

REPORT TO:	ETHICS COMMITTEE 9 December 2021
SUBJECT:	Members' Code of Conduct
LEAD OFFICER:	Richard Ennis, Corporate Director of Resources (interim)
WARDS:	All
CORPORATE PRIORITIES 2021-24:	
A review of the member and officer codes of conduct to fully embed the Nolan Principles in all work is one of the strands of the Croydon Renewal Improvement Plan.	

FINANCIAL IMPACT
Implementation of the recommendations within this report shall be contained within existing budgets.

RECOMMENDATION
Ethics Committee is recommended to:
<ol style="list-style-type: none"> 1. Review feedback that is to be provided from a small group of Members convened to review the draft Members' Code of Conduct guidance (Appendix 1) and: <ol style="list-style-type: none"> i) Agree any amendments to the draft guidance; and ii) Agree that the guidance be published in the Members' Handbook; and iii) Agree to recommend to Full Council that the Members' Code of Conduct guidance be added to the Members' Code of Conduct in the Council's Constitution; 2. Identify a small group of Members from the Committee to work with officers to review the Protocol on Staff-Councillor Relations.

1. EXECUTIVE SUMMARY

- 1.1 Ethics Committee is asked to agree guidance to accompany the newly adopted Members' Code of Conduct which reflects national guidance produced by the Local Government Association.
- 1.2 The guidance has been prepared both to give clarity to Members on their duties under the Code of Conduct and also for use by the Monitoring Officer and Ethics Committee when considering alleged breaches of the Code of Conduct.

2. BACKGROUND

- 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 At its September meeting the Committee considered a new draft Members' Code of Conduct and associated guidance, based on the new national model code and guidance. The Code includes a duty for Members to comply with reasonable guidance issued from time to time by the Chief Executive, Chief Finance Officer and/or Monitoring Officer. The meeting agreed that the proposed Members' Code of Conduct and associated guidance be recommended for adoption to Full Council, subject to some amendments agreed by the Committee.
- 2.3 Two Member development sessions on the draft Code and guidance were provided on 4th October.
- 2.4 At Full Council on 11th October, the Council agreed to adopt the new Members' Code of Conduct and appendices A and B, as amended by Ethics Committee. An amendment to the recommendation from Ethics Committee to adopt the amended guidance (Appendix C) was moved and adopted:

to note Appendix C to enable Council members to attend training sessions on the Code of Conduct and to raise comments and questions about Appendix C which will be considered by the Ethics Committee at its meeting on 17 November 2021.

- 2.5 As no Members raised any further questions on the guidance a small group of Members was convened to consider the draft guidance and will report back to the Committee.
- 2.6 The Committee is asked to review the guidance, agree that it be published within the Members' Handbook and recommend to Full Council its adoption within the Constitution. Adoption of the guidance alongside the Code will ensure consistency with the same standards of conduct followed by councils elsewhere in the country and demonstrates good governance practice by the Council. Once the guidance is adopted, the Committee has delegated power to make amendments to the guidance so that, for example, further clarification can be provided where needed.

3. PROPOSAL

- 3.1 The proposed guidance to accompany the Members' Code of Conduct appears at Appendix 1.
- 3.2 The guidance is an edited version of explanatory text extracted from the LGA Model Code of Conduct, combined with the LGA's guidance. It sets out in more detail what the commitments in the Code mean in practice, for example:
 - Definitions of bullying and harassment such as abuse of power, placing unreasonable expectations on someone in relation to their job and the relevance of the perception of the recipient of the behaviour;

- Case studies which give real-life examples of what would and would not be a breach of the Code;
- Detailed explanation of the requirements associated with registering interests.

It is therefore equally important that members are familiar with the guidance as with the Code as this will be used to assess complaints made against Member conduct. Members are advised to understand the guidance as a whole, rather than focusing on individual sections in isolation: the Monitoring Officer and Committee will similarly consider all relevant parts of the guidance when considering alleged breaches of the Code and decide if it is appropriate in the particular circumstances under consideration.

- 3.3 Adoption of this Code and guidance will ensure consistency with the same standards of conduct followed by councils elsewhere in the country, and with the recommendations of the Committee for Standards in Public Life.
- 3.4 Following the Council meeting, all Members were invited to raise queries or comments on the guidance and were offered the opportunity to attend a further training session on the subject. At the time of writing this report, no responses had been received.

3.5 Ethics Committee is asked to note that:

- The Independent Persons have been informed about the process to develop the draft to date and invited to comment on the draft Code of Conduct and guidance (no material changes have been proposed by any of the Independent Persons);
- Members are required to comply with the Council's Constitution, all relevant Protocols contained within it and guidance issues from time to time by the Chief Executive and/or Monitoring Officer. Ethics Committee are asked to give weight to the Code of Conduct guidance when considering alleged breaches of the Code of Conduct;
- The Protocol on Staff-Councillor Relations will be revised to support implementation of the new Code of Conduct, addressing, for example, the behaviours required to meet the requirements in the Code to treat others with respect and not to bully, harass or discriminate against others (which are mirrored in the Officer Code of Conduct). The Committee is asked to identify a small group of Members to work with officers to review the Protocol in light of best practice in other councils.
- Member engagement with training on the Code and its guidance, and on associated Protocols, will be essential, both to ensure a common understanding of their requirements, and to provide assurance to the Improvement Panel and others of the importance placed on good governance by the Council. Ethics Committee is asked to promote this engagement on an ongoing basis.
- A report on the newly revised Officer Code of Conduct appears elsewhere on this agenda.

- 3.6 It is proposed, in line with the approach recommended by the LGA, that the Ethics Committee review the Code of Conduct annually ongoing. It is however understood that the Government is preparing to respond to recommendations of the Committee on Standards in Public Life relating to sanctions for breaches of Member Codes of Conduct: if legislative changes were to take place the Council may wish to review its Code at an earlier stage.
- 3.7 The Member Code of Conduct is part of a suite of documents which supports high standards of Member conduct. In addition to the review of the Protocol on Staff Councillor Relations, work will also be undertaken as part of revisions to the Constitution, on:
- The Planning Code of Good Practice
 - Protocols for Licensing Hearings
 - Arrangements for investigations into complaints on Councillor conduct
 - The Scheme of Co-option.
- 3.8 Work is also underway to prepare for approval:
- An Access to Information Protocol
 - Guidance on use of social media for inclusion in the Members' Handbook.

4. CONSULTATION

- 4.1 The draft Code has been informed by comments from Ethics Committee, and both the Model Code and guidance have been informed by a national consultation exercise consulted by the Local Government Association.

5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

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

Approved by: Matt Davis, Interim Deputy s151 Officer.

6. LEGAL CONSIDERATIONS

- 6.1 The Head of Litigation and Corporate Law comments on behalf of the interim Director of Law and Governance that the Localism Act 2011 section 27(1) ('the 2011 Act') places a duty upon the Council to ensure that its members and co-opted members maintain high standards of conduct.
- 6.2 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 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.
- 6.3 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.

- 6.4 The recommendations in this report are seeking to approve the draft guidance which is to accompany the code of conduct in the Members Handbook along with it being recommended to Full Council so that the guidance can be added to the Members' Code of Conduct in the Council's Constitution.

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

7. HUMAN RESOURCES IMPACT

- 7.1 There are no direct human resources impacts for Croydon Council employees or staff as a consequence of this report and its recommendations.

Approved by: Gillian Bevan, Head of HR- Resources.

8. EQUALITIES IMPACT

- 8.1 The revised Members' Code of Conduct includes a commitment to promote equalities and not to discriminate unlawfully against any person. The associated guidance gives detailed examples of what might constitute bullying, harassment and discrimination.

Approved by: Denise McCauseland, Equalities Manager

9. ENVIRONMENTAL IMPACT

- 9.1 There is no environmental impact arising from this report.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 There is no crime and disorder impact arising from this report.

11. DATA PROTECTION IMPLICATIONS

11.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

No. As part of the statutory requirements placed on Members and Co-opted Members there are requirements to make declarations of interest which are, in turn, published on the Council's website, subject to an interest being a 'sensitive interest'. A 'sensitive interest' (as defined in the Localism Act 2011) is an interest which, if disclosed, could lead to the Member, or a person connected with the Member, being subject to violence or intimidation.

Where a Member has a 'sensitive interest' they are required to notify the Monitoring Officer with the reasons why they believe it is a sensitive interest. If the Monitoring Officer agrees that the matter is a sensitive interest, the Monitoring Officer will withhold the interest from the public register.

11.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?

The newly adopted Member's Code of Conduct does not change the statutory obligations on Members to make disclosures of interests or the requirements that such interests be published (including availability on the Council's website and the exceptions regarding sensitive interests). A revised DPIA is being undertaken and Privacy Notices associated with registration of interests under the Code of Conduct are being reviewed.

Approved by: Richard Ennis, Corporate Director of Resources.

12. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 12.1 To ensure that Croydon Council Members are supported to comply with the Member Code of Conduct in a way which reflects national best practice.
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APPENDICES TO THIS REPORT:

1: Members' Code of Conduct guidance

BACKGROUND PAPERS: None