

<b>REPORT TO:</b>	<b>ETHICS COMMITTEE</b> <b>9 February 2022</b>
<b>SUBJECT:</b>	<b>Members' Code of Conduct</b>
<b>LEAD OFFICER:</b>	<b>Elaine Jackson, Assistant Chief Executive</b>
<b>WARDS:</b>	<b>All</b>
<b>CORPORATE PRIORITIES 2021-24:</b>	
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.	

<b>FINANCIAL IMPACT</b>
Implementation of the recommendations within this report shall be contained within existing budgets.

<b>RECOMMENDATION</b>
Ethics Committee is recommended to:
1. Note the revised Officer Code of Conduct (Appendix 1).

## 1. EXECUTIVE SUMMARY

- 1.1 Ethics Committee agreed to recommend to Full Council the adoption of a new Member Code of Conduct. The new Member Code of Conduct was brought to Ethics Committee on 30 November 2021. The Council's Officer Code of Conduct was to accompany the new Member Code to Ethics Committee in November. However, the Officer Code of Conduct was missed from the agenda in error and therefore it was agreed to bring the Officer Code to Ethics Committee in February 2022.
- 1.2 The Officer Code of Conduct has been reviewed and revised to ensure consistency with standards required of Members under the new Code. The revised Officer Code of Conduct was launched on 17 January 2022 and is now live on the Council's intranet pages under the Staff Handbook.

## 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, promoting high standards of Member conduct and considering matters relating to the Members' Code of Conduct.

2.2 Ethics Committee agreed to recommend to Full Council the adoption of a new Member Code of Conduct.

2.3 The Committee also asked to see the revised Officer Code of Conduct.

### **3. THE OFFICER CODE OF CONDUCT**

3.1 The Officer Code of Conduct was previously fully reviewed and updated in January 2019, although there have been several minor updates since then.

3.2 In parallel with consideration of revisions to the Member Code of Conduct, the opportunity was taken to ensure that the Officer Code of Conduct is consistent with standards required of Members under the new Code. This includes requirements for declaring interests, gifts and hospitality. The revised Officer Code of Conduct appears at Appendix A.

3.3 The revised Officer Code of Conduct was launched on 17 January 2022. As part of the launch the Code of Conduct E-learning and associated links on the intranet have also been updated. This includes links to the information page on declaration of interests, and gifts and hospitality. The launch was communicated in Council wide comms and on the intranet front page.

3.4 The Code of Conduct e-learning is part of the Council's mandatory training suite. All staff are required to complete the e-learning on an annual basis. New starters undertake the e-learning as part of their induction process and complete a declaration of interest form upon joining the Council. The requirement for all staff to undertake the e-learning annually will prompt staff of the need to make a positive declaration where there is a requirement to do so under the Code of Conduct. This is also in relation to gifts and hospitality.

3.5 Staff in tiers 1 – 3 (Head of Service and above) are required to make an annual declaration. The mandatory annual e-learning and contact from the Governance team will prompt this. All declarations are returned to the governance inbox. There is a requirement for managers to sign the declaration form, whether the declaration is negative or positive. Where the declaration is positive the Director/Corporate Director/ Chief Executive is required to approve the declaration. Prior to any approval they will discuss the conflict of interest/potential conflict of interest with the individual making the declaration and confirm that the risks or implications for the Council have been identified and actions have been taken (or will be taken) to avoid a breach of the Code of Conduct. Positive declaration forms will be held on staff files.

3.6 The Code of Conduct is also referenced in the Council's core appraisal objectives for employees: 'To promote equalities and inclusion in everything we do, champion the Council's behaviours as described in the Code of Conduct and report any unfair, offensive or discriminatory behaviour'.

3.7 Breaches of the code may be treated as a disciplinary offence under the Council's Disciplinary Procedure, and may lead to disciplinary action which could result in dismissal. In some cases a breach of the code may result in

criminal prosecution. Where breaches relate to agency staff these will be referred to the applicable employing agency.

#### **4. CONSULTATION**

- 4.1 The revised Officer Code of Conduct was presented to and agreed by the Trade Unions (CSC) on 6 September 2021. Following further minor updates to the Code since this time, the Code was further circulated to the trade unions for their final comments, following being presented to CMT on 16 November 2021.

#### **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 public is entitled to expect the highest standards of conduct from all employees who work for local government which is ensured by both a complex legal framework of regulation together with an Officer Code of Conduct.

The Council maintains formal rules of procedure, (found in the Council's Constitution) such as contract procedure rules and financial procedure rules, which staff must follow. The Seven Principles of Public Life (also known as the 'Nolan Principles') outline the ethical standards those working in the public sector are expected to adhere to and are included in a range of codes of conduct across public life. The Equality Act 2010 imposes positive duties on local authorities to promote equalities and eliminate unlawful discrimination and harassment and under the Equality Act 2010, the Council may be liable for any discriminatory conduct that employees commit.

Separately the Local Government and Housing Act 1989 contains provisions designed to prevent staff from being politically partial introducing the concept of 'politically restricted' posts.

In addition, statutory provision deals with the disqualification of officers and officer' disclosure of interests in contracts. In particular, the Local Government Act 1972 section 117 contains an obligation upon staff to provide notice of both direct and indirect interests in contracts. Furthermore an officer is forbidden from receiving any fee or reward because of his or her position under this section (other than proper remuneration). Failure to adhere to these requirements can be enforced by criminal sanction.

The courts have also shown a renewed interest in the control of public servants through their development of the tort of misfeasance in public office and the crime of misconduct in public office.

The Local Government Act 2000 enables the Secretary of State to issue by Order a statutory code of conduct for local authority staff and the terms and conditions

of employment of local authority staff would be deemed to incorporate this code. The intention was that the statutory officer code would be a brief statement of core values and obligations to underpin local codes of conduct for staff. However, whilst such codes exist in Scotland and Wales and despite government consultation on the promulgation of such a code in England no such code has to date been issued. Most English authorities have, however, continued with a voluntary code to bring together the existing laws, regulation and conditions of service which regulate staff conduct and to ensure the Council operates within its legal framework. The Officer Code of Conduct also sets out how employees should respond to issues that may arise during their employment in order to comply with those legal obligations and seeks to protect employees from accusations of bias, undue influence and impropriety, to maintain the integrity of local government.

There has been no legal consideration of the revisions to the Officer Code of Conduct attached, as it has already been agreed by the Trade Unions and the Director of HR.

Approved by: Sandra Herbert, Head of Litigation and Corporate Law

## **7. HUMAN RESOURCES IMPACT**

- 7.1 The are no immediate HR implications arising from this report of Council Employees. It is essential that all staff participate in the annual refresher training and that staff in tiers 1 to 3 (Head of Service and above) sign an annual declaration so the Council can embed and sustain the highest standards of public service

Approved by: Gillian Bevan, Head of HR Resources and Assistant Chief Executives

## **8. EQUALITIES IMPACT**

- 8.1 There are no equalities impacts arising from this report.

Approved by: Denise McCausland, 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. Declarations will be held securely in accordance with GDPR. Positive declarations will be held on individual employee files.

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

No, there is no change to the means by which data is stored on individual employee files.

Approved by: Dean Shoesmith, Interim Chief People Officer

**12. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION**

12.1 To inform Ethics Committee of actions being taken to ensure officer compliance with high standards of conduct in line with the Code of Conduct.

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**CONTACT OFFICER:** Gillian Bevan, Head of HR, Resources & Assistant Chief Executives

**APPENDICES TO THIS REPORT:**

**1: Officer Code of Conduct**

**BACKGROUND PAPERS:** None