

<b>REPORT TO:</b>	<b>ETHICS COMMITTEE</b>
<b>COMMITTEE:</b>	<b>26 May 2021</b>
<b>SUBJECT:</b>	<b>REVIEW OF THE TERMS OF REFERENCE, MEMBERSHIP, DATES AND FREQUENCY OF MEETINGS OF THE ETHICS COMMITTEE</b>
<b>LEAD OFFICER:</b>	<b>ASMAT HUSSAIN INTERIM EXECUTIVE DIRECTOR OF RESOURCES AND INTERIM DEPUTY MONITORING OFFICER</b>
<b>WARDS:</b>	<b>ALL</b>
<p><b>CORPORATE PRIORITIES 2021-2024/POLICY CONTEXT.</b></p> <p>The proposal will ensure good governance within the Council and by councillors. Good governance underpins the Council’s new Core Priorities and Ways of Working:</p> <ul style="list-style-type: none"> <li>• we will live within our means, balance the books and provide value for money for our residents;</li> <li>• we will focus on tackling ingrained inequality and poverty in the borough;</li> <li>• we will focus on providing the best quality core service we can afford. First and foremost, providing social care services that keep our most vulnerable residents safe and healthy. And to keep our streets clean and safe; and</li> <li>• to ensure we get full benefit from every pound we spend, other services in these areas will only be provided where they can be shown to have a direct benefit in keeping people safe and reducing demand.</li> </ul>	
<p><b>FINANCIAL IMPACT</b></p> <p>Implementation of the recommendations contained in this report shall be contained within existing budgets.</p>	
<p><b>FORWARD PLAN KEY DECISION REFERENCE NO.:</b> N/A</p>	
<p><b>1. RECOMMENDATIONS</b></p> <p>The Ethics Committee is asked to:</p> <p>1.1 Consider and review its Membership (including the role of the Independent Persons), Terms of Reference, together with dates and frequency of future meetings as set out in Appendix 1, 2 and 3 respectively;</p> <p>1.2 Agree any next steps required;</p> <p>1.3 Note that any changes to the Constitution and associated requirements will need to be referred to Full Council for final consideration.</p>	

## **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 and to consider matters relating to the Code of Conduct.
- 2.2 It is good practice for the committee at its first meeting following Annual Council to consider and, where necessary, review its terms of reference, membership, frequency, dates and timing of its future meetings.
- 2.3 Ensuring the Committee's terms of reference are accurate and effective supports the work of the Committee. This in turn helps ensure high standards are maintained by the Council's Members.
- 2.4 Members are therefore asked to consider these matters and agree any next steps required.

## **3. DETAIL**

### **Annual establishment, terms of reference and dates of meetings.**

- 3.1 At the Annual Council meeting on Tuesday 4 May the Council approved the proportionality and establishment of Committees and Panels of the authority including the Ethics Committee and appointment of Members thereto.
- 3.2 It is good practice that, following the Annual Council meeting, the committees that have been established note their Membership, Terms of Reference (ToR), and the dates of meetings for the duration of the municipal year. The Membership is set out in Appendix 1 of this report. The ToR are set out in Appendix 2.
- 3.3 The Ethics Committee usually meets 4 times per municipal year and the dates of the Ethics Committees for the municipal year are as set out in Appendix 3. Meetings start at 6.30 pm.

### **Membership.**

- 3.4 Full Council has agreed that the committee shall be appointed in accordance with the requirements of political proportionality and that:
  - The Ethics Committee shall be composed of six Members (none of whom shall be the Mayor or Leader).
  - No Cabinet Member appointed to the Committee shall be eligible to Chair meetings of the Ethics Committee.
  - Appointed "Independent Persons" shall be entitled to attend and may vote at meetings of the Ethics Committee, where the committee is dealing with a specific allegation against a Member.
- 3.5 Following appointment at the Annual Council meeting on 4 May and pursuant to a recent recruitment process designed to ensure appropriate succession

planning in relation to the role of the Independent Person the Council now has five appointed Independent Persons to assist the Monitoring Officer:

- Anne Smith a long standing Independent Person for the Council recently had her appointment renewed on 4 May 2021 for a further 2 year term expiring at the end of the municipal year in 2023.
- Ashok Kumar a long standing Independent Person for the Council recently had his appointment renewed on 4 May 2021 for a further 2 year term expiring at the end of the municipal year in 2023.
- Don Axcell was appointed by full council on 4 May 2021 as a new Independent Person. His appointment is for a period of 4 years expiring at the end of the municipal year in 2025.
- Alan Malarkey was appointed by full council on 4 May 2021. His appointment is for a period of 4 years expiring at the end of the municipal year in 2025.
- Jennifer Gordon was appointed by full council on 4 May 2021. Her appointment is for a period of 4 years expiring at the end of the municipal year in 2025.

3.6 Full Council at its meeting on 4 May 2021 also agreed the appointment of Councillor Jerry Fitzpatrick as Chair and Councillor Pat Clouder as Vice-Chair of the Committee for the municipal year.

### **Terms of Reference.**

- 3.7 Members will be aware the requirement to have a Standards Committee was dis-applied by the Localism Act 2011 and as a result the Council's Standards Committee was dis-established by full Council following the July 2012 meeting of full Council. The Council, however, agreed to voluntarily create the Ethics Committee consisting, at that time, of five elected Members with ToR including authority to issue dispensations in specified circumstances. Whilst there has been some update to the ToR for the Ethics Committee this has remained largely as drafted and agreed in 2012. A copy of the current ToR can be found at Appendix 2 which Members are asked to consider and review as necessary.
- 3.8 Matters such as the review of the Council's Whistleblowing Policy and Policy under the Regulation of Investigatory Powers Act together with arrangements thereunder, whilst not specifically referred to in the Committee's ToR have traditionally been reported into this Committee. It is proposed by the interim Executive Director of Resources and Deputy Monitoring Officer that going forward such matters be reported to the General Purposes and Audit Committee on the basis that this function is more suited to the auditing role of that committee. When concerns are raised of suspected wrongdoing in the workplace by employees, contractors, suppliers or those outside of the normal management channels internal audit have a vital role in responding to those matters in a confidential manner and would, it is suggested, be best placed to address any concerns on behalf of the Council through the role of the General Purposes and Audit Committee.

## **Dates and frequency of meetings.**

- 3.9 Members will note from Appendix 3 that the calendar of meetings proposes that the committee meet 4 times throughout the municipal year. Members will want to consider whether they consider this is appropriate having regard to the Work Programme which a separate item on the agenda. It should also be noted that there is no planned committee meeting between May and November 2021.

## **4. NEXT STEPS**

- 4.1 Members should now consider and, if necessary, review its membership, terms of reference and meeting calendar.
- 4.2 To assist Members with their review attached as Appendix 4 is a summary of key themes from a sample of other London Council Constitutions in relation to membership, terms of reference and frequency of meetings extracted from public websites.

## **5. CONSULTATION**

- 5.1 The proportional balance of the Council was reviewed by all members at full council on 4 May and committees and their membership duly appointed. The proposals in this report have been discussed with the new Chair and Vice Chair of the Ethics Committee but there has been no formal prior consultation regarding a review.

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

- 6.1 Implementation of the recommendations contained in this report shall be contained within existing budgets.

*Approved by:* Geetha Blood interim Head of Finance on behalf of the Director of Finance Investment and Risk.

## **7. LEGAL CONSIDERATIONS**

- 7.1 The Head of Litigation and Corporate Law comments on behalf of the interim Director of Law and Governance that section 27(1) of the 2011 Act places a duty upon the Council to ensure that its members and co-opted members maintain high standards of conduct. In discharging this duty the Council is required under section 27(2) to adopt a code of conduct for its members. Section 28(1) of the 2011 Act provides that the contents of such a code must be consistent with the Nolan principles of standards in public life namely selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

- 7.3 In addition, the 2011 Act section 28(6) requires the Council to have mechanisms in place to investigate allegations that a member has not complied with the code of conduct, and have Arrangements under which decisions on allegations may be made.
- 7.4 The 2011 Act also provides in section 28(7) that the Council must make provision for the appointment by the Council of at least one Independent Person whose views (a) are to be sought and taken into account by the Council before it makes its decision on an allegation that it has decided to investigate and (b) whose views may be sought by the Council in relation to an allegation at any other time and (c) whose views may be sought by a Member if that person's behaviour is the subject of an allegation.
- 7.5 The Committee's current membership and composition is as set out in Article 8 and Article 9 of the Council's Constitution. Its terms of reference are set out in Part 3 of the Constitution - Responsibility for Functions. Any changes proposed to the terms of reference for the committee or its membership will require a change to the Constitution and will need to be referred to full Council for approval.

*Approved by:* Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Interim Director of Law and Governance.

## **8. HUMAN RESOURCES IMPLICATIONS.**

- 8.1 There are no HR implications arising from this report for Croydon Council employees or staff. If any should arise these will be managed under the Council's policies and procedures.

*Approved by:* Gillian Bevan, Head of HR – Resources for and on behalf of Sue Moorman Director of HR

## **9. EQUALITIES IMPACT**

- 9.1 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.
- 9.2 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.
- 9.3 When drawing up the schedule of dates, consideration was given to avoiding school holiday dates and known dates of religious holidays and other key/important dates around culture, diversity and inclusion where at all possible.

*Approved by:* Yvonne Okiyo, Equalities Manager.

**10. ENVIRONMENTAL IMPACT**

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

**11. CRIME AND DISORDER REDUCTION IMPACT**

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

**12 DATA PROTECTION IMPLICATIONS.**

There are no data protection implications arising from the proposal.

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**CONTACT OFFICERS:** Asmat Hussain, interim Executive Director of Resources and interim Deputy Monitoring Officer (ext. 62328)

**APPENDICES TO THIS REPORT**

Appendix 1 - Membership of the Committee

Appendix 2 – Terms of Reference of the Committee

Appendix 3 – Dates of future meetings

Appendix 4 – Key themes from review of London Borough Constitutions.

**BACKGROUND DOCUMENTS:** None

**Appendix 1  
Ethics Committee  
Membership**

**Councillors (including Chair and Vice Chair):**

<b>Majority Group Members 4</b>	<b>Minority Group Members 2</b>
Jerry Fitzpatrick (Chair)	Mario Creatura
Pat Clouder (vice Chair)	Simon Hoar
Clive Fraser	
Joy Prince	

**Substitute Members:**

<b>Majority Group</b>	<b>Minority Group</b>
Karen Jewitt	Jeet Bains
<i>Vacancy</i>	Jan Buttinger
<i>Vacancy</i>	
<i>Vacancy</i>	

**Independent Persons (Non-Voting):**

Anne Smith	Appointed until end of municipal year 2023
Ashok Kumar	Appointed until end of municipal year 2023
Alan Malarkey	Appointed until end of municipal year 2025
Donald Axcell	Appointed until end of municipal year 2025
Jennifer Gordon	Appointed until end of municipal year 2025

**Constitution**

**PART 3 Responsibility for Functions**

**2.2 Ethics Committee (Membership 6 + 2 Independent non-voting co-optees)**

1. Supporting the statutory role of the Monitoring Officer.
2. Receiving reports from the Monitoring Officer on matters of probity and ethics, and to consider and recommend any necessary revisions of the Members' Conduct of Conduct (the Code) to the Council.
3. Reviewing the operation of the Code and recommending revisions for the consideration of full Council as necessary.
4. Monitoring compliance with the Code and granting any dispensations church and parent governor representatives from requirements relating to interests set out in the Code.
5. To comment on the content of guidance and advice to be issued to elected and non-elected Members.
6. Agreeing programmes of advice and training for elected, co-opted and non- elected Members on ethics and probity, and on the Code.
7. To consider applications for a grant of dispensation in the following circumstances:
  - a. 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.
  - b. That the authority considers that the dispensation is in the interests of persons living in the authority's area.
  - c. That the authority considers that it is otherwise appropriate to grant a dispensation.
  - d. If referred to them for consideration by the Monitoring Officer, to advise on or express a view on whether a dispensation would be appropriate in either of the following circumstances:
    - 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; or



ii. That, without a dispensation, no Member of the Cabinet would be able to participate on this matter.

8. To agree the processes and procedures for the Appointments Committee for the consideration of disciplinary action and suspension pursuant to Part 4J of the Constitution.

9. To make future invitations for appointment of Independent Persons in accordance with and for the purposes of the Staff Procedure Rules.

10. To undertake the role of Hearings Panel in respect of a complaint that a Member or co-opted Member has failed to comply with the Code of Conduct upon the matter being referred to the Committee by the Monitoring Officer in accordance with the arrangements adopted by the Council under the Localism Act 2011.

**Appendix 3  
Ethics Committee  
Dates of meetings  
Municipal year 2021/2022**

**Dates of meetings**

26	May	2021
17	November	2021
9	February	2022
6	April	2022

**KEY THEMES**  
**LONDON BOROUGH COUNCIL CONSTITUTIONS**