

Ethics Committee Agenda



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

Independent Members: Ashok Kumar and Anne Smith

Reserve Members: Councillors Jeet Bains, Felicity Flynn, Maddie Henson,
Karen Jewitt, Gareth Streeter and Callton Young

A meeting of the **Ethics Committee** which you are hereby summoned to attend, will be held on **Thursday, 16 May 2019 at 6.30 pm** in **Council Chamber, Town Hall, Katharine Street, Croydon CR0 1NX**

JACQUELINE HARRIS BAKER
Council Solicitor and Monitoring Officer
London Borough of Croydon
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www.croydon.gov.uk/meetings
Wednesday, 8 May 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 - 10)

To approve the minutes of the meeting held on 7 March 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. Local Government Ethical Standards: A review by the Committee on Standards in Public Life (Pages 11 - 30)

To receive the report of the Executive Director of Resources & Monitoring Officer providing a gap analysis of the Council's current Code of Conduct and ethics arrangements and the best practice recommendations set out in the review by the Committee on Standards in Public Life.

6. Work Programme (Pages 31 - 34)

To consider the Committee work programme for the next Municipal Year.

7. 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.

8. 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

9. 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 held on Thursday, 7 March 2019 at 6.30 pm in Town Hall

MINUTES

Present: Councillor Clive Fraser (Chair);
Councillor Pat Clouder (Vice-Chair);
Councillors Patricia Hay-Justice, Helen Redfern, Felicity Flynn and Jeet Bains
Independent Members Anne Smith and Ashok Kumar

Also Present: Jacqueline Harris Baker (Executive Director of Resources and Monitoring Officer), Stephen Rowan (Head of Democratic Services and Scrutiny) and Howard Passman (Data Protection GDPR Project Manager)

Apologies: Councillor Mario Creatura and Joy Prince

PART A

2/19 Minutes of the Previous Meeting

The minutes of the previous meeting held on 26 November 2018 were agreed as a true and accurate record. Councillor Fraser informed the Committee that he had approved the revised Whistleblowing Policy in his capacity as Chair as agreed at the last meeting.

3/19 Disclosure of Interests

There were no disclosures of interests.

4/19 Urgent Business (if any)

There were no items of urgent business.

5/19 Annual update on Member complaints

The item was introduced by the Executive Director of Resources and Monitoring Officer. It was noted that the annual update provided a composite overview of complaints regarding Members received during the previous calendar year. In total, eight complaints had been received. Further information had been requested with regard to one complaint prior to it being assessed but this was not forthcoming so could not be progressed. With regard to the remaining seven complaints, an assessment according to the criteria was undertaken and on which basis the complaints were deemed not to be appropriate to be referred for investigation. Of these seven complaints, six related to the Planning Committee.

RESOLVED: The Committee resolved to note the report.

6/19 Annual Whistleblowing Report

The item was introduced by the Executive Director of Resources and Monitoring Officer. It was noted that two disclosures had been received under the Whistleblowing Policy during the previous calendar year. With regard to one disclosure, no further action was required and the employee (subject matter of the disclosure) had left the Council's employment. In relation to the other disclosure, the employee disclosing had left the Council's employment. The Monitoring Officer had upheld the recommendations made by the investigator.

In response to questions and comments from the Members of the Committee it was established that:

- I. Where the disclosure had led to recommendations by the investigator being upheld, the nature of the complaint, the outcome of the investigation and the resulting recommendations were all documented in the investigation report. This had been shared with the relevant Executive Director and the resulting action had been tracked by the Monitoring Officer;
- II. Whilst one employee who made a disclosure had left the Council's employment, it was confirmed by the Monitoring Officer that this was not as a result of the Whistleblowing Policy. The employee had been in temporary employment with the Council and whilst the issues they had raised had been addressed they had still decided to leave; and
- III. Exit interviews were used. However, these were determined by local arrangements and could not be imposed on individuals.

RESOLVED: The Committee noted the use of the Council's Whistleblowing Procedure during the previous calendar year.

7/19 Annual update on the use of RIPA (Regulation of Investigatory Powers Act 2000)

The item was introduced by the Information Management and Governance Co-ordinator. It was noted that there had been no requests for surveillance activity during the previous calendar year but there had been requests for communication data on four occasions. Two of those requests were successfully granted in support of ongoing investigations, both of which had ended.

In response to questions and comments from the Members of the Committee it was established that it was possible to use information gathered from social media in support of an investigation. A single use was allowed without specific permission being necessary. However, repeated use would require permission to be requested and granted. This was included within the policy.

RESOLVED: The Committee noted the use of the Regulation of Investigatory Powers Act 2000 by the Council over the previous calendar year.

8/19 Annual update on Member learning and development

The item was introduced by the Head of Democratic Services and Scrutiny. It was noted that the report comprised three elements;

1. The revised Terms of Reference for the Members' Learning and Development Panel. These revisions were noted as evolving the Panel's remit and had been developed with its Chair;
2. Details of the Member learning and development activity that had been provided during the previous year in addition to the level of participation. It was noted that as a result of the Council elections in May 2018, the Member learning and development activity included the corporate induction programme for Councillors – there had been 188 attendances at 22 events. In addition to this, 28 attendances had been secured at other training events; and
3. Information on the Member learning and development needs analysis commissioned by the new Chair and Vice Chair of the Members' Learning and Development Panel. It was noted that this survey had resulted in 23 responses from members (around a third of all Councillors). The analysis of the survey would be reported at the Panel meeting in April 2019.

In response to questions and comments from the Members of the Committee it was established that:

- I. As a result of low turnout for some training (equalities training was specifically noted), some Members would have liked participation in some training to become mandatory;
- II. The purpose of the Member learning and development survey was to ensure that the programme would be member lead/informed. The objective was to ensure the programme be developed based on the survey results;
- III. Comparison with participation in other years was difficult given the induction programme made the nature of the training offer very different in 2018. This was exacerbated further by the training offered to Members following the outcome of the Ofsted inspection of Children's Services;
- IV. In general, internally provided training, was delivered at cost meaning that in the main the allocated budget was spent on external training. In 2018, around three quarters of the allocated budget for Member learning and development was utilised. Councillor Fraser noted that it was the aspiration of the Members' Learning and Development Panel to do more to promote learning opportunities to Members. It was intended to use the results of the survey to inform this process.

RESOLVED: The Committee resolved to note the content of the report and endorsed the revised Terms of Reference of the Members' Learning and Development Panel.

9/19 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. It was noted that the Committee had previously received a report on the consultation on ethical standards. A contribution on behalf of the Committee had been submitted. Responses had also been submitted by individual members of the Committee. As set out in para 3.3, the review had examined all the structures and processes around the Code of Conduct and the investigation of breaches. The review had looked at how the code was enforced.

The recommendations resulting from the review were published in January 2019. It was noted that some of the recommendations would require intervention by Government. For example, through changes to primary or secondary legislation. The review had also provided suggestions on best practice. It was proposed by the Monitoring Officer that Committee Members be given the opportunity to read the report in full and at the meeting in May 2019 take an analysis of the best practice points in comparison to Croydon's approach. This was to be used as the basis for discussion and for agreeing any further action.

In response to questions and comments from the Members of the Committee it was established that:

- I. Indemnity for Independent Persons conducting a review wasn't provided. It was thought that it would be unusual to disclose the opinion of an Independent Person and therefore the need for indemnity wasn't clear. However, where indemnity was requested, it was thought that this would be given;
- II. It was thought that the review might clarify what happens where a Member has been suspended for six months and therefore unable to attend meetings automatically disqualifying them from being a Member;
- III. The recommendation that Members should be required by their Groups to attend a formal induction was welcomed; and
- IV. Whilst the code recommended any social media presence by Members would be deemed to be them acting in their official capacity, it was noted that the Code of Conduct does not apply to the public and therefore provides no protection for Members in terms of online harassment.

RESOLVED: The Committee resolved to:

- I. Note the content of the report: and
- II. Receive an analysis focused on the gap between the Council's current Code of Conduct and ethics arrangements and the best practice recommendations set out in the review by the Committee on Standards in Public Life. It was agreed this would be considered at the meeting in May 2019.

10/19 Work programme

RESOLVED: The Committee resolved to agree the work programme for the remainder of the municipal year as set-out in the report and to move the next meeting to of the Committee to 16 May 2019.

11/19 Dispensation Applications for Members

No requests for personal dispensations were received.

12/19 Exclusion of the Press and Public

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

13/19 Dispensation Applications for Members

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

The meeting ended at 7.17 pm

Signed:

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Date:

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REPORT TO:	ETHICS COMMITTEE
AGENDA ITEM NO:	16 MAY 2019
SUBJECT:	BEST PRACTICE SUGGESTIONS FROM THE REPORT OF A REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS BY THE COMMITTEE ON STANDARDS IN PUBLIC LIFE, 30 JANUARY 2019
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:	
<p>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.</p> <p>The Committee on Standards in Public Life (“the Committee”) was established in 1994 by the then Prime Minister, and is responsible for promoting the Seven Principles of Public Life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership – commonly known as the Nolan Principles which also form a part of the Council’s Code of Conduct for Members. The 30 January report is the conclusion of their review of the current state of ethical standards in Local Government and sets out a number of recommendations for improvements directed at legislative and governmental changes as part of ethical standards as well as a series of best practice suggestions directed to local authorities.</p>	
FINANCIAL IMPACT	
Implementation of the recommendations contained in this report shall be contained within existing budgets	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A	

<p>1. RECOMMENDATIONS</p> <p>The Ethics Committee is asked to:</p> <p>1.1 Note the contents of the report</p> <p>1.2 Recommend 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</p>

- 1.3 Note the current compliance with best practice items 2- 4, 6, 7, 9-13 and 15 and the that no changes be made to the Code or Committee practices in that regard
- 1.4 Note that best practice items 11 and 12 are 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 Note that the Council is in compliance with the statutory requirements as they relate to Best Practice item 8 and currently has one more Independent Person in post than the statutory minimum however given the matters highlighted within the report, recommend no changes to Council arrangements in relation to this element
- 1.7 Note that Best Practice item 14 is not a matter within the Ethics Committee remit but is a matter which is considered by General Purposes and Audit Committee as part of the Annual Governance Statement process and approval.

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 follows the March 2019 report received by this Committee <https://democracy.croydon.gov.uk/documents/s14176/Agenda%20Item%209%20-%20Committee%20on%20Standards%20in%20Public%20Life%20Ethics%200Cttee%20Feb%202019%20updated.pdf> regarding the outcome of the January 2019 Report of the Committee on Standards in Public Life and details, as requested, the gap-analysis between the Council’s current Code of Conduct and ethics arrangements and the best practice suggestions set out in the review by the Committee on Standards in Public Life for further consideration by Members.

3. DETAIL

- 3.1 The Committee on Standards in Public Life (the Committee) was established in 1994 and is responsible for promoting the Seven Principles of Public Life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership – commonly known as the Nolan Principles. The full report, which runs to 108 pages and is therefore not attached, can be accessed here: <https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life>
- 3.2 The terms of reference for the Committee’s review were to:

- 3.2.1 Examine the structures, processes and practices in local government in England for:
 - a. Maintaining codes of conduct for local councillors
 - b. Investigating alleged breaches fairly and with due process
 - c. Enforcing codes and imposing sanctions for misconduct
 - d. Declaring interests and managing conflicts of interest
 - e. Whistleblowing
- 3.2.2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
- 3.2.3. Make any recommendations for how they can be improved
- 3.2.4 Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.
- 3.3 The Committee set out best practice recommendations for local authorities which they indicate should be considered a benchmark of good ethical practice, which the Committee expects that all local authorities can and should implement. The Committee has indicated that they propose reviewing the implementation of the best practice in 2020. A full set of the good practice recommendations are set out at Appendix A for Members' ease of reference.
- 3.4 Each of the best practice suggestions are dealt with in turn below alongside an analysis of the Council's current practice as well as additional information, where relevant.
- 3.5 **Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.
- 3.6 The Code currently provides that members must promote and support high standards of conduct when serving in their public post, in particular as characterised by the requirements of the Code, by leadership and example, including not doing anything which breaches the equalities legislation and observing the Council's Protocol on Staff - Councillor Relations. A copy of the current Code is at Appendix B.
- 3.7 Equalities legislation makes specific provision around what constitutes harassment in the employment context and is specifically incorporated within the Council's code by reference to the need to comply with Equalities requirements.

- 3.8 The Staff—Councillor Protocol, Appendix C hereto, sets out the behavior which staff and Members can respectively expect. This includes provisions that staff can expect from Members:
- (i) A working partnership
 - (ii) An understanding of and support for respective roles, workloads and pressures
 - (iii) Political leadership and direction
 - (iv) Respect, dignity and courtesy
 - (v) Integrity, mutual support and appropriate confidentiality
 - (vi) Not to be subject to bullying or to be put under undue pressure. Members should have regard to the seniority of employees in determining what reasonable requests are, having regard to the power relationship between Members and employees, and the potential vulnerability of employees, particularly at junior levels
 - (vii) That Members shall not use their position or relationship with employees to advance their personal interests or those of others or to influence decisions improperly
 - (viii) That Members shall at all times comply with the relevant Code of Conduct.

3.9 The Protocol goes on to explain what the various procedures to which the parties have recourse if things go wrong.

3.10 Members will note that despite the above requirements around compliance with the Protocol, there is no specific definition of either bullying or harassment within the current Code, nor is there a specific definition within the Protocol. Accordingly it is recommended that the Protocol be updated to include at 1.11 (vi) the following definition the recommendation proposed in relation to the above best practice suggestion is as follows:

Not to be subject to bullying or harassment or to be intimidated or put under undue pressure or improper influence. This specifically includes any person who is involved in any complaint about any alleged breach of the Council's Member's Code of Conduct. Members should have regard to the seniority of employees in determining what reasonable requests are, having regard to the power relationship between Members and employees, and the potential vulnerability of employees, particularly at junior levels

(Note: Bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone. Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.)

3.11 **Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

- 3.12 The Code currently provides: “You are accountable for your decisions to the public and you must cooperate fully with whatever scrutiny is appropriate to your office as determined by the Council.” And the Council has determined a process by which complaints may be made in respect of Members’ Conduct and how these will be dealt with. In addition, whilst the Code does not prohibit Councillors specifically from making trivial, or malicious allegations, the assessment criteria provide that where the complaint appears to be simply malicious, politically motivated or tit-for-tat no further action will be taken. This applies whether the complainant is a Councillor or a member of the public.
- 3.13 In relation to specifically prohibiting “trivial or malicious allegations by Councillors” there is a query around why Councillors as complainants should be treated any differently in this context than any other complainants. An initial assessment of the complaint would still need to be undertaken to determine if the allegation in question was one which ought to be referred. In addition, there is specific provision within the assessment criteria in relation to allegations which appear to relate simply to the rough and tumble of political debate.
- 3.14 In light of the current provisions, no change is recommended in this regard.
- 3.15 **Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.
- 3.16 Croydon currently undertakes an annual review of the Code of Conduct and has made year on year updates to ensure that the Code remains appropriate. This has included updates to add specific reference to the Nolan Principles, updating wording to provide greater clarity on gifts and hospitality and a review of the assessment criteria and arrangements which are required to be in place to deal with Ethics complaints.
- 3.17 There is no specific provision for engaging with the public, including community organisations or neighbouring authorities as part of the Committee’s annual review process and there is a query around the utility of consulting with neighbouring authorities especially as the Codes of Conduct for London Boroughs are all different. Such consultation may perhaps be of more utility if a model code is re-introduced as a means of benchmarking but that would require firstly that the government accept and agree to implement the Committee on Public Life recommendations and secondly that they implement amendments to primary legislation.
- 3.18 Accordingly it is not recommended that changes be made at present to the current annual review process which the Committee undertakes as part of its work programme which enables the Committee to introduce changes considered necessary and appropriate to continue to foster ethical conduct.

- 3.19 **Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.
- 3.20 The Code of Conduct is published on the Council's website and forms part of the Council's constitution, which is also available on request in hard copy. As this is already undertaken, no recommendation is proposed.
- 3.21 **Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.
- 3.22 The Council's gifts and hospitality register is currently published as part of each individual councillors register and is updated in real time when gifts and hospitality are notified to democratic services. The gifts and hospitality is not accessible as a separate document and appears as part of the individual Councillors registers of interests. As this is already undertaken, no recommendation is proposed.
- 3.23 Whilst relating to non-pecuniary interests rather than gifts and hospitality (which is the subject of this Best Practice item), members' attention is specifically drawn to recommendation 5 of the Report on Standards in Public Life which encourages fulsome declarations of non-pecuniary interests. Whilst recommendation 5 will require legislative changes, in the intervening period the Committee may wish to affirm at this stage that all Members are encouraged to properly consider and declare any other personal interests which fall within the "Other Interests" category within the Declaration of Interests form. The form itself includes guidance and suggestions in this regard, to which Members are specifically referred.
- 3.24 **Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.
- 3.25 The Council has adopted assessment criteria, which were most recently reviewed in January 2019 and which are published on the Ethics pages on the Council's website and linked to the complaints forms online. These set the criteria against which allegations will be assessed, including in relation to public interest considerations, to determine if the matter ought to be referred for investigation or further action. As this is already undertaken, no recommendation is proposed.
- 3.26 **Best practice 7:** Local authorities should have access to at least two Independent Persons.
- 3.27 The Council currently has two independent persons appointed by Full Council although it is acknowledged that the statutory requirement is for one such Independent person and any additional requirement imposed for a second

independent person would require an amendment to legislation. As this is already undertaken, no recommendation is proposed.

- 3.28 **Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.
- 3.29 The Council's arrangements adopted under the Localism Act 2011 provide that the Monitoring Officer may consult with an independent person (IP) at the assessment stage to assist with reaching an opinion regarding any complaints received, at the discretion of the Monitoring Officer. The Council has also adopted Assessment Criteria which act as a guide for the Monitoring Officer when considering whether a matter is appropriate to be referred for investigation. These criteria were most recently reviewed by the Ethics Committee in March 2019 and resulted in updates being recommended to Full Council for adoption.
- 3.30 The Monitoring Officer continues to engage with an Independent Person where it has been considered appropriate to obtain an independent view in relation to allegations, particularly on controversial matters or when an independent view is required. In addition, the arrangements adopted by the Council in relation to investigation of complaints provide that the IP shall be consulted before a decision is taken, following investigation, to refer the matter to the Ethics Committee for hearing. The arrangements also provide the Monitoring Officer with the discretion to consult the IP outside of those express legislative provisions.
- 3.31 These provisions are in accordance with the legislative requirements regarding the involvement of the IP. For ease of reference, an extract from sections 28(6) and (7) of the Localism Act 2011 is included below and provides that:
- (6) A relevant authority other than a parish council must have in place—*
- (a) arrangements under which allegations can be investigated, and*
- (b) arrangements under which decisions on allegations can be made.*
- (7) Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person—*
- (a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and*
- (b) whose views may be sought—*
- (i) by the authority in relation to an allegation in circumstances not within paragraph (a),*
- (ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and*

(iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.

- 3.32 As can be seen, the Independent persons play an important role both for the authority in relation to the outcome of an investigation but also for any Member against whom a complaint has been made. Whilst Croydon has chosen to appoint two IP's, which is one more than is required by statute, there needs to be a careful balance in involving the IP's at non-statutory stages as there is the potential for concerns around conflicts to arise. If the Authority involves an IP at the initial stage and they recommend that the matter not be dismissed and it proceeds to investigation and the person complained about avails themselves of the ability to consult with the other IP, then there would be no additional independent person to involve at the decision making stage post investigation. This could give rise to concerns around earlier involvement in decision making or advising the Member complained about. If the Council made a decision to recruit and appoint an additional Independent Member that could provide a level of comfort in relation to the above concerns, however it is noted that the current provision within Croydon exceeds the statutory minimum requirements in terms of a single Independent Member. Furthermore, given the current arrangements, which do not include payment for allowances or expenses of the IP's, seeking to involve them in further decision making could create additional demands on their availability and time.
- 3.33 Given the above, no amendments are therefore recommended as a result of this suggestion.
- 3.34 **Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.
- 3.35 The Council's arrangements adopted under the Localism Act 2011 and which are set out clearly on the Ethics pages of the internet, provide in this regard that a minute of the decision of the Ethics Committee (or sub-committee as the case may be) will be prepared in consultation with the Chair of the Ethics Committee or sub-committee or Chair of the Hearings Panel, as the case may be, which will record the outcome and state the committee's reasons for the decision. This will be published on the Council's website once approved. It is an administrative matter to ensure that the minute reflects the above information however any such record will be subject to the need to comply with, among other matters, the provisions of the Data Protection Act 2018 and General Data Protection Regulation and the provisions of Schedule 12A of the Local Government Act 1972, as amended. As this is already undertaken, no recommendation is proposed.

- 3.36 **Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.
- 3.37 The Code of Conduct complaints page on the council's website includes a complaint form, assessment criteria and a detailed set of procedures which apply and the time frames within which the various processes will be undertaken. As this is already undertaken, no recommendation is proposed.
- 3.38 **Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.
- 3.39 Not applicable as Croydon does not currently have any Parish Councils.
- 3.40 **Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.
- 3.41 Not applicable as Croydon does not currently have any Parish Councils.
- 3.42 **Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.
- 3.43 The Monitoring Officer for Croydon has two Deputy Monitoring Officers who are authorised to act in her stead if needed or appropriate. In addition, the Council's currently adopted arrangements provide that the MO (or Deputy) may appoint an Investigating Officer, who may be another officer of the Council, an officer of another authority or an external investigator. As this is already undertaken, no recommendation is proposed.
- 3.44 **Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.
- 3.45 This is not a matter which falls within the remit of the Ethics Committee. The General Purposes and Audit Committee considers and, if satisfied, approves the Annual Governance Statement which the Council is required to produce and public under the provisions of the Local Audit and Accountability Act 2014

("the 2014 Act") and the Accounts and Audit Regulations 2015 ("the Regulations").

3.46 The Act and Regulations provide that the annual governance statement should:

- Provide a meaningful but brief communication regarding the review of governance that has taken place including the role of the governance structures involved (such as the authority; the audit and other committees)
- Be high level, strategic and written in an open and readable style
- Focus on outcomes and value for money and relate to the authority's vision for the area.

and the annual governance statement should include:

- An acknowledgement of responsibility for ensuring that there is a sound system of governance (including the system of internal control) and refer to the authority's code of governance
- A reference to and assessment of the effectiveness of key elements of the governance framework in supporting planned outcomes and the role of those responsible for its development and maintenance
- An opinion on the level of assurance that the governance arrangements can provide
- An agreed action plan dealing with significant governance issues and also indicating how previous actions have been resolved
- A conclusion
- The signature of the leading member (or equivalent) and chief executive (or equivalent) on behalf of the authority.

3.47 In discharging this responsibility the Council is required to ensure that it complies with the principles laid out by the CIPFA/SOLACE Framework Good Governance in Local Government.

3.48 The most recent Annual Governance Statement can be accessed via the below link:

<https://democracy.croydon.gov.uk/documents/s8923/Annual%20Governance%20Statement%202017-18%20Appendix%201.pdf>

3.49 For Members' information, it is not currently a statutory requirement for the Council, as part of the annual governance statement, to publish details of any separate bodies which the Council has "set up or which they own", nor is it a requirement to detail "their relationship with those bodies" as part of such a statement. It should however be noted that within the Annual Governance Statement it is made clear that the Council's control framework extends to partnerships and other joint working and this is reflected in the Council's overall governance arrangements. Below is an extract from the most recent Annual Governance Statement:

"Many of the Council's services are delivered in partnership with commercial organisations. Where this is the case, the Council ensures that proper governance is maintained by closely following procurement procedures when awarding contracts and then robustly monitoring those contracts. Increasingly, Council services are delivered in partnership with other local public sector organisations. The most significant arrangements are grouped under the umbrella of the Local Strategic Partnership (LSP) which is led by a board made up of the Leader, relevant Cabinet Members, relevant Chief Executives or equivalent. Each of the themes within the LSP is overseen by its own board."

3.50 In light of the fact that this Best Practice item is not a matter within the Ethics Committee remit but is a matter which is considered by General Purposes and Audit Committee as part of the Annual Governance Statement process and approval and that statutory provisions in that regard, it is not recommended that any changes are proposed in this regard.

3.51 **Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

3.52 The Monitoring Officer has regular weekly meetings with the relevant cabinet member and regular meetings with the CEO and the Leader. Executive Directors have regular monthly meetings with their relevant cabinet members and there are also Leadership meetings at which senior officers and cabinet members are present. The Monitoring Officer has regular meetings with the Leader of the Opposition and with the Whips of both political parties as appropriate. As this is already undertaken, no recommendation is proposed.

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

APPENDICES:

- Appendix A – List of best practice
- Appendix B – Part 5.1 - Members' Code of Conduct (Constitution of the
London Borough of Croydon)
- Appendix C - Part 5.B – Protocol on Staff – Councillor Relations
(Constitution of the London Borough of Croydon)

BACKGROUND DOCUMENTS: None

List of best practice

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of

conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues

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 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.

CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

Part 5.B – Protocol on Staff – Councillor Relations

INTRODUCTION

- 1.1 The relationship between Members and staff is important to the successful working of the Authority. This relationship within Croydon Council is characterised by mutual respect and trust. Members and employees feel free to speak to one another openly and honestly. Nothing in this Protocol is intended to change this relationship. The purpose of this Protocol is to help Members and employees to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong.
- 1.2 The Protocol must be read and operated in the context of any relevant legislation and the Members' Code of Conduct and any procedure for confidential reporting.

ROLES OF MEMBERS AND STAFF

- 1.3 The respective roles of Members and staff can be summarised as follows:

Members and staff are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Staff are responsible to the Authority. Their job is to give advice to Members and the authority, and to carry out the Council's work under the direction and control of the Council, the Executive, and relevant committees.

- 1.4 Mutual respect between Members and staff is essential to good local government.

MEMBERS' RESPONSIBILITIES

- 1.5 Members have three main areas of responsibility: determining the policy of the Council and giving it political leadership, representing the Authority externally, and acting as advocates on behalf of their constituents. It is not the role of Members to involve themselves in the day to day management of Authority services.

1.6 Members of the Executive, Chairs and Vice Chairs

- (i) Members of the Executive and Chairs and Vice Chairs of Committees have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from and more complex than those of Members without those responsibilities and this is recognised in the expectations they are entitled to have.

1.7 Opposition Members

- (i) Members shall be given timely access to information that they require in their role as Members. As individual Members of the Council, all Members have the same rights and obligations in their relationship with employees and should be treated equally. This principle is particularly important in the context of scrutiny and overview. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between staff, particularly those at a senior level in the organisation, and the administration shall differ from that with opposition groups.

STAFF

1.8 The role of staff is to give advice and information to Members and to implement the policies determined by the Council.

1.9 Certain employees e.g. Head of Paid Service, Monitoring Officer, Chief Financial Officer (Section 151 Officer) and the Statutory Chief Officers have responsibilities in law over and above their obligations to the Authority and its Members which they must be allowed to discharge.

EXPECTATIONS

1.10 Members can expect from staff:

- (i) A commitment to the Authority as a whole, and not to any political group
- (ii) A working partnership
- (iii) An understanding of and support for respective roles, workloads and pressures
- (iv) Timely response to enquiries and complaints
- (v) Professional advice not influenced by political views or preference, which does not compromise the political neutrality of employees.
- (vi) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to

any individual responsibilities that they have and positions that they hold

- (vii) Awareness of and sensitivity to the political environment
- (viii) Respect, dignity and courtesy
- (ix) Training and development in order to carry out their role effectively
- (x) Integrity, mutual support and appropriate confidentiality
- (xi) That staff shall not use their relationship with Members to advance their personal interests or to influence decisions improperly
- (xii) That staff shall at all times comply with the relevant Code of Conduct.

1.11 Staff can expect from Members:

- (i) A working partnership
- (ii) An understanding of and support for respective roles, workloads and pressures
- (iii) Political leadership and direction
- (iv) Respect, dignity and courtesy
- (v) Integrity, mutual support and appropriate confidentiality
- (vi) Not to be subject to bullying or to be put under undue pressure. Members should have regard to the seniority of employees in determining what are reasonable requests, having regard to the power relationship between Members and employees, and the potential vulnerability of employees, particularly at junior levels
- (vii) That Members shall not use their position or relationship with employees to advance their personal interests or those of others or to influence decisions improperly
- (viii) That Members shall at all times comply with the relevant Code of Conduct.

WHEN THINGS GO WRONG

1.12 **Procedure for staff**

- (i) From time to time the relationship between Members and staff may break down or become strained. Whilst it shall always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Member, staff shall have recourse to the Council's

Monitoring Officer, as appropriate to the circumstances. The Monitoring Officer shall decide whether the matter should be referred to the Chief Executive. The Chief Executive, who, having advised the Leader of the Council and where appropriate, the appropriate Group Leader shall decide on the course of action to be taken.

1.13 Procedure for Members

- (i) In the event that a Member is dissatisfied with the conduct, behaviour or performance of an employee, the matter should be raised with the appropriate Executive Director. Where the matter concerns an Executive Director, it should be raised with the Chief Executive. Where the matter concerns the Chief Executive it shall be raised with the Director of Human Resources or with the Leader as appropriate.

AMENDMENTS/ VARIATION TO THIS PROTOCOL

- 1.14 Where amendments/variation to this Protocol are necessary due to legislative changes, the Council Solicitor may make such consequential changes to this Protocol as are necessary to take such changes into account.

Croydon Council

REPORT TO:	ETHICS COMMITTEE 16 May 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; the items are to be agreed by the Panel at its first meeting of the municipal year on 20 May 2019. 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
20 November 2019	Members' dispensations	Code of Conduct and Complaints Process Annual Review Case Law Update

12 February 2020	Members' dispensations	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	

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:

Annette Wiles
Senior Democratic Services Officer,
Council & Regulatory
(ext: 64877)

APPENDICES TO THIS REPORT:

None

BACKGROUND DOCUMENTS:

None

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REPORT TO:	ETHICS COMMITTEE 16 May 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	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A	

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 OFFICERS: 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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