

Ethics Committee

Meeting of held on Wednesday, 26 May 2021 at 6.30 pm in Council Chamber, Town Hall,
Katharine Street, Croydon CR0 1NX

MINUTES

Present: Councillor Jerry Fitzpatrick (Chair);
Councillor Pat Clouder (Vice-Chair);
Councillors Joy Prince, Clive Fraser, Mario Creatura and Simon Hoar

Don Axel (Independent Person), *virtual*
Ashok Kumar (Independent Person), *virtual*
Ann Smith (Independent Person), *virtual*
Alan Malarkey (Independent Person), *virtual*

PART A

1/20 Minutes of the Previous Meeting

The minutes of the meeting held on 11 February 2021 were agreed as an accurate record.

2/20 Disclosure of Interests

There were none.

3/20 Urgent Business (if any)

There were no items of urgent business.

4/20 Review of the Terms of Reference

Sandra Herbert, Head of Litigation and Corporate Law, presented the report and in response to members' questions answered that:

- Whistleblowing against an elected member tended to take the form of a complaint and the individual making that complaint would be directed through the Code of Conduct complaints process;
- The report on Whistleblowing which was taken to the Audit Committee would be shared with Ethics Committee members so that they could have oversight of the process;
- The current Chair of the General Purposes and Audit Committee (GPAC) had been consulted on the process of appointing an Independent Chair to the committee and had welcomed the decision;

- Having an understanding of the Council's policies and procedures, which included Whistleblowing, would be a part of the job description for the Independent Chair of GPAC;
- Officers intended to include Whistleblowing as part of the Member Learning and Development (MLD) Programme;
- The Terms of Reference could be updated to include some details about the role of the Monitoring Officer to assist the committee to exercise its duty to support them in their role;
- The terms would also be updated to include the responsibility of maintaining high standards of conduct of members.

The Chair requested that a meeting be scheduled in September as a substitute for one later in the year, as the committee found the gap in meetings to be too large.

RESOLVED, to:

- 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;
- 1.2 Agree any next steps required;
- 1.3 Note that any changes to the Constitution and associated requirements will need to be referred to Full Council for final consideration

5/20 Dispensation Applications for Members

There were none.

6/20 LGA Code of Conduct Gap Analysis with Current Code

Sandra Herbert, Head of Litigation and Corporate Law, and Asmat Hussain, Interim Executive Director of Resources and Interim Deputy Monitoring Officer, introduced the report drawing the Committee's attention to the amendment of recommendation 1.4. This recommendation clarified that the Committee was being asked to agree the Code in principle but that any amendments as a result of the committee review would be made and brought back to the Ethics Committee for formal approval.

In response to questions officers clarified that:

- Any changes in the law would apply to the Code as and when they occurred, and that the council would not wait for the periodic reviews of the Code before applying any necessary legislative changes;
- The Committee's desire for a plain English document that was easy to use, with references to the expansion and explanation of points included in it, would be taken into account when drafting it.

RESOLVED, to:

- 1.1 Consider the contents of the report
- 1.2 Agree, in principle, to recommend to Full Council that it replace or part replaces the current Code of conduct with the LGA Model Code as revised.
- 1.3 Agree that the proposed new Code or parts to be recommended to Full Council will include the additional matters detailed in paragraph 3.25 below.
- 1.4 Delegate authority to the Interim Executive Director of Resources, and Deputy Monitoring Officer authority to prepare for the Committee's further consideration and onward recommendation to Full Council:
 - 1.4.1 a revised version of the Members' Code to adhere to recommendations 1.2 and 1.3
 - 1.4.2 a revised version of the Code of Conduct for non-voting Co-opted members
 - 1.4.3 an updated Register of interests to take the Code changes into account
 - 1.4.4 an updated Gifts and Hospitality register
 - 1.4.5 details regarding any associated constitutional changes which are contingent upon the recommendations in this report.
- 1.5 Note that any changes to the Members' Code of Conduct and associated requirements and documents, including any constitutional amendments will need to be referred to Full Council for consideration and that any revisions to the Code and associated arrangements will need to be published in accordance with section 28 of the Localism Act 2011.
- 1.6 Note that training necessary to update members on the changes to the Code, will be arranged by the Interim Executive Director of Resources and Deputy Monitoring Officer.

7/20 Social Media Guidance for Councillors

Sandra Herbert, Head of Litigation and Corporate Law, presented the item. Members again requested that the document be translated into plain English, and also that issues around photographing and posting images containing children and vulnerable adults be clarified within the guidance.

Officers also agreed to include Member Safety Protocol in the work programme for the Ethics Committee.

RESOLVED, to:

- 1.1 Consider and comment on the contents of the report and appendices
- 1.2 Adopt the Social Media Guidance for Councillors, Appendix A, for use and circulation to Members as part of the Members' Handbook.
- 1.3 Note that any changes to the Code of Conduct and associated requirements and documents, including any constitutional amendments will need to be referred to Full Council for consideration.

8/20 Access to Information Protocol

Stephen Rowan, Head of Democratic Services, introduced the item and suggested amending the recommendation to state that the Committee comments on the draft protocol, and that wider consultation would be done with members before bringing the protocol back to the Ethics Committee for formal approval.

In response to questions from members Stephen Rowan stated that:

- A previous version of the protocol had been reviewed by the Centre for Governance and Scrutiny (CfGS) and that significant changes had been made to the protocol in response to that consultation;
- The version that would come out of this meeting would also be reviewed by the CfGS before it came back to the Committee for approval;
- There had been inconsistent practice about how legislation was applied with regard to how Part B (publicly exempt) information was shared, and this would be included in the next draft of the protocol.

RESOLVED, to:

- 1.1 Review and comment on the Access to Information Protocol.
- 1.2 Agree that the Protocol will be placed in the Members Handbook as a reference point for Members.
- 1.3 Note that the Interim Executive Director of Resources will arrange a briefing for all Members on the implications and operation of the protocol.

9/20 Update on Ethics Complaints Received up to and including 31 March 2021

Sandra Herbert, Head of Litigation and Corporate Law, introduced the report.

The committee queried whether members were always made aware when a complaint was made against them, to which officers responded that it was at the Monitoring Officer's discretion whether it was warranted to share a complaint with a member. However, there was a proposal to conduct a review of the arrangements for dealing with complaints going forwards, and this was to include consultation with councillors.

RESOLVED, to:

1.1 Note the contents of the report.

10/20 Equalities Review

Grace Addy, Head of Learning and Organisational Development, delivered a presentation on the findings of an independent review of the council's workforce equalities which was carried out in May 2019.

Members asked for details about when staff surveys had been carried out and when the data which would be used to inform the process, which was to involve the Local Government Association (LGA), of improving Equality, Diversity and Inclusion (EDI) amongst staff would be available. Officers responded that 'temperature checks' had last taken place in November 2020, and that work with the LGA was due to begin in August or September of 2021, the data from which would be available the following six weeks.

Members expressed concern that the work that had been commissioned and paid for did not produce a formal report, and that the only information they had to look into were four slideshow presentations. Members asked to know what the terms of reference for the piece of work that external officer, Mr Montgomery, had been asked to produce were, to which Grace Addy responded that no one currently in the council had access to that information.

In response to a question about unions and consultation, officers responded that the Race Equalities Network, unions, the Equalities Manager, HR Manager, and Equalities and Policy Manager had been involved in the process, looking heavily at bullying and harassment in the workplace, and that benchmarking across other London Local Authorities had been carried out.

RESOLVED, to:

- 1.1 Note the initial work presented to the Council from Joe Montgomery, who conducted an independent review of the councils workforce equalities in May 2019
- 1.2 Note the presentation of the subsequent actions undertaken as a response to the recommendations in the review and progress made.

11/20 Work Programme

Officers proposed to include the following in the Work Programme:

- Review of arrangements and assessment criteria for dealing with councillor complaints, and the role of the Independent Person in supporting the Monitoring Officer;
- Review of the Member / Officer Protocol;
- Creation of a Member Safety Protocol;
- Review of the Members' Handbook;
- Member Learning and Development (MLD).

RESOLVED:

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

12/20 Exclusion of the Press and Public

The following motion was **MOVED** and **SECONDED** to exclude the press and public:

“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.”

The motion was put and it was agreed by the Committee to exclude the press and public for the remainder of the meeting.

13/20 Dispensation Applications for Members

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 Paragraph 3 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) of Part 1 of Schedule 12A of the Act: and
- (ii) that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

The meeting ended at 8.48 pm

Signed:

Date:

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