

Ethics Committee

Meeting held on Thursday, 18 October 2018 at 6.30 pm in F4 - Town Hall

MINUTES

Present: Councillor Clive Fraser (Chair);
Councillor Pat Clouder (Vice-Chair);
Councillors Joy Prince and Helen Redfern

Apologies: Councillors Mario Creatura and Patricia Hay-Justice and Independent Members Anne Smith and Ashok Kumar

PART A

23/18 Minutes of the Previous Meeting

The minutes of the meeting held on 4 June 2018 were agreed as a true and accurate record. A copy was signed by the Chair for the record.

Members requested an update regarding minute number 22/18. Officers advised the application involving Councillor Stranack remained deferred pending receipt of further information from him.

24/18 Disclosure of Interests

There were none.

25/18 Urgent Business (if any)

There were no items of urgent business.

26/18 Code of conduct and complaints process

The Deputy Monitoring Officer and Head of Litigation & Corporate Law provided an introduction highlighting that the purpose of the item was for the Committee to conduct an annual review to ensure they are content with the Code of Conduct and Complaints Process as adopted.

In response to Councillor questions, it was established that:

- There is no formal process for the allocation of cases between the two Independent Persons appointed by the Council. An Independent Person would be allocated to a complaint by the Monitoring Officer having regard to workload and availability. If a Councillor objects to the allocation of a

particular Independent Person on grounds of a conflict of interest, this would be addressed by the Monitoring Officer;

- The 15 working day timeframe for acknowledging any complaint is to provide flexibility. Most complaints are acknowledged within three working days (the corporate standard). However, a longer timeframe is allowed so that there can be an initial assessment of the information provided. Where needed, this would allow for additional information to be sought from the complainant at the point of acknowledgement;
- The number of complaints against the code during this year will be reported at the Committee's meeting in February 2019; and
- The Committee raised that the Council should be seen to act reasonably and fairly in cases where there was a good reason for a complaint not having been made in the three months following any incident. The Committee also considered that the three month timeframe should not act as a barrier to the assessment of a complaint where there was good reason for the lateness of the complaint submission. As a result, the Committee wished the Assessment Criteria to be revised to allow the Monitoring Officer to assess such complaints where it was appropriate to do so.

RESOLVED: the Committee resolved to (1) note the report and confirm the arrangements relating to decision making on Member complaints under the Code of Conduct save for an amendment to the three month restriction for making a complaint about a member. This is to enable the Monitoring Officer to exercise discretion where this is appropriate and (2) **RECOMMEND** to Full Council revision to the adopted Assessment Criteria for reviewing complaints against Councillors as follows: Assessment Criteria 4 to read, "Where the period of time that has passed since the alleged conduct occurred is such that there would be little benefit in taking further action at the time of receipt of the complaint for these purposes, it is considered that when the period of three months has elapsed since the alleged conduct occurred and no complaint has been received then this criterion will be likely to be engaged and the Monitoring Officer may consider that, in the circumstances of the case, it is appropriate to take no further action after the three month period".

27/18 **Case law update**

The Deputy Monitoring Officer and Head of Litigation & Corporate Law introduced the Harvey and Ledbury Town Council case highlighting this demonstrates the need to use the Councillor Code of Conduct and not the grievance process when addressing matters of Councillor conduct.

In response to member questions, it was clarified that Croydon's Code of Conduct does reflect the required process as laid down in law and emphasised by this case.

Members were advised the second case explained the degree to which the advice of an Independent Person can be subject to a Freedom of Information (FOI) request.

Finally, Members were provided with an update on the Committee on Standards in Public Life review to which the Committee had provided a formal response. It was noted that whilst this Committee would need to consider any recommendations resulting from the review, it is likely that these will require legislation.

RESOLVED: the Committee noted the report.

28/18 **Disclosure and Barring Service (DBS) checks for Members**

The Deputy Monitoring Officer and Head of Litigation & Corporate Law introduced the item noting that the change in the law on the use of disclosure and barring checks regarding Councillors had now been reflected in the revised draft protocol. Whilst it had previously been the practice to check Councillors who sat on relevant panels (eg: corporate parenting, fostering etc) the law was now much more restrictive. This reflected the provisions of the Protection of Freedoms Act and the revised definition of “regulated activity” which largely related to unsupervised access to children, young people and/or vulnerable adults.

RESOLVED: the Committee (1) noted the contents of the report and (2) approved the revised protocol in respect of disclosure and barring checks for Members.

29/18 **Work programme**

RESOLVED: The Committee noted the contents of the report.

30/18 **Dispensation applications for Members**

No requests for personal dispensations were received.

31/18 **Exclusion of the Press and Public**

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

32/18 **Dispensation Applications for Members**

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

The meeting ended at 7.05 pm

Signed:

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Date:

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