee: the Chair and two further Members to be nominated by the Committee with advisory support to be provided by the Monitoring Officer and a current Independent Person

2. EXECUTIVE SUMMARY

- 2.1 The report provides an update regarding the succession planning proposed in relation to ensuring that the Council has sufficient Independent Persons to continue to perform its statutory functions under the Localism Act 2011 and under Part 4J of the Council's Constitution (Staff Employment Procedure Rules) as detailed below.
- 2.2 The report recommends authorising the Monitoring Officer to commence a recruitment process to increase the number of Independent Persons appointed to this pool and the composition of Selection Panel for this purpose.

3. DETAIL

- 3.1 Section 28 of the Localism Act 2011 ("the Act") imposes a duty upon the Council to 'promote and maintain high standards of conduct by Members and Co-opted Members of the Council'. The Council is required to adopt a Code dealing with the conduct that is expected of Members and Co-opted Members of the Council when they are acting in that capacity. In addition, under Section 28(6) and (7) of the Act, the Council must have in place "arrangements" under which allegations that a Member or co-opted Member of the authority, or of a Committee or Sub-Committee of the authority, has failed to comply with the Council's Code of Conduct can be investigated and decisions made on such allegations.
- 3.2 Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a Member or co-opted Member against whom an allegation has been made.
- 3.2 The Council has delegated to the Ethics Committee the function of investigating and determining any allegations of a breach of the Code of Conduct. The Committee comprises five elected Members of the Council and the Independent Persons who are non-voting advisory members of the Committee.
- 3.3 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 ("the Regulations") make specific provision for the involvement of Independent Persons in relation to Disciplinary Action taken against Head of Paid Service, Section 151 Officer or Monitoring Officer. Part 4J of the Constitution which incorporates the requirements of the Regulations provides that consideration of disciplinary action which could result in dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer will be the responsibility of the Appointments Committee. The Appointments Committee shall, for this purpose, include at least one Member of the Cabinet and at least two Independent Persons when consideration is being given to dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer. Any such Appointments Committee shall consider the matter in accordance with the processes and procedures approved by Ethics Committee for this purpose and make a report and recommendations to full Council for consideration and final determination. Any such report shall specifically include the Independent Persons' views on the recommendations and appropriate action.

3.5 The Council's Independent Persons therefore fulfil a statutory role both in relation to Member conduct issues and also disciplinary decisions involving the Council's statutory officers.

3.6 Members of the Committee will recall the recommendations contained in the Committee on Standard in Public Life (CSPL) report which was considered at its meetings on March and May 2019. Attached is the link to the full report of the CSPL which was considered by the Committee.
<https://www.gov.uk/government/collections/local-government-ethical-standards>

In particular with regard to Independent Persons the CSPL felt that the role of the Independent Person should be strengthened. They considered that security of tenure was important to protect Independent Persons from being removed from their role for unpopular advice or recommendations. Equally, however, they considered that restricted tenure can ensure that the Independent Person's judgment and independence is not compromised by a long period of involvement in a single authority although no evidence was provided in the report to support this view.

3.8 There is currently no requirement for a set term of office for the Independent Person role in law.

Recommendation 8 of the CSPL report provides that:
The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

In order to become a legal requirement this recommendation would require a change in the law. However, Members discussed, at their last meeting, how long they considered an Independent Person should remain in post to ensure their independence and it was agreed that the matter should return to the Committee for consideration.

3.9 Following the introduction of the new standards regime in 2012 and after a successful recruitment and selection process the Council at its meeting on 2 July 2012 appointed a pool of 3 Independent Persons. Of these, Anne Smith, and Ashok Kumar have remained as Independent Persons since this time and the Council has renewed their appointments on an annual basis. They have significant knowledge and expertise in the area of ethical standards and have provided valuable advice to the Monitoring Officer and this Committee in relation to member standards. More recently Anne Smith has been lending her expertise to and providing essential independent advice in connection with the Council's governance review, which is underway.

3.10 Mindful of the vital role played by the Council's Independent Persons and the valuable contribution which they continue to make, and with a view to planning for future changes which may arise both from an increased role for Independent Persons and a legislative change in terms of the term of office for such persons, it is considered advisable to seek to appoint additional Independent Persons to the pool of Independent Persons to bring the total number of Independent Persons to a maximum of five.

- 3.11 Anne and Ashok are currently appointed until the end of the municipal year in 2020 and it is proposed, subject to their willingness to continue on in this role and full Council approval, to seek their re-appointment for a further four year term from May 2020.
- 3.12 In order to action the proposals, it is recommended to delegate to the Monitoring Officer authority to commence a recruitment process in line with section 28 of the Localism Act 2011 for the appointment of up to three additional Independent Persons to a pool comprising up to five Independent Persons in time for the commencement of the new municipal year in 2020.
- 3.13 In order to undertake the selection of appropriate candidates for recommendation to Full Council it is proposed to establish a Selection Panel for this purpose. It is proposed that the Selection Panel be provided with advisory support by the Monitoring Officer and a current Independent Person and that the Panel itself comprises three members of this Committee: the Chair and two further members to be nominated by this meeting.
- 3.14 The Selection panel shall report their findings back to this Committee for onward recommendation to Full Council with a view to appointing up to three additional Independent Persons from May 2020.

4. CONSULTATION

- 4.1 No formal consultation has been undertaken in relation to this proposal. However, the Committee have considered the findings of the CSPL report. In the event that a recruitment process is agreed the Localism Act requires that this would involve a public advertisement and formal application.

5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

Revenue and Capital consequences of report recommendations

- 5.1 No allowance is payable for the role of Independent Person. There are no employee costs arising from these appointments, and recruitment costs are minimal and can be funded from operational budgets.

Approved by: Ian Geary, Head of Finance, Resources.

5. OTHER OPTIONS CONSIDERED

It was considered whether it would be appropriate, in light of the CSPL recommendations to commence a recruitment process seeking appointment of a pool of entirely new Independent Persons. This approach was not considered to be optimal on the basis of the ongoing essential work which the current Independent Persons provide and mindful of the fact that the CSPL recommendation is not a legal requirement at this point in time. It is however considered appropriate to commence succession planning to provide for the possibility that there may be a future change to the term of office which Independent Persons may legally serve. In the intervening period, it is not considered appropriate

6. LEGAL CONSIDERATIONS

6.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Law and Governance that the role of Independent Persons is a statutory requirement through the Localism Act 2011. The law provides that a person may not be an Independent Person if he or she is a Member, a Co-opted Member or an officer of the Council or a relative or close friend thereof. It also provides that a person may not be appointed if they were a Member or Co-opted Member during the past five years.

6.2 All other legal requirements are as set out within the body of this report.

Approved by: Sandra Herbert Head of Litigation and Corporate Law on behalf of the Director of Law and Governance & Deputy Monitoring Officer.

7. HUMAN RESOURCES IMPACT

There are no human resource implications arising from this report.

Approved by: Sue Moorman Director of Human Resources.

8. EQUALITIES IMPACT

8.1 The Equality Act 2011(section 149) places a public sectorequality duty (section 146) on the Council. The duty requires the Council to have due regard to *the need to advance equality of opportunity* between persons who share a relevant protected characteristic and persons who do not share it.

8.2 Having “due regard” to the need to advance equality of opportunity involves having due regard, in particular, to the need to *encourage persons* who share a relevant protected characteristic *to participate in public life* or in any other activity in which participation by such persons is disproportionately low.

8.3 Co-option is a way of ensuring that under represented voices are represented on Council committees.

8.4 The law requires that the vacancy for an independent Person is advertised in such a manner as the Council consider is likely to bring it to the attention of the public. Subject to the statutory restrictions around applicant’s demonstrating ‘independence’ the vacancy would be available to all.

9. ENVIRONMENTAL IMPACT

There are not considered to be any environmental impacts of the proposal.

10. CRIME AND DISORDER REDUCTION IMPACT

The proposal supports the requirement to maintain good governance within the Council.

CONTACT OFFICER: Jacqueline Harris-Baker Executive Director of Resources and Monitoring Officer.

APPENDICES TO THIS REPORT
None

BACKGROUND DOCUMENTS: *None*

REPORT TO:	ETHICS COMMITTEE 7 JANUARY 2020
SUBJECT:	RECENT DEVELOPMENTS AND CASE LAW – COUNCILLOR CONDUCT
LEAD OFFICER:	JACQUELINE HARRIS-BAKER, EXECUTIVE DIRECTOR OF RESOURCES AND MONITORING OFFICER
CABINET MEMBER:	COUNCILLOR SIMON HALL – CABINET MEMBER FOR FINANCE AND RESOURCES
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 have no financial implications.	
FORWARD PLAN KEY DECISION REFERENCE NO: This is not a key decision.	

1. RECOMMENDATIONS

The Committee is asked to:

1.1 Note the outcome of recent case law and developments in relation to councillor conduct since the last Ethics Committee (20 May 2019).

2. EXECUTIVE SUMMARY

- 2.1 This report provides details of the work the Committee on Standards in Public Life (CSPL) since the last meeting of the committee. This work has included producing a number of short films about the Nolan Principles, undertaking a review of artificial intelligence and its impacts on standards and announcing a new approach to tackling intimidation in public life.
- 2.2 The CSPL has also published its review of political parties' codes of conduct and continues to consider the issue of bullying and harassment in parliament. The report will also provide an update in relation to the Government's response to the CSPL's report on Local Government ethical standards.

3 DETAIL

The Principles of Public Life

- 3.1 October 2019 saw the CSPL celebrate their 25th anniversary. The CSPL noted that their role has remained broadly the same over their 25 years as an independent body to advise the Prime Minister, national and local government and the public on trends, issues and concerns about standards in public life. The Committee act as the guardians of the Seven Principles of Public Life otherwise known as the 'Nolan Principles'.
- 3.2 To celebrate their 25th anniversary the Committee has made some short films with the Committee members talking about the Principles of Leadership, Honesty, Openness, Accountability, Objectivity, Integrity and Selflessness and what they mean in practice. The videos can be accessed here - <https://www.youtube.com/channel/UCL04xn0gFY8rx2an6GM112Q>

Artificial Intelligence and Public Standards

- 3.3 On the 25 March 2019 the CSPL announced a review into artificial intelligence and its impact on standards across the public sector. The review will consider whether the existing frameworks and regulations are sufficient to ensure that high standards of conduct are upheld as technological assisted decision making is adopted more widely across the public sector. A copy of the review can be accessed via this link <https://www.gov.uk/government/collections/ai-and-public-standards>. As part of the review roundtable discussions were carried out in May and June 2019 with practitioners, public service providers, government, academics and experts. The Committee is expecting to publish its report in the New Year.
- 3.4 The review's terms of reference have set out 4 key aims which can be summarised as follows:
- 3.4.1 Consider whether existing frameworks and regulations are sufficient to ensure that standards are upheld as technologically assisted decision making is adopted more widely in the public sector.
- 3.4.2 Examine how provisions for standards can be built into the development, commissioning and deployment of new technologies in the public sector.
- 3.4.3 Consider to what extent the use of artificial intelligence and associated advanced technology has implications for our understanding and formation of the Seven Principles of Public Life.
- 3.4.4 Make recommendations for how standards can be maintained in the public sector where advanced technologies are increasingly used for service

delivery, including best practice guidance and regulatory change where necessary.

Intimidation in Public Life: a Joint Approach to Tackling Intimidation

- 3.5 The Chair of the CSPL has recently written to the leaders of all Westminster parties to say that the Jo Cox Foundation (JCF) will act as independent support in efforts to agree a cross-party approach to tackling intimidation.
- 3.6 The Committee has previously considered this issue and issued a report in 2017 making recommendations on how to address the issues of intimidation experienced by those in public life. This report can be accessed here - <https://www.gov.uk/government/publications/intimidation-in-public-life-a-review-by-the-committee-on-standards-in-public-life>

Review of Political Parties' Codes of Conduct

- 3.7 Following this announcement the Committee and the JCF have conducted a review of the codes of conduct of political parties holding seats in Parliament with the aim of providing a foundation for creating a Joint Standard for all political parties in respect of the minimum standards of behaviour expected from all party members. This review was published on the 22 October 2019 and it is expected that further work will be published in the future. A copy of this can be found here - <https://www.gov.uk/government/publications/intimidation-in-public-life-review-of-political-parties-codes-of-conduct>

Bullying and harassment in Parliament: Monitoring Parliament's Response

- 3.8 The CSPL has been maintaining a close interest in Parliament's progress towards an independent complaints process to deal with allegations of bullying and harassment in both Houses of Parliament. The Committee has compiled a table of the different initiatives that are currently on going, this table can be accessed here - <https://www.gov.uk/government/news/bullying-and-harassment-in-parliament-monitoring-parliaments-response>

Local Government Ethical Standards

- 3.9 As reported at Ethics Committee on 7 March 2019 the CSPL report was published on the 30 January 2019. To date no response has been received from Government in response to this review, it was noted in the minutes of the CSPL meeting on 19 September 2019 that the Committee would write to the Minister asking for a formal response once Parliament had returned and in any event before the end October 2019.
- 3.10 At the time of publishing this report for the Ethics Committee no response from the Government on this matter has been published.

Case Law

- 3.11 The Monitoring Officer comments that there has been no case law published recently that is of relevance to the committee.

4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

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

5. LEGAL IMPLICATIONS

- 5.1 There are no direct legal consequences arising from the contents of this report beyond those set out in the body of the report.

CONTACT OFFICER: Jacqueline Harris-Baker, Executive Director of Resources and Monitoring Officer (ext. 62328)

BACKGROUND DOCUMENTS: None

REPORT TO:	ETHICS COMMITTEE 20 November 2019
SUBJECT:	DISPENSATIONS APPLICATIONS FOR MEMBERS
LEAD OFFICER:	JACQUELINE HARRIS BAKER, EXECUTIVE DIRECTOR OF RESOURCES & MONITORING OFFICER
CABINET MEMBER:	COUNCILLOR SIMON HALL
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT: The Council has determined that the Ethics Committee shall consider dispensations for Members under the new ethics regime.	
FINANCIAL IMPACT Implementation of the recommendations contained in this report shall be contained within existing budgets	

1. RECOMMENDATION

The Committee is asked to:

- 1.1 In the event of applications for dispensations received, consider the application from the Members and determine whether to grant the dispensation, and if so, the length of time for which such dispensation is to be granted.

2. EXECUTIVE SUMMARY

- 2.1 Following statutory amendments to the ethics regime, full Council adopted a new Code of Conduct and delegated to the Monitoring Officer and the Ethics Committee the power to consider dispensations under the new ethics regime.

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) 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 The Council has adopted dispensation criteria which are attached for Members' ease of reference at Appendix 1. There are 5 circumstances in respect of which a dispensation may be granted, namely:

- 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”;
- ii) That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
- iii) That the authority considers that the dispensation is in the interests of persons living in the authority’s area;
- iv) That, without a dispensation, no member of the Cabinet would be able to participate on this matter; or
- v) That the authority considers that it is otherwise appropriate to grant a dispensation.

3.3 The Council has determined that in respect of grounds (i) and (iv) above, which involve an objective assessment of whether the requirements are met, it is appropriate to delegate dispensations on these grounds to the Monitoring Officer for determination. The Monitoring Officer is permitted, but not required, to consult with the Ethics Committee prior to determining an application for dispensation on grounds (i) or (iv).

3.4 In respect of grounds (ii), (iii) and (v) above, assessment of these grounds involve a value judgement and are less objective and Council has therefore considered it appropriate that the discretion to grant dispensations on these grounds is delegated to the Ethics Committee, after consultation with the Independent Person.

3.5 The Council currently does not have any outstanding applications for dispensations, however should any be received following the dispatch of the agenda they will be circulated on the evening for consideration.

3.6 In considering the matter, the Ethics Committee is required to assess whether, in light of the contents of the application, the public interest in excluding a Member from participating where a Disclosable Pecuniary Interest exists is outweighed by the considerations set out in the application which support the public interest in the Member being able to participate.

3.7 The Committee is also asked to set out the time period in respect of which it is appropriate to grant the dispensation. In this regard, Members should be mindful of the fact that any dispensation may not be granted for a period exceeding four calendar years, nor is it recommended that a dispensation be granted for a period longer than the remaining term of office of the relevant Member.

4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

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

5. LEGAL CONSIDERATIONS

- 5.1 There are no direct legal consequences arising from the contents of this report beyond those set out in the body of the report.

CONTACT OFFICER: Jacqueline Harris Baker,
Executive Director of Resources & Monitoring
Officer
(ext 64985)

BACKGROUND DOCUMENTS: None

Appendices: Appendix 1 – Dispensation Criteria

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Determination of Dispensation Applications:

Under Section 31 of the Localism Act 2011 ("the Act"), a Member or co-opted Member who has a disclosable pecuniary interest (DPI) 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.

The provisions on dispensations are significantly changed by the Localism Act 2011. There are 5 circumstances in respect of which a dispensation may be granted, namely:

- 1.1 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"
- 1.2 That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter. ;
- 1.3 That the authority considers that the dispensation is in the interests of persons living in the authority's area;
- 1.4 That, without a dispensation, no member of the Cabinet would be able to participate on this matter or
- 1.5 That the authority considers that it is otherwise appropriate to grant a dispensation.

Any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.

The Localism Act gives discretion for the power to grant dispensations to be delegated to a Committee or a Sub-Committee, or to the Monitoring Officer.

This Council has determined that in respect of grounds 1.1 and 1.4 above, which involve an objective assessment of whether the requirements are met, it is appropriate to delegate dispensations on these grounds to the Monitoring Officer for determination. The Monitoring Officer is permitted, but not required, to consult with the Ethics Committee prior to determining an application for dispensation on grounds 1.1 or 1.4.

In respect of grounds 1.2, 1.3 and 1.5 above, assessment of these grounds involve a value judgement and are less objective and Council has therefore considered it appropriate that the discretion to grant dispensations on these grounds is delegated to the Ethics Committee, after consultation with the Independent Person.

Members wishing to apply for a dispensation are advised to complete the dispensation application form, Appendix 1 hereto.

Adopted: July 2012

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REPORT TO:	ETHICS COMMITTEE 20 November 2019
SUBJECT:	ETHICS COMMITTEE: WORK PROGRAMME
LEAD OFFICER:	JACQUELINE HARRIS BAKER, EXECUTIVE DIRECTOR OF RESOURCES & MONITORING OFFICER
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON: Organisational design: consideration of the business processes, systems, budgeting, workforce, capacities and capabilities that will reflect the requirements of the operating model.	
FINANCIAL IMPACT The implementation of the recommendations contained in this report shall be contained within existing budgets.	

1. **RECOMMENDATIONS**

- 1.1. For the Members of the Ethics Committee to consider and comment on the following Work Programme.

2. **EXECUTIVE SUMMARY**

- 2.1. The table sets out the Ethics Committee Work Programme for 2019/20. This Work Programme will be considered at every meeting of the Committee to enable it to respond to issues of concern and incorporate any additional items.

3. **DETAIL**

Meeting date	Standing item(s)	Other item(s)
20 May 2019 (Annual Council)	Election of Chair and Vice Chair	None
7 January 2020	Members' dispensations Work programme	Proposed update to the Scheme of Co-option Recruitment and Appointment of Independent Persons Recent Case Law
12 February 2020	Members' dispensations Work programme	Annual Whistleblowing Report

		Annual update on member complaints Annual update on members' learning and development Annual update on use of RIPA
29 April 2020	Members' dispensations Work programme	

4. **CONSULTATION**

- 4.1. The Work Programme is subject to consultation with the Members of the Ethics Committee.

5. **FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

- 5.1. The implementation of the recommendations contained in this report shall be contained within existing budgets.

6. **THE EFFECT OF THE DECISION**

- 6.1. The decisions made about its Work Programme will determine the agenda for Ethics Committee meeting.

7. **RISKS**

- 7.1. There are no direct risks arising from the content of this report.

8. **OPTIONS**

- 8.1. This Work Programme will be considered at every meeting of the Committee to enable it to respond to issues of concern and incorporate any additional items.

9. **FUTURE SAVINGS/EFFICIENCIES**

- 9.1. There are no direct future savings/efficiencies arising from the content of this report.

10. **LEGAL CONSIDERATIONS**

- 10.1. There are no direct legal consequences arising from the contents of this report.

11. **HUMAN RESOURCES IMPACT**

- 11.1. There are no direct Human Resources consequences arising from the contents of this report.

12. EQUALITIES IMPACT

12.1. There are no direct equalities impact consequences arising from the contents of this report.

13. ENVIRONMENTAL IMPACT

13.1. There are no direct environmental impact consequences arising from the contents of this report.

14. CRIME AND DISORDER REDUCTION IMPACT

14.1. There are no direct crime and disorder reduction impact consequences arising from the contents of this report.

CONTACT OFFICER:

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APPENDICES TO THIS REPORT:

None

BACKGROUND DOCUMENTS:

None

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