

Ethics Committee Agenda



To: Councillor Leila Ben-Hassel (Chair)
Councillor Brigitte Graham (Vice-Chair)
Councillors Jade Appleton, Helen Redfern, Esther Sutton and
Luke Shortland

Independent Persons: Jennifer Gordon, Ashok Kumar and Alan Malarkey

Reserve Members: Councillors Jeet Bains, Richard Chatterjee, Clive Fraser,
Holly Ramsey and Catherine Wilson

A meeting of the **Ethics Committee** which you are hereby summoned to attend, will be held on **Wednesday, 15 November 2023** at **6.30 pm** in **Council Chamber, Town Hall, Katharine Street, Croydon CR0 1NX**

Stephen Lawrence-Orumwense
Monitoring Officer
London Borough of Croydon
Bernard Weatherill House
8 Mint Walk, Croydon CR0 1EA

Klaudia Petecka, Democratic Services
klaudia.petecka@croydon.gov.uk
www.croydon.gov.uk/meetings
Tuesday, 7 November 2023

Members of the public are welcome to attend this meeting. If you would like to record the meeting, we ask that you read the guidance on the recording of public meetings [here](#) before attending.

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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 - 8)

To approve the minutes of the meeting held on 5 July 2023 as an accurate record.

3. Disclosure of Interests

Members are invited to declare any disclosable pecuniary interests (DPIs) they may have in relation to any item(s) of business on today's agenda.

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. Work Programme (Pages 9 - 12)

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

6. Member Gifts and Hospitality (Pages 13 - 18)

Members must comply with the Members' Code of Conduct including the requirements around declaring gifts and hospitality. Appendix A to this report provides the details of gifts and hospitality declared by Members since the Committee was last updated on declarations of this nature.

7. Recent Developments in Ethical Standards Report (Pages 19 - 26)

It is a function of Ethics Committee, among other matters to support the statutory role of the Monitoring Officer as set out in Article 9 of the Constitution, including the promotion of high standards of Member conduct and receiving reports from the Monitoring Officer on matters of probity and ethics.

8. Review of Ethics Arrangements (Pages 27 - 34)

This report sets out the outcome of the review of the Council's Members Code of Conduct and arrangements for dealing with allegations of breach of the Code. The report confirms that the Council's

arrangements are effective and in accordance with the statutory requirements. There are tidying up amendments required to the Code and the arrangements which will be the subject of a further report to the Committee.

9. Update on Ethics Complaints Received in the Second and Third Quarters of 2023 (Pages 35 - 42)

The Council has determined that the Ethics Committee shall be responsible for receiving and considering reports on matters of probity and ethics.

10. Independent Person Appointment (Pages 43 - 48)

The Ethics Committee, on the 19 April 2023, due to a vacancy which had arisen, agreed to commence a recruitment process under the provisions of the Localism Act 2011 to ensure a sufficient pool of Independent Persons.

11. 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

12. Minutes of the Previous Meeting (Pages 49 - 50)

13. Appendix B - Complaints Quarterly Report (Pages 51 - 58)

14. Appendix A - Part B recommendations to the Ethics Committee (Pages 59 - 62)

Ethics Committee

Meeting of held on Wednesday, 5 July 2023 at 6.30 pm in Council Chamber, Town Hall,
Katharine Street, Croydon CR0 1NX

MINUTES

- Present:** Councillor Leila Ben-Hassel (Chair);
Councillor Brigitte Graham (Vice-Chair);
Councillors Mario Creatura, Helen Redfern and Esther Sutton
- Also Present:** Independent Persons Don Axcell, Ashok Kumar and Alan Malarkey
- Apologies:** Councillor Jade Appleton

PART A

35/22 Minutes of the Previous Meeting

The minutes of the meeting held on 19 April 2023 were agreed as an accurate record.

36/22 Disclosure of Interests

There were none.

37/22 Urgent Business (if any)

There were no items of urgent business.

38/22 Work Programme

The Interim Head of Democratic Services, Adrian May, discussed updates to the work programme.

RESOLVED to note, consider, and comment on changes to the work programme as detailed in the report.

39/22 Appointments to Independent Person Selection Panel

The Interim Head of Democratic Services discussed the paper presented at the last Committee meeting relating to the vacancy of an Independent Person. At Annual Council, Councillor Clive Fraser was appointed as a reserve to the Ethics Committee, so could no longer participate in the Panel. Therefore, the

officer asked the committee to revisit nominations and reappoint members to the panel to ensure a full complement of five Independent Persons.

Independent Person, Alan Malarkey added that the selection panel should make the role accessible to a wider range of candidates as he had found it formal and rigid. The members agreed noting that accessibility should be incorporated into the meeting room design for the panels and encouraged a pre-meet to take place before the meeting to mitigate the formality of the process.

It was noted that the Interim Head of Democratic Services would reflect the comments made by Committee members in the job advertisement to ensure accessibility and it was agreed that a copy of the advert would be circulated to all committee members prior to publication.

RESOLVED to:

2.1 Agree three Member nominations to sit on the Selection Panel: the Chair and two further Members to be nominated and agreed by the Committee. The committee appointed Councillor Ben-Hassel, Councillor Graham, and Councillor Creatura to the panel.

2.2 To note, Don Axcell, was previously nominated as Independent Person advisory support to the Selection Panel. This nomination was upheld.

2.3 Note the revised proposed time frame of the Independent Person/s recruitment and subsequent reporting back to this Committee prior to onward recommendations to Full Council.

40/22 Member Gifts and Hospitality

The Interim Head of Democratic Services discussed the Gifts and Hospitality report produced during the last reporting period. The purpose of the report was to review trends and patterns; however, the quarterly report failed to provide adequate information. For this reason, a detailed annual report would be created to assist with tracking themes. There was an update to Appendix 1 and during the next Committee meeting scheduled in November, a holistic quarterly review would take place.

Independent person, Ashok Kumar, asked about the process of scrutiny where a member failed to declare a gift. Adrian May advised that the process was dependent on the integrity of the Members to make a declaration or relied on challenge being raised by a member or member of the public via the complaints process. The quarterly newsletter was also highlighted as a tool

used to communicate the requirement to declare interests and gifts to all Members.

A member raised a question relating to how value was determined when the item declared had an unknown value. The Interim Head of Democratic Services answered that where value reporting was not met, a request was typically raised to the Member to revisit the declaration to provide details on the value's total. The officer raised that there were instances where councillors had refused gifts and hospitality of over £50 but failed to declare them.

RESOLVED to:

2.1 Note the requirements on Members with regards to declaring Gifts and Hospitality as detailed within the report.

2.2 Note any Gifts and Hospitality declarations made by Members' since 11th April 2023.

41/22 Update on Ethics Complaints Received In The First Quarter Up To And Including 31 March 2023

The Monitoring Officer, Stephen Lawrence-Orumwense, discussed the updates to Appendix A. The Appendix provided a quarterly update on alleged breaches of conduct during the period ending March 2023. It also detailed additional information on individual complaints received as requested during the last Committee meeting. The content of the Appendix was declared exempt from public discussion as it contained confidential information about complaints brought forward and had identifiable information. The Members commented that the level of detail presented offered a full illustration of issues raised and highlighted acceptable standards for councillors. The Monitoring Officer was asked whether the present volume of complaints was comparable with previous complaints logged by Croydon and other inner London boroughs. The Officer answered that more complaints had been raised in the last six months but overall, the number of complaints remained comparable with other London authorities.

RESOLVED to note the report contents.

42/22 Exclusion of the Press and Public

Councillor Ben-Hassel moved to exclude the press and public from the remainder of the meeting due to the likely disclosure of exempt information pursuant to paragraphs 1 and 2 of Schedule 12A, Section 100A(4) of the Local Government Act 1972. This was seconded by Councillor Bridgette Graham and

RESOLVED:

that members of the Press and Public be excluded from the remainder of the meeting under Section 100A(4) of the Local Government Act 1972 on the grounds that: (i) it involved the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act.

The meeting ended at 7.15pm.

Signed:

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Date:

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LONDON BOROUGH OF CROYDON

REPORT:	ETHICS COMMITTEE	
DATE OF DECISION	15 November 2023	
REPORT TITLE:	ETHICS COMMITTEE: WORK PROGRAMME	
DIRECTOR:	Stephen Lawrence-Orumwense Director of Legal & Governance	
LEAD OFFICER:	Adrian May, Interim Head of Democratic Services adrian.may@croydon.gov.uk	
CONTAINS EXEMPT INFORMATION?	NO	Public
WARDS AFFECTED:	N/A	

1. SUMMARY OF REPORT

1.1. The report sets out the future work programme for the Ethics Committee for noting, consideration and comment.

2. RECOMMENDATIONS

2.1. For the reasons given in this report, the Ethics Committee is recommended to:
 2.1.1. Note, consider, and comment on changes to the work programme as detailed in this report.

3. REASONS FOR RECOMMENDATIONS

3.1. This report supports the role and responsibility of the Committee in terms of reviewing the current identified work programme.

4. BACKGROUND AND DETAILS

4.1. The table below sets out the items currently scheduled for the future Ethics Committee meetings. 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.

4.2. It is anticipated that officers will review the work programme and potential additional items with the Chair.

Meeting date	Standing item(s)	Other items
6 March 2024	Members' dispensations Complaint Monitoring Work Programme Gifts & Hospitality Legal & Ethics Update	

5. ALTERNATIVE OPTIONS CONSIDERED

5.1. No other options considered.

6. CONSULTATION

6.1. This Work Programme is subject to consultation with Members of the Ethics Committee.

7. CONTRIBUTION TO COUNCIL PRIORITIES

7.1. Mayor's Business Plan - Priority 4: Ensure good governance is embedded and adopt best practice

8. IMPLICATIONS

8.1. FINANCIAL IMPLICATIONS

8.1.1. Finance have been consulted and can conclude that there are no financial implications within this report.

8.1.2. Comments approved by Lesley Shields, Head of Finance for Assistant Chief Executive and Resources on behalf of the Director of Finance. 30/10/23

8.2. LEGAL IMPLICATIONS

8.2.1. There are no direct legal implications arising from the contents of the recommendations in this report.

8.2.2. Comments approved by Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Director of Legal Services and Monitoring Officer. (Date 02/11/2023)

8.3. EQUALITIES IMPLICATIONS

8.3.1. The Council has a statutory duty, when exercising its functions, to comply with the provisions set out in the Sec 149 Equality Act 2010. The Council must, in the performance of its functions, therefore have due regard to:

eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.3.2. No Equalities Impact Assessment (EIA) has been undertaken on this report, however, there are no direct equalities impact consequences arising from the contents of this report.

8.3.3. Comment approved by Naseer Ahmad for Equality Programme Manager
(Date 31/10/2023)

8.4. HR IMPLICATIONS

8.4.1. There are no immediate Human Resources implications arising from this report.

8.4.2. Comments approved by Gillian Bevan, Head of HR Resources and Assistant Chief Executive's directorates on behalf of the Chief People Officer. 02/11/23

9. APPENDICES

9.1. None

10. BACKGROUND DOCUMENTS

10.1. None

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LONDON BOROUGH OF CROYDON

REPORT:	ETHICS COMMITTEE	
DATE OF DECISION	15 November 2023	
REPORT TITLE:	MEMBER GIFTS AND HOSPITALITY	
DIRECTOR:	Stephen Lawrence-Orumwense Director of Legal & Governance	
LEAD OFFICER:	Adrian May, Interim Head of Democratic Services adrian.may@croydon.gov.uk	
CONTAINS EXEMPT INFORMATION?	NO	Public
WARDS AFFECTED:	N/A	

1. SUMMARY OF REPORT

1.1. Members must comply with the Members' Code of Conduct including the requirements around declaring gifts and hospitality they have received. Appendix A to this report provides the details of gifts and hospitality declared by Members since the Committee was last updated on declarations of this nature.

2. RECOMMENDATIONS

2.1. For the reasons given in this report, the Ethics Committee is recommended to:

2.1.1. Note the requirements on Members with regards to declaring Gifts and Hospitality as detailed within the report; and,

2.1.2. Note any Gifts and Hospitality declarations made by Members since 5 July 2023.

3. REASONS FOR RECOMMENDATIONS

3.1. This report supports the role and responsibility of the Committee related to reviewing the operation of the Members' Code of Conduct and monitoring compliance.

4. BACKGROUND AND DETAILS

4.1 As outlined in the Members' Code of Conduct, Members agree to adhere to the following with regards to declaring gifts and hospitality:

- Members do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on their part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, license or other significant advantage.
- Members register with the Monitoring Officer, within 28 days of receipt, any gift or hospitality with an estimated value of at least £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.
- Register with the Monitoring Officer any significant gift or hospitality that they may have been offered but have refused to accept.

4.2 In terms of submitting gift and hospitality declarations, Members notify the Monitoring Officer (or the Head of Democratic Services acting on behalf of the Monitoring Officer) via email - and the Member's online Register of Interests (on the Council's website) is subsequently updated.

4.3 All Members of the Council are reminded quarterly (last edition 1 September 2023) via a Members' Newsletter of the gift and hospitality declaration requirements and submission process. The next Newsletter (and subsequent reminder) is next scheduled to be sent in December 2023. The reminder includes voting co-opted members, although these are not published online unless they are in direct relation to a committee agenda item.

4.4 Committee members are asked to note the gifts & hospitality declarations made as detailed in Appendix A.

5 ALTERNATIVE OPTIONS CONSIDERED

5.1 No other options considered as regular reporting of gifts and hospitality is considered standard practice.

6 CONSULTATION

6.1 The declarations are sent directly from the relevant member, with any clarification sought by Democratic Services on behalf of the Monitoring Officer and reported to the Ethics Committee.

7 CONTRIBUTION TO COUNCIL PRIORITIES

7.1 Mayor's Business Plan - Priority 4: Ensure good governance is embedded and adopt best practice

8 IMPLICATIONS

8.1 FINANCIAL IMPLICATIONS

8.1.1 Finance have been consulted and can conclude that there are no financial implications within this report.

8.1.2 Comments approved by Lesley Shields, Head of Finance for Assistant Chief Executive and Resources on behalf of the Director of Finance.
30/10/23

8.2 LEGAL IMPLICATIONS

8.2.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Legal Services and Monitoring Officer that the Council has a statutory duty under the Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the authority and in discharging this duty, the Council must adopt a Code of Conduct dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.

8.2.2 This Code of Conduct must make provision for the declaration of certain interests (Disclosable Pecuniary Interests) and may make provision for the declaration of other interests. This Council has adopted a Code which also requires the declaration of and restriction on participation for "Other registerable Interests", and "Non-registerable interests" and the declaration of Gifts and Hospitality as detailed in the body of the report above.

8.2.3 Approved by Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Director of Legal Services and Monitoring Officer
(02/11/2023)

8.3 EQUALITIES IMPLICATIONS

8.3.1 The Council has a statutory duty, when exercising its functions, to comply with the provisions set out in the Sec 149 Equality Act 2010. The Council must, in the performance of its functions, therefore have due regard to:

eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.3.2 No Equalities Impact Assessment (EIA) has been undertaken on this report, however, there are no direct equalities impact consequences arising from the contents of this report.

8.3.3 Comment approved by Naseer Ahmad for Equality Programme Manager (Date 31/10/2023)

8.4 HR IMPLICATIONS

8.4.1 There are no Human Resources implications arising from this report.

8.4.2 Comments approved by Gillian Bevan, Head of HR Resources and Assistant Chief Executive's directorates on behalf of the Chief People Officer. 02/11/23

9 APPENDICES

9.1 Appendix A – Declared Gifts and Hospitality

10 BACKGROUND DOCUMENTS

10.1 None

Appendix A - Member Gifts and Hospitality Declarations
5th June 2023 to 15th November 2023

Member	Person / Body from whom gift / hospitality received	Nature and value of gift or hospitality and date(s) received
ClIr Stuart King		
Mayor Jason Perry	Recognition event	5th June 2023 - Book, £15; ticket £0; (book was donated to Croydon library)
	Bishop of Croydon Windrush event	17th June 2023 -Dinner, value unknown, estimated at below £50
	Croydon Symphonic Band	25th June 2023 - x2 Tickets £12.50 each - Total £25.00; Croydon Symphonic Band 50th Anniversary Concert
	Croydon Business Association from the Croydon Festival event	2nd July 2023 - Less £50 A pint of Beer A bottle of Gin Dosa
	Croydon BME Forum	04 July 2023: Dinner - £15
	Spurgeon College	08 September 2023: Cream - Less than £5
	Atwood Schook	24th June 2023: Tea Towel: Less than £5
	Terrapin Group	20th July 2023; Dinner, £50-75
	Park Hill Tea Tower	5th August 2023; Tea and Cakes, £20
	JFJ Foundation	6th August; Food, £20
	Met for London - Speaking Engagement at Fairfield Halls	8th September; Refreshments / Buffet for Guests; £10
	RPS & Weston Homes	14 September; Borough Leaders Round Table discussion on Housing and Planning - Reception / Dinner; Value Unknown

	Rowland Brothers	16 September; Anniversary Paper weight for Dedication of Chapel service speaking Engagement; £10
	Croydon College	21 September; Book - 'Hear Yourself'; £19.99
	Croydon Commitment- Veterans Lunch Speaker	22 September; Lunch for all guests; Value Unknown
	Golden Lions Awards 2023 - Award Presenter / Speaker	23 September; Dinner for all guests; Value Unknown
	Croydon Vision Speaking Engagement	06 October; Dinner for all guests; Value Unknown
Cllr Andy Stranack	Talawa Theatre Company - Fairfield Halls	5th June - Launch of recognition - 2x tickets plus refreshments - cost unknown approximately £50 or less.

LONDON BOROUGH OF CROYDON

REPORT:	ETHICS COMMITTEE	
DATE OF DECISION	15 NOVEMBER 2023	
REPORT TITLE:	RECENT DEVELOPMENTS IN ETHICAL STANDARDS	
CORPORATE DIRECTOR / DIRECTOR:	DIRECTOR OF LEGAL SERVICES AND MONITORING OFFICER	
LEAD OFFICER:	STEPHEN LAWRENCE- ORUMWENSE Email: Stephen.Lawrence-Orumwense@croydon.gov.uk Telephone:27443	
AUTHORITY TO TAKE DECISION:	Part 3 of the Constitution: It is a function of Ethics Committee, among other matters to support the statutory role of the Monitoring Officer as set out in Article 9 of the Constitution, including the promotion of high standards of Member conduct and receiving reports from the Monitoring Officer on matters of probity and ethics.	
KEY DECISION?	No	REASON: N/A
CONTAINS EXEMPT INFORMATION?	NO	Public
WARDS AFFECTED:	N/A	

1 SUMMARY OF REPORT

- 1.1 This report highlights the recent decision of the Crown Prosecution Service (CPS) not to proceed with the prosecution of a former directly elected mayor of Middlesborough for alleged failures to declare pecuniary interests and details of a Hearings Sub-Committee decision under the Ethics Complaints Process in West Northamptonshire relating to a Councillors pre-determination and related conduct at a planning Committee.

2 RECOMMENDATIONS

- 2.1 The Committee is asked to note the report.

3 REASONS FOR RECOMMENDATIONS

- 3.1 The function of the Committee includes promoting and maintain high standards of Members conduct and hearing complaints of breaches of the Member Code of Conduct. This report on recent developments serves to raises awareness on member conduct and complaint related issues that are of relevance to the Committee function and responsibility.

4 BACKGROUND AND DETAILS

CPS decision: Middlesbrough former Directly elected Mayor Prosecution

- 4.1 Middlesbrough's former Independent elected mayor Andy Preston, had been accused of failing to declare pecuniary interests in executive meetings relating to property, breaching sections 31(4) and 34(1)(b) and (3) of the Localism Act 2011 and had been due to appear at Teesside Magistrates Court on 21 August.
- 4.2 Complaints about his conduct were first made to Middlesbrough Council in 2021 but their report concluded no rules or laws had been broken. The complaint was then passed on to Cleveland Police who conducted an investigation which led to charges being brought in August 2023.
- 4.3 Section 31(4) of the Localism Act 2011, which relates to circumstances in which a Member has a pecuniary interest in a matter under consideration, provide that the member or co-opted member may not—
- (a) participate, or participate further, in any discussion of the matter at the meeting, or
- (b) participate in any vote, or further vote, taken on the matter at the meeting, but this is subject to section 33 (which makes provision, in certain circumstances for a dispensation to be granted).
- 4.4 Section 34 (1)(b) provides that a person commits an offence if, without reasonable excuse, the person—participates in any discussion or vote in contravention of section 31(4). A person who is guilty of an offence under section 34 of the 2011 Act is liable on summary conviction to a fine not exceeding level 5 on the standard scale. (Level 5 is currently an unlimited sum). A court dealing with a Member for an offence under section 34 may (in addition to any other power exercisable in the member's case) by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority. (Section 34(4)).
- 4.5 A CPS spokesperson said: *"After the charges had been brought in this case, the Crown Prosecution Service received additional relevant information from those representing Mr Preston."*

"We conducted a further review of the case with the inclusion of this material and found insufficient evidence to support any criminal charges. We then took the appropriate decision to discontinue the case against Mr Preston."

“In all criminal cases it is the duty of prosecutors to continuously review all available evidence. At each stage, any case must be supported by sufficient evidence to provide a realistic prospect of conviction, and it must also be in the public interest to proceed with a prosecution.”

Monitoring Officer Comment:

4.6 Members will be aware that the matters which constitute disclosable pecuniary interests (DPI's) are set out in statute and as is demonstrated by this case, have potentially criminal sanctions associated with failures to properly declare interests or to participate or seek to vote in circumstances where there are disclosable pecuniary interests. Conviction of such offences could lead to the imposition of an unlimited fine and disqualification from being a Member for up to 5 years. For members ease of reference, disclosable pecuniary interests are set out the [Members' Code of Conduct](#) which reproduce the statutory requirements set out in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. The categories of DPI are set out below:

Subject	Description
Employment, office, trade, profession or Vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council: (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does

	not give the councillor or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.
Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
<p>* 'director' includes a member of the committee of management of an industrial and provident society.</p> <p>* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.</p>	

West Northamptonshire Code of Conduct Decision:

- 4.7 On 22 November 2022, the Monitoring Officer at West Northamptonshire Council ('the Council') received a Code of Conduct complaint in which it was alleged that a Councillor had failed to comply with the Council's Code of Conduct. The allegations

concerned the conduct during Daventry Area Planning Committee's meeting of 2 November 2022.

- 4.8** It was alleged that during the Committee's consideration of an application for the construction of forty-five dwellings in Flore, the Councillor conducted himself in a disrespectful and aggressive manner towards the Senior Planning Officer presenting the application. It also alleged that the Councillor used his position as a councillor improperly to cause others a disadvantage, by both speaking and voting against the application despite being clearly predetermined.
- 4.9** Investigators appointed by the Monitoring Officer to investigate the complaint recommended that the Councillor be found to have failed to comply with paragraph 3.1 (treat others with respect) of the Code, on the basis that he did not treat the Senior Planning Officer with respect during the Planning Committee meeting of 2 November 2022.
- 4.10** The investigators also considered that the Councillor involved himself as a committee member in both the discussion and decision to reject the aforementioned planning application despite having predetermined his position on it. The investigators also recommended that the Councillor be found to have failed to comply with paragraphs 3.8 (disrepute) and 3.12 (improper use of position) of the Code, on the basis that he used his position improperly to disadvantage the applicant and brought his office and authority into disrepute by undermining the integrity of the Council's planning service.
- 4.11** The Councillor was not a member or registered substitute member for the Planning Committee, but the chair allowed him to act as a substitute as he had received the necessary training in planning through his roles on other committees. Representatives present at the meeting in question from the Planning Advisory Service, who were undertaking a peer review of the Council's planning function at the time, expressed concern that the Councillor had arrived with a prepared speech which he read out at the outset making it clear that he disagreed with the officer recommendation but then took part "despite having made his position clear before the item was presented". They also noted that this was significant as the application was decided by the casting vote of the chair and therefore had the Councillor been prevented from taking part, the decision would have gone the other way. Finally, they indicated that based on the evidence that they had seen, they were of the view that the Councillor was not genuinely seeking to understand the reasons behind the senior planning officer's recommendations but was instead grandstanding to those in the public gallery while challenging the officer in a manner that he knew would call the officers' competence into question so as to denigrate the officers' report.
- 4.12** The councillor told the investigators he had prepared a speech ahead of the meeting, ready to speak as a Long Buckby councillor. But the investigators found if that was the case he "should not have involved himself so directly in the decision-making process" and considered that the content of the Councillors speech "strongly supported the allegation that he attended the committee meeting on 2 November 2022 having already predetermined the matter"

- 4.13** Following the investigation, the matter was considered by the Council's Democracy and Standards sub-committee acting as a hearings committee under the arrangements adopted for consideration of such matters. The Sub-Committee agreed that the Councillor had predetermined the matter and therefore brought the council into disrepute and used his position as a councillor to disadvantage the applicant.
- 4.14** The Sanctions imposed following the hearing were as follows:
- (a) Findings in respect of the Member's conduct be published;
 - (b) Recommend to the Member's Group Leader that Councillor be suspended as a member of the Strategic Planning Committee and Planning Policy Committee for a period of three months from 1 June 2023.
 - (c) Instruct the Monitoring Officer to arrange individual training for the Member to take place during the 3-month Committee suspension period. used his position as a councillor to disadvantage the applicant".

Monitoring Officer comment.

- 4.15** The case is of interest to Members because of the implications which can arise in relation to Council decision making where the councillors making the relevant decisions do not approach decision making with an open mind. Whilst it is perfectly permissible for a Member to be pre-disposed towards an outcome, predetermination (having a closed mind to the outcome before hearing all the relevant facts) will invalidate the decision and lead to successful challenges to council decision making. This principle applies to all council decision making but is particularly pertinent in relation to decision makers acting in the sphere of planning and licensing where the decisions are regulatory ones.
- 4.16** It should be noted that a legal finding of predetermination can only be properly made in the Courts. The investigators and sub-committee in this matter used the term predetermination to indicate their finding, made on the balance of probabilities, that the Councillor had made up his mind about the application prior to the decision-making meeting and therefore that his part in the decision was a foregone conclusion.
- 4.17** Croydon's Code of conduct contains similar provisions to those of West Northamptonshire's in relation to respect, disrepute and improper use of position. The supporting Guidance to Croydon's Code (available here [Member code of conduct guidance \(croydon.gov.uk\)](https://www.croydon.gov.uk/Member-code-of-conduct-guidance)) includes helpful provisions on bias and pre-determination. The Council also has a Planning Code of Good Practice (available here : [Planning Code of Good Practice](#)) that advises Members of the Planning Committee to comply not just with the Members Code of Conduct but also the rules on predetermination and bias. The Council's Planning Code of Good Practice also makes clear that where a Councillor wishes to speak as ward councillor on an application, as was the case in West Northamptonshire, that they cannot be a decision maker in respect of that matter and makes recommendations of how a Croydon Councillor in such a position should avoid tainting the decision making by being involved in a matter in which they have an interest, are representing interested parties or have a predetermined view.

5 ALTERNATIVE OPTIONS CONSIDERED

5.1 This is not applicable. The recommendations are for noting only.

6 CONSULTATION

6.1 This is not applicable. The recommendations are for noting only.

7. CONTRIBUTION TO COUNCIL PRIORITIES

7.1 It is a function of the Ethics Committee to support the statutory role of the Monitoring Officer as set out in Article 9 of the Constitution, including the promotion of high standards of Member conduct. In addition, it is a function of this committee to receive reports from the Monitoring Officer on matters of probity and ethics.

7.2 The Mayor's Business Plan objectives includes ensuring good governance is embedded and adopt best practice. This report serves to promote good ethical governance arrangements.

8. IMPLICATIONS

8.1 FINANCIAL IMPLICATIONS

8.1.1 There are no direct financial implications arising from this report and all costs to date are covered within exiting budgets.

8.1.2 Comments approved by Lesley Shields, Head of Finance for Assistant Chief Executive and Resources on behalf of the Director of Finance. 23/10/23

8.2 LEGAL IMPLICATIONS

8.2.1 There are no additional legal implications arising beyond those set out in the body of the report.

8.2.2 Comments approved by Director of Legal Services and Monitoring Officer. (Date 02/11/2023)

8.3 EQUALITIES IMPLICATIONS

8.3.1 The Council should pay due regard to section 149 of the Equality Act 2010 when exercising their functions. This includes having due regard to the Public Sector Equality Duty as detailed:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act. (Section 149(1)(a))
- Advance equality of opportunity between people who share a protected characteristic and those who do not. (Section 149(1)(b))
- Foster good relations between people who share a protected characteristic and those who do not. (Section 149(1)(c))

8.3.2 The Equalities Strategy 2020 -2024 states that 100% of Councillors and new starters should complete equality training including unconscious bias and this should be refreshed on a regular basis. This objective will be amended to read that training should be undertaken every two years in the Equality Strategy Refresh in 2023.

8.3.2 There are no breaches of this duty or further equalities impacts arising from the recommendations in this report.

8.3.3 Comments approved by Naseer Ahmad for the Equalities Programme Manager. (Date 23/10/2023)

OTHER IMPLICATIONS

8.4 This report is for noting only. There are no Data Protection, Human Resources, Crime and Disorder, Procurement, Health, Environmental, Corporate Resources, ICT, Property and asset management or risk implications as a result of the recommendations in this report.

9. APPENDICES

9.1 None

10. BACKGROUND DOCUMENTS

10.1 None

11. URGENCY

11.1 Not applicable.

Agenda Item 8

LONDON BOROUGH OF CROYDON

REPORT:	ETHICS COMMITTEE	
DATE OF DECISION	15 NOVEMBER 2023	
REPORT TITLE:	REVIEW OF ETHICS ARRANGEMENTS	
CORPORATE DIRECTOR / DIRECTOR:	DIRECTOR OF LEGAL SERVICES AND MONITORING OFFICER	
LEAD OFFICER:	Stephen Lawrence-Orumwense Stephen.Lawrence-Orumwense@croydon.gov.uk Ext: 27443	
DECISION TAKER:	ETHICS COMMITTEE	
KEY DECISION?	No	
CONTAINS EXEMPT INFORMATION?	No	
WARDS AFFECTED:	ALL	

1. SUMMARY OF REPORT

- 1.1 In April 2023, Grant Thornton published its Interim Auditor's Annual Report on the London Borough of Croydon (2019-20, 2020-21 and 2021-22) which include a recommendation that the Council should continually review arrangements for overseeing standards and codes of conduct.
- 1.2 This report sets out the outcome of the review of the Council's Members Code of Conduct and arrangements for dealing with allegations of breach of the Code. The report confirms that the Council's arrangements are effective and in accordance with the statutory requirements. There are tidying up amendments required to the Code and the arrangements which will be the subject of a further report to the Committee.

2 RECOMMENDATIONS

The Committee is asked to note:

- 2.1 The recommendation of the April 2023 Grant Thornton Interim Annual Report on the London Borough of Croydon (2019-20, 2020-21 and 2021-22) and the Monitoring Officer review of the Council's Ethics arrangements.
- 2.2 That a further report be presented to the Committee on the proposed tidying up amendments to the ethics arrangements (i.e., Members Code of Conduct and arrangements for dealing with allegations of breach of the Code).

3. REASONS FOR RECOMMENDATIONS

- 3.1 Following the recommendation in the April 2023 Grant Thornton Interim Annual Report on the London Borough of Croydon (2019-20, 2020-21 and 2021-22), the Monitoring Officer has undertaken a review of the Council's Members Code of Conduct (including Registration and Disclosure of Interests) and the arrangements for dealing with allegations of breach of the Code of Conduct and found that they are in accordance with the law and best practice. However, some tidying up and clarification amendments are required to the Council's Code of Conduct and arrangements.

4. BACKGROUND AND DETAILS

- 4.1 The Council must promote and maintain high standards of conduct by its members and co-opted members. The Council is required to adopt a code dealing with the conduct that is expected of members when they are acting in their capacity as members. The Council must ensure that its code of conduct includes appropriate provisions for registering and disclosing Pecuniary interests and Interests other than pecuniary interests.
- 4.2 In October 2021, the Council adopted a revised Members' Code of Conduct that includes the following:
 - a) General principles of Councillor conduct
 - b) Application of the Code of Conduct
 - c) Standards of Councillor Conduct
 - d) General Conduct
 - e) Gifts and hospitality
 - f) Seven Principles of Public Life
 - g) Registering Interests
 - h) Non-participation in the case of Disclosable Pecuniary Interest
 - i) Disclosure of Other Registerable Interests
 - j) Disclosure of Non-Registerable Interests
 - k) Explanation of Disclosable Pecuniary Interest and Other Registerable Interests.

There is complimentary supporting guidance to enable Members to better understand the nature and extent of their obligations under the Code.

- 4.3 The Council must have arrangements in place to deal with complaints that its code of conduct has been breached, including arrangements for complaints to be investigated

and decisions on allegations to be made. In July 2012, the Council adopted its arrangements that include the following: a) Making a complaint; b) Deciding whether it should be investigated and the Assessment Criteria; d) Investigation process and outcome; and e) Hearing procedure and sanctions available in the event of a finding of breach of the Code. The Council's arrangement can be accessed here: <https://www.croydon.gov.uk/council-and-elections/council-committees-and-meetings/committees-boards-and-meetings/ethics-committee/members-code-conduct>

4.4 In April 2023, Grant Thornton, the Council's External Auditors published its Interim Auditor's Annual Report on the London Borough of Croydon for the years 2019-20, 2020-21 and 2021-22. The Report states that there were:

"number of other issues raised across this interim Annual Auditor's Report suggests there were wider issues with underlying cultural standards in 2020-21 and 2021-22. The Council has an Ethics Committee which is responsible for consideration of matters relating to probity and ethics, including matters pertaining to Member conduct and compliance with the Members Code of Conduct. The Council also has an Appointments and Disciplinary Committee and an Audit and Governance Committee. However, the litany of findings from the Public Interest Reports in October 2020 and January 2022 and other advisors and regulators suggests that even where standard processes are complied with, there have been underlying significant weaknesses in organisational culture. The form of procedures often did not follow through to the underlying substance of cultural behaviour.

At an operational level, the Council did have processes in place during 2020-21 for declaring conflicts of interest. However, during our work we found other anomalies, in addition to incorrect processes having potentially been used for decision making and around the Chief Executive's severance. For example, in 2020-21, only one gift for £15 was declared on the gifts and hospitality register all year (suggesting a risk that it may be incomplete). In 2021-22, nine Members failed to send in conflict of interest declarations on time and had to be reminded.

The Council is working diligently to try to improve. In March 2022, the Council's arrangements for its Constitution were reinforced to reflect the importance of the Nolan Principles. Nevertheless, the scale of the challenge is daunting given the past well documented failures to uphold these principles in the past."

The Report recommended that the "Council should continually review arrangements for overseeing standards and codes of conduct. The Ethics Committee, in overseeing standards, should be mindful that the substance of cultural behaviour is as critical as the procedural form".

4.5 The External Auditors recommendation appears to be based on findings in declaring interest and registering gifts and hospitality and for the years 20-21 and 20-22.

- 4.6 The governance issues relating to the former Chief Executive severance payment has been dealt with and was the subject of a report by the Monitoring Officer to the Appointment and Disciplinary Committee on 27 April 2022 and 13 October 2022 and Full Council in November 2022. The Monitoring Officer found that the Council must clearly demonstrate that lessons have been learnt and that it has now embedded best practice in the form of the statutory guidance on severance payments. The exit of the former Head of Paid Service has significant local and wider public interest. There should have been proper records kept of the conversations between the Leader, Monitoring Officer, former Chief Executive, Section 151 Officer, and Director of HR relating to the exit. There should have been some initial enquiries to establish the facts and to inform any future decision making. The Leader of the Council chaired the committee which made the decision without any consideration of any conflict of interest. Legal advice (Counsel's opinion) should have been sought on merits, chances of success and quantum of damages of any potential ET claim. This should have informed the decision on settlement. The ethos of the Openness and Accountability in Local Pay Guidance, as the title clearly suggest, is that there should be more transparency and scrutiny of senior officer's exit payment. There should be compliance with the constitutional and statutory requirements for notice and agenda papers to be sent to members in advance of the meeting. Democratic Services should have attended the closed session of meetings to make sure proper minutes are taken of the deliberations that informed the decision made. There must be consideration given to managing any conflicts of interest arising. The Council now has measures in place to address these findings.
- 4.7 The fact that only one gift and hospitality was registered in 20-21 is likely to be due to the then Covid restrictions which significantly impacted social interactions and hospitality during this period. Members are required to register with the Monitoring Officer any gift or hospitality with an estimated value of at least £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 within 28 days of its receipt. Also, any significant gift or hospitality that have been offered but have refused to accept. Currently, the Committee at its meetings reviews reports on gifts and hospitality registered by members. An example of the Member Gift and Hospitality report going to the Committee can be accessed via this link: <https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=171&MIId=2911&Ver=4>. There is a quarterly newsletter that is sent to all members reminding them of the requirements and process for declaring and registering gifts and hospitality received. They are also reminded to update their register of interest in the event of any changes in circumstances.
- 4.8 The External Auditors report alludes to the importance of the Committees oversight of members conduct. The Committee already receives both quarterly and annual reports on Members' Code of Conduct complaints considered pursuant to the Ethics Complaints Process which allows members to oversee this element of the operation of the procedures and the trends in complaint and comment as they see fit. As such, it is considered that the Ethics Committee do already regularly review how such complaints are dealt with. Members will be aware that other Codes of Conduct of the authority –

such as the Officers' Code of Conduct – are not within the remit of this Committee and are not addressed within this report or review.

4.9 Following the External Auditors recommendation, the Monitoring Officer has undertaken a review of the Council's Members' Code of Conduct and the arrangements for dealing with complaints for breach of the Code. In undertaking the review, the Council's arrangement was benchmarked against 31 other London Boroughs to identify best practice. The review also had regard to the Local Government Association (LGA) [Guidance](#) on Member Model Code of Conduct Complaints handling, published in September 2021 and the Committee on Standards in Public Life 2019 Local Government Ethical Standards [report](#). The review found that:

- a) The Council's Code of Conduct and current arrangements for dealing with complaints of breach of the code complies with the statutory requirements and accords with most of the best practice requirements set out in the Committee on Standards in Public Life 2019 report¹.

¹ 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. **This is catered for in the Council's Code and Guidance to Members.**

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. **This is catered for in the Council's Code and Guidance to Members.**

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. **Members receives annual and quarterly reports on complaints and operation of the Code. A new Code was adopted in 2021 and is has now been reviewed alongside the ethics complaints arrangements.**

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. **There is a dedicated Ethics Committee website for this purpose and the Code is part of the Council's Constitution.**

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. **The Ethics Committee receives reports at each meeting updating them on the gifts and hospitality received during the previous period since the last updating report. The Gifts and hospitality register for each individual member is updated and published on the Council's website and updated as and when members notify democratic services of the changes – in other words at far more regular intervals than quarterly.**

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered. **This is catered for in the Council's arrangements.**

Best practice 7: Local authorities should have access to at least two Independent Persons. **The Council has more than 2 Independent Persons and currently recruiting.**

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. **This is catered for in the Council's arrangements and is current practice.**

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. **This is catered for in the Council's arrangements.**

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. **There is a dedicated Ethics Committee website for this purpose.**

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. **Not applicable as there are no parish councils in the borough.**

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

- b) There are some tidying up and clarification amendments required to the Council's Code of Conduct and arrangements. This may for example include:
- i) In the Code under "Disclosure of Other Registerable Interests" making it clear that Member must leave the meeting room if the matter directly relates to the financial interest or wellbeing of one of the Members' Other Registerable Interests.
 - ii) In the Code under "Standards of councillor conduct" attaching a link to Guidance for members on the Code which is referred to.
 - iii) Confirming within the Constitution the published arrangements which are available via the Council's website.
 - iv) Update the arrangements to reflect current officer post titles and contact details, make the references gender neutral and third person rather than first, update regulator details and similar typographical updates.
 - v) Update the arrangements to make clear that a Deputy Monitoring Officer may undertake the Monitoring Officer functions in the Monitoring Officers stead as necessary.

4.10 The proposed amendments are to be the subject of a further report to the Committee.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 There were no alternative options considered. It is imperative that the Council review the standards arrangement following the Interim Auditor's Annual Report recommendation.

6. CONSULTATION

6.1 As indicated above, the Council's standards arrangement was benchmarked against other London Boroughs.

7. CONTRIBUTION TO COUNCIL PRIORITIES

7.1 Ensuring that the Council's Ethics Complaints process is fit for purpose via this review and associated recommendations supports the Councils' priorities and Mayor's Business Plan by ensuring good governance is embedded and adopting best practice.

8. FINANCIAL IMPLICATIONS

with adequate training, corporate support and resources to undertake this work. **Not applicable as there are no parish councils in the borough.**

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. **This is catered for in the Council's arrangements.**

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. **The Audit and Governance Committee receive reports regarding the Council's Annual governance statement which addresses such matters as such matters are not within the remit of the Ethics Committee.**

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

- 8.1 There are no direct financial implications arising from this report. All costs are included within existing budgets and no pressures will be caused from this review.

Comments approved by Lesley Shields, Head of Finance for Assistant Chief Executive and Resources on behalf of the Director of Finance. (Date 07/11/2023)

9. LEGAL IMPLICATIONS

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

Comments approved by the Director of Legal Services and Monitoring Officer. (Date 02/11/2023)

10. EQUALITIES IMPLICATIONS

- 10.1 The Council should pay due regard to section 149 of the Equality Act 2010 when exercising their functions. This includes having due regard to the Public Sector Equality Duty as detailed:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act. (Section 149(1)(a))
- Advance equality of opportunity between people who share a protected characteristic and those who do not. (Section 149(1)(b))
- Foster good relations between people who share a protected characteristic and those who do not. (Section 149(1)(c))

The recommendations in the report do not give rise to any equalities implications.

Comments approved by Naseer Ahmad for the Equality Programme Manager, 02/11/2023.

11. APPENDICES

None.

12. SUPPORTING DOCUMENTS

- April 2023, Grant Thornton Interim Auditor's Annual Report on the London Borough of Croydon (2019-20, 2020-21 and 2021-22).
- Members Code of Conduct
- Arrangements for dealing with allegations of breach of the Members' Code of Conduct under the Localism Act 2011.

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Agenda Item 9

LONDON BOROUGH OF CROYDON

REPORT:	ETHICS COMMITTEE	
DATE OF DECISION	15 NOVEMBER 2023	
REPORT TITLE:	UPDATE ON ETHICS COMPLAINTS RECEIVED IN THE SECOND (TO 30 JUNE) AND THIRD QUARTER UP TO AND INCLUDING 30 SEPTEBER 2023	
CORPORATE DIRECTOR / DIRECTOR:	DIRECTOR OF LEGAL SERVICES AND MONITORING OFFICER	
LEAD OFFICER:	Stephen Lawrence-Orumwense Stephen.Lawrence-Orumwense@croydon.gov.uk Ext: 27443	
DECISION TAKER:	ETHICS COMMITTEE	
KEY DECISION?	No	
CONTAINS EXEMPT INFORMATION?	YES	Public with Exempt Appendix B Exempt under paragraph(s) 1 (Information relating to any individual); and, 2 (Information which is likely to reveal the identity of an individual)of Schedule 12A of the Local Government Act 1972 and the public interest in withholding disclosure outweighs the public interest in disclosure.
WARDS AFFECTED:	ALL	

1. SUMMARY OF REPORT

- 1.1 The Council has determined that the Ethics Committee shall be responsible for receiving and considering reports on matters of probity and ethics. This is the quarterly report to the Ethics Committee to update members on any complaints received by the Monitoring Officer during the second quarter of the year up to 30 June 2023 and the third quarter of the year up to 30 September 2023.
- 1.2 The report is supported by Appendix A, which is an anonymised summary of complaints received during the second and third quarter and Appendix B which contains exempt and confidential information which pertains to those complaints which formed part of the quarter two or three and have since been completed. The Appendix B will need to be considered by Members in private session.

2 RECOMMENDATIONS

For the reasons set out in the report the Committee are asked:

- 2.1 to note the report contents.

3. REASONS FOR RECOMMENDATIONS

- 3.1 The Council has determined that the Ethics Committee shall be responsible for receiving and considering reports on matters of probity and ethics. This is the quarterly report to the Ethics Committee to update members on any complaints received by the Monitoring Officer during the second (to June 2023) and third quarter of the year up to 30 September 2023. This information is subject to what is set out at paragraph 4.8 below and the Appendix B contents are exempt and confidential.

4. BACKGROUND AND DETAILS

- 4.1 The 2011 Act requires local authorities to have mechanisms in place to investigate allegations that a member has not complied with the code of conduct, and arrangements under which decisions on allegations may be made. Members will be aware that a new Code of Conduct was adopted by the Council in October 2021 and the complaints detailed in this report were subject to that new Code of Conduct.
- 4.2 Pursuant to the current arrangements which the Committee has approved on behalf of the Council, any complaints which pertain to Members Conduct are made in the first instance to the Monitoring Officer. The Committee on Standards in Public Life Report on Local Government Ethical Standards (2019) acknowledged the role of Monitoring Officers in receiving and filtering complaints:

Filtering complaints

The Monitoring Officer usually filters complaints about councillor conduct and judges if the complaints are trivial or vexatious, or whether they should proceed to a full investigation. Usually this filtering is based on the judgment of the officer, often against a formal policy, though the Monitoring Officer may seek the advice of an independent person or members of a standards committee when they do so” (Chapter 3, Page 53).

- 4.3 The Monitoring Officer has authority to undertake an initial assessment of the complaint in accordance with the [Assessment Criteria](#) which the Committee have specifically adopted for these purposes. The Assessment Criteria are not exhaustive but are summarised below.
- a. Does the allegation relate to a Disclosable Pecuniary Interest? If so, this is a police matter.
 - b. Is the complaint about someone who is still a Member? If not no further action can be taken.
 - c. Has the matter already been the subject of an investigation – if so, the Monitoring Officer is unlikely to consider further action in the public interest.

- d. Has a period of 3 months elapsed since the alleged conduct occurred – if so the Monitoring Officer may consider no further action is appropriate.
- e. Is the complaint sufficiently serious to warrant further action?
- f. Is the complaint malicious, politically motivated or tit-for-tat – if so the Monitoring Officer is unlikely to take action.
- g. Is the complaint part of the ‘rough and tumble of political debate’ and conduct between Members – if so, the Monitoring Officer is unlikely to take action.
- h. Has insufficient information been provided? If so, unless further information is provided no further action can be taken.
- i. Is referring complaint the complaint for an investigation the best use of public resources and in the public interest? If not, no further action is likely to be taken particularly as no sanctions are available to the Council.
- j. Does the complaint demonstrate a lack of understanding of the code or policies/procedures? If so, the complaint will likely be dealt with by recommending/arranging training.
- k. Does the complaint relate to the manner in which meetings are conducted? If so, this will not be a matter in respect of which an investigation will be instituted.
- l. Is the complaint one person’s word against another? If so, with no independent evidence it is unlikely further action will be taken.
- m. Can the complaint be resolved informally without the need for an investigation e.g. by the offer of an apology. If so, the Monitoring Officer will take this into account in deciding what further action should be taken on the complaint.

4.4 The list is not exhaustive and a full copy of the criteria for assessment of complaints can be access [here](#).

4.5 The initial assessment by the Monitoring officer will indicate whether or not the complaint is one which ought to be referred for investigation. In reaching this decision, the Monitoring Officer may, although is not obliged to do so, consult with an Independent Person (IP) before reaching this decision. The Monitoring Officer has consulted with an Independent Person in respect of all the initial assessment decisions which have been completed and which are the subject of this report.

4.6 If the matter is referred for investigation, the matter is then referred to Members in accordance with the [arrangements](#) for dealing with allegations of breach of the code of conduct under the Localism Act 2011.

4.7 This report provides an update on the second quarter of the year, up to 30 June 2023 and the third quarter of the year, up to 30 September 2023. Between the date of the last updating report which set out the first quarter of 2023, the Monitoring Officer has received no complaints during quarter two and 1 complaint during quarter three. In respect of the latter complaint, the complainant was requested to provide additional

information in order to allow the Monitoring Officer to commence consideration against the assessment criteria. This complaint is currently at initial assessment stage.

- 4.8 Appendix B confidential information which pertains to two complaints which have been completed since the last updating report was provided to members on completed matters at the June 2023 meeting and will need to be considered by Members in private session.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 None

6. CONSULTATION

- 6.1 Not applicable.

7. CONTRIBUTION TO COUNCIL PRIORITIES

- 7.1 Reporting to Ethics Committee about complaints received under the ethics processes supports the Councils' priorities and Mayor's Business Plan by ensuring good governance is embedded and adopting best practice.

8. IMPLICATIONS

8.1 FINANCIAL IMPLICATIONS

8.1.1 There are no direct financial implications arising from this report. All costs are included within existing budgets and no pressures will be caused from this review.

8.1.2 Comments approved by Lesley Shields, Head of Finance for Assistant Chief Executive and Resources on behalf of the Director of Finance. 23/10/23

8.2 LEGAL IMPLICATIONS

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

8.2.2 Comments approved by the Director of Legal Services and Monitoring Officer. (Date 02/11/2023)

8.3 EQUALITIES IMPLICATIONS

8.3.1 The Council should pay due regard to section 149 of the Equality Act 2010 when exercising their functions. This includes having due regard to the Public Sector Equality Duty as detailed:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act. (Section 149(1)(a))
- Advance equality of opportunity between people who share a protected characteristic and those who do not. (Section 149(1)(b))
- Foster good relations between people who share a protected characteristic and those who do not. (Section 149(1)(c))

8.3.2 The Council prohibits discrimination in any of its functions and will endeavour to investigate any complaints of this nature in accordance with the relevant processes and in a thorough manner sharing the outcome where appropriate.

8.3.3 APPROVED: Naseer Ahmad for the Equality Programme Manager, 23/10/2023.

OTHER IMPLICATIONS

8.4 None

9. APPENDICES

9.1 Appendix A: For General Release: Code of Conduct Complaints

Appendix B: EXEMPT: Code of Conduct Complaints

10. BACKGROUND DOCUMENTS

10.1 Not applicable.

11. URGENCY

11.1 Not applicable.

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Appendix A: Code of Conduct quarterly complaints							
Ref.	Nature of complainant	Member/Co-opted member?	Nature of the complaint	Initial Assessment Outcome	IP Consulted by MO	Initial assessment completed in Time	Referred for investigation
13/23	Member of the Public	Member	Alleged breach of Paragraph 5 of the Code - bringing the authority or office into disrepute.	Matter currently at assessment stage	N/A at this stage	N/A at this stage	N/A at this stage

Key:

IP: Independent Person

MO: Monitoring Officer

N: No

N/A: Not applicable

NFA: No further Action

Y: Yes

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REPORT:	ETHICS COMMITTEE	
DATE OF DECISION	15 November 2023	
REPORT TITLE:	Appointments of Independent Person/s	
DIRECTOR:	Stephen Lawrence-Orumwense Director of Legal & Governance	
LEAD OFFICER:	Adrian May, Interim Head of Democratic Services adrian.may@croydon.gov.uk	
CONTAINS EXEMPT INFORMATION?	YES	Part Exempt To exclude the press and public, under Section 100(4) A of the Local Government Act 1972, from part of the meeting due to the likely disclosure of exempt information falling within paragraph 1 of Part 1 of Schedule 12A of the Local Government Act, 1972, as amended: 1. Information relating to any individual
WARDS AFFECTED:	All	

1 SUMMARY OF REPORT

- 1.1 The Ethics Committee, on the 19 April 2023, due to a vacancy which had arisen, agreed to commence a recruitment process under the provisions of the Localism Act 2011 to ensure a sufficient pool of Independent Persons.
- 1.2 Since the meeting an additional vacancy has arisen and so the Ethics Committee is asked to appoint two Independent Persons to the Council.
- 1.3 Advertisements for the positions were advertised on the Jobs section of the council's website, in the Croydon council newsletter, via email to the council's voluntary and community sector subscribers, via the Democratic Services Newsletter, and via email to residents currently volunteering elsewhere in the council. Councillors were also written to by email to encourage their contacts who are keen to be involved in the

voluntary life of the council to apply.

- 1.4 The listings were live for a period of two weeks and applications were received from one person.

2 RECOMMENDATIONS

For the reasons given in this report, the Ethics Committee is recommended to:

- 2.1 Exclude the Press and Public from a portion of the meeting to discuss and agree the appointment of an Independent Person on the basis it is likely, in view of the nature of the business to be transacted, that if members of the public were present there would be disclosure to them of information which is exempt under Schedule 12A, Part 1, paragraph 1, Local Government Act 1972, namely information relating to any individual;
- 2.2 To note the resignation of one of the Independent Persons as of October 2023;
- 2.3 To agree to appoint one Independent Person as recommended by the Selection Panel for the duration of 2 years, with a possible extension of 2 years;
- 2.4 To recommend the appointment be made formally by Council on 13 December 2023; and
- 2.5 To agree to hold a second round of applications in the coming weeks.

3 REASONS FOR RECOMMENDATIONS

- 3.1 The recommendations ensure that the Council has sufficient Independent Persons to continue to perform its statutory functions under the Localism Act 2011 in respect of the Ethics Functions of the Authority and under Part 4J of the Council's Constitution (Staff Employment Procedure Rules) in respect of disciplinary matters pertaining to Head of Paid Service, Section 151 Officer or Monitoring Officer.

4 BACKGROUND AND DETAILS

- 4.1 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. For Members' information, the arrangements as adopted by Full Council, can be accessed [here](https://www.croydon.gov.uk/sites/default/files/articles/downloads/Arrangements%20under%20the%20Localism%20Act%202011_July%202012.pdf)¹.

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https://www.croydon.gov.uk/sites/default/files/articles/downloads/Arrangements%20under%20the%20Localism%20Act%202011_July%202012.pdf

- 4.2 Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought and taken into account 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.
- 4.3 In addition, the Council's arrangements provide that the Monitoring Officer may consult an Independent Person when considering, at assessment stage, whether or not an allegation ought to be referred for investigation. In other words to avoid the potential conflict of the same Independent Person having to advise different persons/bodies on the same matter, up to four Independent Persons might be involved in providing advice at different stages of and to different parties in the Ethics Process – one to advise the Member complained about, one who may advise the Monitoring Officer at Assessment Stage, one who might be consulted by the Authority at any other stage in the process and one whose views must be sought and taken into account by the Council before it takes any final decision on an allegation of breach of the Code which is the subject of investigation.
- 4.4 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 six elected Members of the Council and the Independent Persons who are not committee members but attend in a non-voting advisory capacity at Committee and are involved at other stages of the process as detailed above.
- 4.5 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 ("the Regulations") which amend the earlier 2001 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.
- 4.6 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 and Disciplinary Committee. In addition, an Independent Panel constituting at least two Independent Persons (who are appointed pursuant to the Localism Act 2011) will advise the Council on any recommendation from Appointments and Disciplinary Committee to dismiss Head of Paid Service, the Chief Finance Officer, or the Monitoring Officer. Following any disciplinary hearing the outcome of which is a proposal to dismiss, the Independent Panel's views must be reflected specifically in the Report to full Council setting out the Appointments and Disciplinary Committee's recommendations. The full Council shall have regard to and take into account the recommendations of Appointments and Disciplinary Committee and the Independent Panel in reaching its decision on the matter.
- 4.7 The Committee, 19 April 2023, agreed to commence a recruitment and selection process to ensure a sufficient pool of Independent Persons to carry out statutory duties including in relation to any disciplinary matters described in the body of this report above. A Selection Panel consisting of 3 Members (supported by an

Independent Members in an advisory capacity) was agreed. The Committee appointed three Committee Members (Cllr Carserides, as Chair and Cllr Creatura and Cllr Fraser).

- 4.8 Following Annual Council on 17 May 2023, the Chair of Ethics Committee stood down and was replaced by Cllr Leila Ben-Hassel. Cllr Ben-Hassel was appointed chair of the Selection Panel at a subsequent meeting of the Ethics Committee on 5 July 2023. At the same meeting, Cllr Fraser stepped down from their position on the committee, and was replaced by Cllr Brigitte Graham, who then also took up the position on the Selection Panel, as agreed by the committee at the same meeting.
- 4.9 Following the resignation of Cllr Creatura as a member of the Ethics Committee in October 2023 and subsequently, the Selection Panel, the committee also agreed in consultation with the Monitoring Officer, to appoint Cllr Luke Shortland in his place.
- 4.10 The maximum pool of Independent Persons is currently five. The Council currently has 3 Independent Persons - Jennifer Gordon, Alan Malarkey, and Ashok Kumar.
- 4.11 The outcome of the Selection Panel shall be reported by this Committee for onward recommendation to Full Council for a proposed appointment of an additional Independent Person for a term of 2 years with a possible extension of 2 years, whilst noting that appointment within that term does ordinarily take place annually by Council.

5 ALTERNATIVE OPTIONS CONSIDERED

- 5.1 No other options considered as the Selection Panel needs to be comprised of existing members of the Ethics Committee.

6 CONSULTATION

- 6.1 The Localism Act requires that the recruitment process will involve a public advertisement and formal application process, which took place from 20 October to 2 November 2023.
- 6.2 The views of the current Independent Persons will be sought prior to the appointment.

7. CONTRIBUTION TO COUNCIL PRIORITIES

- 7.1 Mayor's Business Plan - Priority 4: Ensure good governance is embedded and adopt best practice.

8. IMPLICATIONS

8.1 FINANCIAL IMPLICATIONS

- 8.1.1 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.

- 8.1.2 Finance have been consulted and can conclude that there are no financial implications within this report that cannot be met from within existing budgets.
- 8.1.3 Comments approved by Lesley Shields, Head of Finance for Assistant Chief Executive and Resources on behalf of the Director of Finance. 30/10/23

8.2 LEGAL IMPLICATIONS

- 8.2.1 The Council has a statutory duty under the Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the authority and in discharging this duty, the Council must adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.
- 8.2.2 The Council must also have in place arrangements under which allegations of breaches of the Code can be investigated, and under which decisions on allegations can be made.
- 8.2.3 These arrangements must include provision for the appointment by the Council 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.
- 8.2.4 For these purposes a person is not independent if the person is a Member, co-opted Member or officer of the authority or a relative, or close friend, of a person who is a Member, co-opted Member or officer of the authority.
- 8.2.5 A person may not be appointed as an Independent Person if at any time during the 5 years ending with the appointment the person was a Member, co-opted Member or officer of the authority.
- 8.2.6 Finally, a person may not be appointed unless the vacancy for an independent person has been advertised in such manner as the authority considers is likely to bring it to the attention of the public, the person has submitted an application to fill the vacancy to the authority, and the person's appointment has been approved by a majority of the members of the authority.
- 8.2.7 The relevant legal requirements in relation to the involvement of Independent Persons in disciplinary action taken against the Head of Paid Service, the Section 151 Officer, and the Monitoring Officer are set out within the body of this report.
- 8.2.8 *Approved by:* Sandra Herbert, Head of Litigation and Corporate Law on behalf of

the Director of Legal Services and Monitoring Officer (02/11/23).

8.3 EQUALITIES IMPLICATIONS

8.3.1 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.

8.3.2 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.

8.3.3 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.

8.3.4 Comments approved by: Naseer Ahmad for the Equalities manager. (31/10/2023)

8.4 HR IMPLICATIONS

8.4.1 There are no immediate Human Resources implications arising from this report. Should any matters arise these will be managed through the appropriate Council processes and procedures.

8.4.2 Comments approved by Gillian Bevan, Head of HR Resources and Assistant Chief Executive’s directorates on behalf of the Chief People Officer. 02/11/23

9. APPENDICES

Appendix A – Part B recommendations to the Ethics Committee

10 BACKGROUND DOCUMENTS

None

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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