

<b>REPORT TO:</b>	<b>ETHICS COMMITTEE</b> <b>9 February 2022</b>
<b>SUBJECT:</b>	<b>Staff-Councillor Relations Protocol</b>
<b>LEAD OFFICER:</b>	<b>Richard Ennis, Corporate Director of Resources (interim)</b>
<b>WARDS:</b>	<b>All</b>
<b>CORPORATE PRIORITIES 2021-24:</b> A review of the protocol to assist both Members and Officers to have an appropriate understanding of their respective roles will support implementation 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:

1. Review the draft revisions to the Staff-Councillor Relations Protocol;
2. Recommend to General Purposes and Audit Committee the inclusion of these revisions with a package of wider changes to the Constitution, to be recommended to Council on 23 March 2022.

## **1. EXECUTIVE SUMMARY**

- 1.1 This report seeks comments from the Committee on a revised draft Protocol on Staff-Councillor relations, which has been developed with input from Members and Officers.
- 1.2 Subject to the views of the Committee, the revised draft will be proposed for inclusion in the Constitution and will be used to inform staff and Member training.

## **2. BACKGROUND**

- 2.1 The Staff-Councillor Relations Protocol has not been materially reviewed or amended for some years.
- 2.2 In its response to the Report in the Public Interest ('RIPI'), the Council identified a need to clarify member and officer roles to support good governance arrangements. An action was included in the RIPI action plan to

review the Staff-Councillor Relations Protocol and to deliver training to develop good practice.

- 2.3 Following revision of the Member and Officer Codes of Conduct, Ethics Committee agreed at its meeting in December 2021 that a Member/ Officer Task and Finish Group be convened to review the Staff-Councillor Relations Protocol, to prepare a revised draft for consideration by the Committee, prior to inclusion in proposed amendments to the Constitution in March 2022.
- 2.4 Cllrs Fraser and Hale were nominated by the Committee to join the Task and Finish Group, which also included 5 officers. The Task and Finish Group met twice as follows:

**Meeting 1:** reviewed Protocols from Bristol, Lewisham and Tower Hamlets and considered whether anything might be missing from/ could be strengthened in the current Protocol.

**Meeting 2:** considered draft additional/ amended text. (The meeting was held across two separate occasions due to limited Member availability).

### 3. THE PROPOSAL

- 3.1 Analysis of the Council's current Protocol in comparison with relevant examples from other councils has shown that the Protocol is short in comparison with many and does not include content in relation to, for example:
- Declaration of close personal relationships between Members and staff;
  - The accountability of staff to their line managers;
  - Arrangements for informal briefings of groups of Members;
  - Criticism of staff members in public meetings;
  - The responsibility of staff to ensure that Members receive the information they need to carry out their roles as Members.
- 3.2 A revised draft Protocol appears at Appendix 1: this has been informed by the comments of the Task and Finish Group and shows changes in comparison to the current Protocol. A clean version appears at Appendix 2.
- 3.3 The Committee is asked to note that:
- Hyperlinks will be added to all documents referred to in the Protocol;
  - More detail about the definition of bullying and harassment appears in the Member and Officer Codes of Conduct (and associated guidance) and so content on this topic has been removed from this Protocol;
  - A glossary has been added, as requested by the Task and Finish Group, to increase the accessibility of the Protocol for staff;
  - This Protocol addresses working relationships between staff and Councillors: any issues arising in working relationships between different officers are addressed in HR policies which are set out in the HR handbook;

- The requirement to notify the Monitoring Officer of close relationships which may be seen as influencing Member/ Officer decisions (whether Member/ Officer, Member/ Member or Officer/ Officer) is in addition to the procedures for disclosure of pecuniary and other registrable interests. The Monitoring Officer will maintain a record of such notifications, which will not be published.

#### **4. NEXT STEPS**

- 4.1 Subject to comments from the Committee, the draft revised Protocol will be considered by the Constitution Working Group prior to General Purposes and Audit Committee on 3<sup>rd</sup> March and Full Council on 23<sup>rd</sup> March 2022.
- 4.2 Once a revised draft has been finalised, attention will turn to arrangements for training on the Protocol:
- i) Two (repeated) sessions have been scheduled on the topic as part of the Member induction programme from May 2022;
  - i) It is proposed to hold a discussion on the Protocol at a future meeting of CMT/ Directors/ Heads of Service;
  - ii) Once adopted by Council, the Protocol will be discussed at the all-staff webinar;
  - iii) A summary of the Protocol will be produced for use at staff induction ongoing and for insertion in the Member Handbook.

#### **5. CONSULTATION**

- 5.1 The revised Protocol has been informed by comments from a Member/ Officer Task and Finish Group.

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

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

Approved by: Matt Davis, Interim Deputy s151 Officer.

#### **7. LEGAL CONSIDERATIONS**

- 7.1 The Head of Head of Litigation & Corporate Law comments on behalf of the Interim Director of Law and Deputy Monitoring Officer as to the proposed revision of the Staff-Councillor Relations Protocol ('Protocol').
- 7.2 Although there is no requirement in law to produce a separate Protocol detailing such relations there is a requirement for both Members and Officers to conduct themselves in a certain way.
- 7.3 Section 27(2) of the Localism Act 2011 sets out the need for a Member Code of Conduct. It outlines that a local authority must adopt 'a code dealing with

the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.’

- 7.4 The Local Government Act 2000 enables the Secretary of State to issue a statutory code of conduct for local authority staff, in addition to their terms and conditions of employment. However in England no such code has been issued. Therefore, most local authorities continue to operate with a voluntary code to bring together the existing laws, regulation and conditions of service which regulate staff conduct to ensure the Council operates within its legal framework.
- 7.5 The fundamental principles that should be reflected within the Protocol is, as set-out in *Ahmed v United Kingdom* (2000) 29 EHRR 1, that “the local government system of the UK has long resided on a bond of trust between elected members and a permanent corps of local government officer... that relationship of trust stems from the right of council members to expect that they are being assisted in their functions by officers who are politically neutral and whose loyalty is to the council as a whole”.
- 7.6 Such principles have emanated from and been developed by the recommendations of the Widdicombe Committee and more recently from the review by the Committee of Standards in Public life as to Local Government Ethical Standards.
- 7.7 The Local Government Association has also have published a great deal of information as to effective councillor/officer relations, which includes “[A councillor’s workbook on effective councillor/officer relationships 2018](#)”.
- 7.8 In summary, the Protocol clarifies the roles, responsibilities and relationships of Members and Officers and sets out how they will work together. It also guides Members and/or Officers as to the other specific policies/protocols with regards to carrying out their duties, such as requesting information or decision making within the Council’s framework.

Approved by: Sandra Herbert, Head of Litigation & Corporate Law on behalf of the Interim Director of Law & Deputy Monitoring Officer.

## **8. HUMAN RESOURCES IMPACT**

- 8.1 There are no immediate human resources impacts for Croydon Council employees or staff as a consequence of this report and its recommendations. Should there be any matters arising, these will be dealt with as appropriate under Council HR policies and procedures.  
Approved by: Gillian Bevan, Head of HR- Resources.

## **9. EQUALITIES IMPACT**

- 9.1 The Protocol seeks to ensure mutual respect and an appropriate understanding of Councillors’ and Officers’ respective roles and responsibilities.

9.2 The Protocol should be understood in the context of the Council's HR policies and procedures and the Members' Code of Conduct: these include commitments to promote equalities and not to discriminate unlawfully against any person and are the route for addressing any concerns raised under this Protocol. The delivery of training on this Protocol to Members and Officers should support understanding of its provisions, including the way in which compliance with the Protocol will support the Council to meet its duty under the Public Sector Equality Duty.

Approved by: Denise McCausland, Equalities Manager

## **10. ENVIRONMENTAL IMPACT**

10.1 There is no environmental impact arising from this report.

## **11. CRIME AND DISORDER REDUCTION IMPACT**

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

## **12. DATA PROTECTION IMPLICATIONS**

### **12.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

No.

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

N/A.

Approved by: Richard Ennis, Corporate Director of Resources.

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**CONTACT OFFICER:** Heather Wills, Governance Improvement Adviser;  
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## **APPENDICES TO THIS REPORT:**

**1: Draft revised Staff-Councillor Relations Protocol (tracked changes)**

**2: Draft revised Staff-Councillor Relations Protocol (clean)**

BACKGROUND PAPERS: None

## Appendix 1 – Revised draft Protocol (tracked changes)

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.B - Protocol on Staff – Councillor **Member** Relations

### INTRODUCTION

1. **Members and staff have a common purpose: to work as one team to serve the communities of the London Borough of Croydon. This working relationship is based on** ~~The relationship between Members and staff is important to the successful working of the Authority. This relationship within Croydon Council is characterised by mutual respect and trust. To achieve this, it is essential that both~~ Members and **staff** employees feel free to speak to one another openly and honestly **and that there is a shared understanding of** ~~Nothing in this Protocol is intended to change this relationship. The purpose of this Protocol is to help Members and employees to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other.~~
2. ~~The Protocol also gives guidance on what to do on~~ **This Protocol clarifies the roles and relationships of Members and staff and sets out how they will work together. It also includes a process to follow on** the rare occasions when things go wrong.
3. The Protocol must be read and operated in the context of any relevant legislation and the:
  - **Seven Principles of Public Life (the Nolan Principles)**
  - **Members' Code of Conduct**
  - **Officer Code of Conduct**
  - **Access to Information Procedure Rules**
  - **Access to Information Protocol**
  - **Protocol for Decision Making**
  - **Whistleblowing policy** ~~and any procedure for confidential reporting.~~
4. **If any questions arise from this Protocol, advice should be sought from the Monitoring Officer. Guardians are available for staff members who wish to confidentially share and talk through an issue in the first instance.**

### ROLES OF MEMBERS AND STAFF

5. The respective roles of Members and staff can be summarised as follows:

Members and staff are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts.

Staff are ~~responsible~~ **accountable, through the Chief Executive, to the Authority Council as a whole and not to any political group.** Their job is to give advice to Members and the authority, and to carry out the Council's work under the direction and control of the Council, the Executive, and relevant committees.

6. Mutual respect **and recognition of respective roles and responsibilities** between Members and staff is essential to good local government.

## **MEMBERS' RESPONSIBILITIES**

7. Members have three main areas of responsibility: **determining the strategic policy and plans of the Council and giving it political leadership, representing the Authority externally, and acting as advocates on behalf of their constituents.** ~~It is not the role of Members to involve themselves in the day to day management of Authority services.~~ **They will also scrutinise the Council's performance, through Scrutiny and Overview Committee and Full Council.**
8. **Members will not be involved in day to day operational or managerial decisions. (Members sitting on regulatory committees will take decisions which affect the rights of individuals and businesses, for example in relation to development management and licensing matters, for which specific codes and protocols apply).**
9. **Members should not seek to give instructions to officers other than in accordance with the terms of reference of their Committee. Members are not authorised to initiate or certify financial transactions or to enter into a contract on behalf of the Council. The Mayor's scheme of delegations sets out the basis on which any executive decisions may be taken by individual Cabinet Members.**
10. **As individual Members of the Council, all Members have the same rights and obligations in their relationship with staff and should be treated equally.**
11. **Members of the Executive, Chairs and Vice Chairs**
  - (i) Members of the Executive and Chairs and Vice Chairs of Committees have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from and more complex than those of Members without those responsibilities and this is recognised in the expectations they are entitled to have.
  - (ii) **While there should be a close working relationship between a Cabinet member and the relevant corporate director and other senior staff,**

such relationships should never be allowed to become so close or appear to be so close, as to bring into question the abilities of staff to deal impartially with other Members, individuals or organisations.

- (iii) These Members must still respect the impartiality of officers, must not ask them to undertake work of a party political nature, or to do anything that would prejudice that impartiality or apply inappropriate pressure on officers.
- (iv) At some meetings a resolution may be passed which authorises a named Officer to take actions between meetings in consultation with a member of the Executive or Chair/ Vice Chair. In these circumstances it is the Officer, not the Member, who takes the action and is accountable for it.
- (v) The Executive Procedure Rules set out the only circumstances in which a Member may take decisions, acting individually.

## 12. Opposition-Ward Members

- (i) Members shall be given timely access to information that they require to carry out their role as Ward Members. Corporate Directors must ensure that all relevant staff are aware of the requirement to keep local Members informed so that Members can contribute to the decision-making process and fulfil their representative role.
- (ii) This requirement is particularly important:
  - (a) during the early stages of policy development, where practicable;
  - (b) following any specific incident in their ward;
  - (c) in relation to specific or sensitive operational matters such as significant service disruption, ongoing planning enforcement cases; proposed changes to services sited within their wards and significant anti-social behaviour issues;
  - (d) whenever any form of public consultation exercise is undertaken.
- (iii) Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward(s) affected will be invited to attend the meeting as a matter of course.
- (iv) When an event occurs in the borough which has or will have a significant impact on the Council and/or Croydon residents and/or businesses, the Chief Executive will ensure that the Leaders of all groups and the relevant Ward Councillors are informed as soon as possible.
- (v) Staff responsibilities for responding to member enquiries, related processes and the timescales for response are set out in the Access to Information Protocol.



### 13. Scrutiny and Opposition Members

- (i) ~~As individual Members of the Council, all Members have the same rights and obligations in their relationship with employees and should be treated equally. This principle of equal rights for all Members is particularly important in the context of scrutiny and overview, and staff responsibilities for ensuring that scrutiny's statutory rights to relevant information are met are set out in the Access to Information Protocol.~~
- (ii) However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between staff, particularly those at a senior level in the organisation, and the administration shall differ from that with opposition groups.

### **STAFF RESPONSIBILITIES**

- 14. **Staff are responsible for day-to-day managerial and operational decisions.** ~~Their~~The role of staff is to give advice and information to Members and to implement the policies determined by the Council.
- 15. Staff are always accountable to their line manager who sets their work priorities, and not to individual Members. While staff should always seek to assist a Member they must not exceed the bounds of authority they have been given by their managers. If a matter requires urgent attention, Members should contact the relevant Head of Service in the first instance.
- 16. Certain employees e.g. Head of Paid Service, Monitoring Officer, Chief Financial Officer (Section 151 Officer) and the Statutory Chief Officers have responsibilities in law over and above their obligations to the Authority and its Members which they must be allowed to discharge.

### **EXPECTATIONS**

- 17. Members can expect from staff:
  - (i) A commitment to the Authority as a whole, and not to any political group **or individual Member;**
  - (ii) A working partnership;
  - (iii) An understanding of and support for respective roles, workloads and pressures;
  - (iv) Timely response to enquiries and complaints **in accordance with agreed standards and processes;**
  - (v) Professional advice not influenced by political views or preference, which does not compromise the political neutrality of employees;

- (vi) Regular, up to date information **and discussion** on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
- (vii) Awareness of and sensitivity to the political environment **in which they are working;**
- (viii) Respect, dignity and courtesy;
- (ix) Training and development in order to carry out their role effectively;
- (x) Integrity, mutual support and appropriate confidentiality
- (xi) That staff shall not use their relationship with Members to advance their personal interests or to influence decisions improperly
- (xii) That staff shall at all times comply with the ~~relevant~~ **Officer** Code of Conduct.

**18.** Staff can expect from Members:

- (i) A working partnership;
- (ii) An understanding of and support for respective roles, workloads and pressures;
- (iii) **An understanding and knowledge of the local area and a willingness to share this with staff;**
- (iv) Political leadership and direction;
- (v) Respect, dignity and courtesy;
- (vi) Integrity, mutual support and appropriate confidentiality;
- (vii) Not to be subject to bullying or harassment or to be intimidated or put under undue pressure or improper influence. ~~This specifically includes any person who is involved in any complaint about any alleged breach of the Council's Member's Code of Conduct.~~ Members should have regard to the seniority of employees in determining what reasonable requests are, having regard to the power relationship between Members and **staff** employees, and the potential vulnerability of **staff** employees, particularly at junior levels. ~~(Note: Bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone. Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating,~~

~~hostile, degrading, humiliating or offensive environment for an individual.)~~

- (viii) That Members shall not use their position or relationship with ~~employees~~ **staff** to advance their personal interests or those of others or to influence decisions improperly;
- (ix) That Members shall at all times comply with the ~~relevant~~ **Member** Code of Conduct.

19. Practical implications of some of the principles set out above are shown below:

- (i) Members and staff should be courteous to each other at all times even if they disagree with their respective views. Members and staff should not shout or raise their voice in an aggressive or rude manner and should not undermine respect for each other at Council meetings or in any other forum in which they participate in their role as a Member or member of Council staff, including social media.
- (ii) In public forums, staff will not use Councillors' first names; staff will be introduced to the meeting in the first instance with reference to their job title.
- (iii) Members shall not raise matters relating to the conduct or capability of an individual member of staff or staff collectively in meetings held in public. While it is legitimate for members to express well-founded concern constructively about the way a service is run or a policy is implemented by staff, a personal attack by a Member on a member of staff or on staff generally at a formal or informal Member meeting will never be acceptable, nor will a personal attack by a member of staff on a Member. This would be damaging both to effective working relationships and to public respect for the Council. In general, staff are unable to defend themselves against criticism in a public forum. Attacking the conduct of a staff member in public can constitute bullying, as can undue pressure brought by either staff or Members in private. Chairs of meetings have a particular responsibility to ensure that personal attacks are not made by any attendee during public meetings.
- (iv) Members and staff should respect each other's non-working time. Emails may be sent outside normal working hours but responses should not be expected at such times, and phone calls should not be made. While many staff members are willing to be contacted by Members outside normal working hours (and vice versa), this step should only be taken in cases of genuine importance or urgency or by prior arrangement.
- (v) Staff have a duty to provide information, advice and recommendations to Members. Such information etc can be provided both formally and

informally but should be given formally and in writing where significant or potentially controversial issues are at stake.

- (vi) Staff must therefore be able to report to Members as they see fit and without any political pressure.
- (vii) More detail about the basis on which decisions must be taken appear in the Access to Information Procedure Rules and the Protocol on Decision Making.

## **RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS**

- 20. Relationships with a particular individual or party groups should not be such as to create public suspicion that a member of staff favours that Member or group above others. Members of staff may be a member of a political party, but may not have an active political role or stand for elected office if they are in a politically restricted post.
- 21. Members and staff should immediately (no later than three working days from when the relationship is identified) inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles. The Monitoring Officer will maintain a record of such declarations.
- 22. It is not enough to avoid actual impropriety. Members and staff should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where a conflict of interests could be perceived. For example, a Member should not sit on a body or participate in any decision which directly affects the staff member on a personal basis.
- 23. The Officer Code of Conduct provides more detail on expected standards in concerning working relationships between staff and Members. Staff should refer to the Officer Code of Conduct and/or seek advice from the Monitoring Officer if in any doubt. Staff are also required to undertake e-learning on the Officer Code of Conduct annually.

## **BRIEFINGS**

- 24. In order for the Mayor, Cabinet members and Committee Chairs and/or Vice Chairs to discharge their responsibilities, those Members will be briefed from time to time by Directors on service issues, proposals and policy development. Directors may, from time to time, nominate other staff members to attend these meetings. These informal meetings may be on a one-off or regular basis, in accordance with the requirements of the Members and roles concerned.
- 25. Political groups which are not represented on the Executive may also have nominated leads for particular portfolios and if those leads so request, the

relevant Director(s) will make themselves available to brief them on service issues relating to Committee papers once the agenda has been published.

26. The Mayor or Leader of any other group represented on the Council, may request the Chief Executive or relevant Corporate Director to prepare reports on matters relating to the Council for consideration by the group. Such requests must be reasonable and should not seek confidential information (eg relating to casework or personal details of applicants for services).
27. If the Corporate Director considers that the cost of providing the information requested for a group is unreasonable, or if the request is unreasonable in other respects, the request will be referred to the Chief Executive for determination, where necessary in consultation with the Mayor or Leader of the relevant group.
28. The Mayor or Leader of any other group may ask the Chief Executive or Corporate Director to give or arrange a private and confidential briefing for the group. Senior staff members may be properly called upon to support and contribute to such deliberations by groups but must at all times maintain political neutrality. Staff requested to give such a briefing should seek advice from the Monitoring Officer before doing so.
29. Any briefing offered to or requested by a group will be offered (and described in broad terms) to any other group(s). Where possible, such briefings should be to all or a combination of groups. The detailed content of informal briefing sessions shall remain confidential between staff and the group concerned.
30. Staff advice and reports to groups will be limited to a statement of material facts relating to matters of Council business and identification of options and the merits and demerits of such options for the Council. Reports will not address any political implications and advice should not include making recommendations to a group. The observance of this distinction will be assisted if staff are not present at meetings or parts of meetings where matters of party business are to be discussed.
31. When staff provide information and advice to a group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council, Cabinet or Committee meeting when the matter in question is considered.
32. Special care needs to be exercised whenever staff are involved in providing information to a group meeting which includes persons who are not Members of the Council. Such individuals are not bound by the Member Code of Conduct (and in particular the provisions relating to declaration of interests and confidentiality) and for this and other reasons staff may decline to attend and/or give advice to such meetings.

## **IF ~~WHEN~~ THINGS GO WRONG**

33. From time to time the relationship between Members and staff may break down or become strained. It shall always be preferable to resolve matters informally.

Procedure for staff

- (i) ~~From time to time the relationship between Members and staff may break down or become strained. Whilst it shall always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Member, staff shall have recourse to the Council's Monitoring Officer, as appropriate to the circumstances. The Monitoring Officer shall decide whether the matter should be referred to the Chief Executive. The Chief Executive, who, having advised the Leader of the Council and where appropriate, the appropriate Group Leader shall decide on the course of action to be taken.~~

34. Procedure for Members

- (i) In the event that a Member is dissatisfied with the conduct, behaviour or performance of a ~~member of staff~~ ~~n-employee~~, the Member should consult the Group Whip and then raise the matter should be raised with the appropriate Executive ~~Corporate~~ Director. Where the matter concerns an Executive ~~Corporate~~ Director, it should be raised with the Chief Executive. Where the matter concerns the Chief Executive it shall be raised with the Chief People Officer or with the Mayor Leader as appropriate. Where there is a prima facie case for a disciplinary investigation, this will be dealt with in accordance with the Council's disciplinary procedures.
- (ii) If a Member is concerned about the way a service or part of it is performing as opposed to the conduct of a specific officer, and if the concerns cannot be resolved through discussion with the manager of the service, the Member should raise the matter with the Chief Executive and/or request that the Mayor and/or relevant Cabinet Member consider the matter. The Member may also wish to consider referring the matter for consideration to the Scrutiny Chairs and/or to General Purposes and Audit Committee, as appropriate.

35. Procedure for staff

- (i) ~~From time to time the relationship between Members and staff may break down or become strained. Whilst it shall always be preferable to resolve matters informally, If a member of staff wishes to raise a concern about a Member's behaviour they can either escalate it to their line manager, Corporate Director or through conciliation by an appropriate senior manager or Member, staff shall have recourse to the Council's Monitoring Officer, as appropriate to the circumstances. The Monitoring Officer shall decide whether the matter should be referred to the Chief Executive. The Chief Executive, who, having advised the Leader of the Council and where appropriate, the appropriate Group~~

~~Leader shall decide on the course of action to be taken.~~ Officers also may use the Council's Whistleblowing Procedure.

- (ii) Having been notified of a concern in this way, the line manager, Corporate Director or Monitoring Officer will take appropriate action, including approaching the Member concerned and raising with the Group Leader and/or Whip or referring the matter to the Monitoring Officer where there is a potential breach of the Code of Conduct.
- (iii) Group Leaders and Whips should promote a positive atmosphere of trust, respect and understanding between Members and staff and must be prepared to deal with and seek to resolve any reported incidents of breaches of this Protocol by their Group Members. In the event of receiving a report of this nature, a Group Leader and/or Whip will actively consider the matter and seek to achieve a satisfactory outcome, reporting that outcome to the member of staff who reported the issue.

### **RESPONSIBILITY FOR THIS PROTOCOL**

- 36. The Monitoring Officer has overall responsibility for this Protocol and will annually review how it is working.
- 37. The Monitoring Officer will report annually to the Ethics Committee on matters relating to this Protocol.

### **~~AMENDMENTS/ VARIATION TO THIS PROTOCOL~~**

- 38. Where amendments/variation to this Protocol are necessary due to legislative changes, the Council Solicitor may make such consequential changes to this Protocol as are necessary to take such changes into account.

### **GLOSSARY**

<b>Administration</b>	
<b>Chief Officer</b>	The Chief Executive, Corporate Directors and Directors
<b>Executive</b>	The Executive is made up of the Elected Mayor and between 2 and 9 Councillors (also known as the Cabinet). The Executive take strategic decisions on all of the Council's functions which are not the responsibility of any other part of the Council. The term 'Executive' may refer to the elected Mayor, to the Mayor and Cabinet acting together, individual Cabinet Members or officers taking decisions which have been delegated to them.
<b>Guardians</b>	The Council's programme which provides staff a safe space to confidentially share concerns about behaviour or the culture at Croydon, talk through issues and be signposted to relevant support and guidance by specially trained members of staff.
<b>Member</b>	Members of the Council include:

	<ul style="list-style-type: none"> <li>• The elected Mayor</li> <li>• Elected Councillors</li> <li>• Non-voting, co-opted Members of Committees</li> </ul>
<b>Monitoring Officer</b>	This officer has a specific role to ensure that the Council, its staff and Members maintain the highest standards of conduct in all they do.
<b>Political group</b>	<p>Members may be part of a political group on the Council if they are a member of a political party.</p> <p>If they are not a member of a political party, they can still be a member of a political group (for example, a group of Independent members) if two or more members who wish to be part of that group sign a notice saying that they wish to be treated as a political group.</p>
<b>Statutory Chief Officers</b>	<p>The following roles are known as statutory Chief Officers because the Council is legally required to have these posts and the roles have specific responsibilities set out in legislation:</p> <ul style="list-style-type: none"> <li>• Chief Executive (or Head of Paid Service),</li> <li>• Chief Financial Officer (Section 151 Officer),</li> <li>• Monitoring Officer,</li> <li>• Director of Adult Social Services (held by the Corporate Director Adult Social Care and Health)</li> <li>• Director of Children’s Social Services (held by the Corporate Director Children, Young People and Education)</li> <li>• Director of Public Health</li> </ul>



## Appendix 2: Revised Protocol (clean)

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.B - Protocol on Staff – Member Relations

### INTRODUCTION

1. Members and staff have a common purpose: to work as one team to serve the communities of the London Borough of Croydon. This working relationship is based on mutual respect and trust. To achieve this, it is essential that both Members and staff feel free to speak to one another openly and honestly and that there is a shared understanding of respective roles and expectations.
2. This Protocol clarifies the roles and relationships of Members and staff and sets out how they will work together. It also includes a process to follow on the rare occasions when things go wrong.
3. The Protocol must be read and operated in the context of any relevant legislation and the:
  - Seven Principles of Public Life (the Nolan Principles)
  - Members' Code of Conduct
  - Officer Code of Conduct
  - Access to Information Procedure Rules
  - Access to Information Protocol
  - Protocol for Decision Making
  - Whistleblowing policy
4. If any questions arise from this Protocol, advice should be sought from the Monitoring Officer. Guardians are available for staff members who wish to confidentially share and talk through an issue in the first instance.

### ROLES OF MEMBERS AND STAFF

5. The respective roles of Members and staff can be summarised as follows:

Members and staff are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts.

Staff are accountable, through the Chief Executive, to the Council as a whole and not to any political group. Their job is to give advice to Members and the authority, and to carry out the Council's work under the direction and control of the Council, the Executive, and relevant committees.

6. Mutual respect and recognition of respective roles and responsibilities between Members and staff is essential to good local government.

## **MEMBERS' RESPONSIBILITIES**

7. Members have three main areas of responsibility: **determining the strategic policy and plans of the Council and giving it political leadership, representing the Authority externally, and acting as advocates on behalf of their constituents.** They will also scrutinise the Council's performance, through Scrutiny and Overview Committee and Full Council.
8. Members will not be involved in day to day operational or managerial decisions. (Members sitting on regulatory committees will take decisions which affect the rights of individuals and businesses, for example in relation to development management and licensing matters, for which specific codes and protocols apply).
9. Members should not seek to give instructions to officers other than in accordance with the terms of reference of their Committee. Members are not authorised to initiate or certify financial transactions or to enter into a contract on behalf of the Council. The Mayor's scheme of delegations sets out the basis on which any executive decisions may be taken by individual Cabinet Members.
10. As individual Members of the Council, all Members have the same rights and obligations in their relationship with staff and should be treated equally.
11. Members of the Executive, Chairs and Vice Chairs
  - (i) Members of the Executive and Chairs and Vice Chairs of Committees have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from and more complex than those of Members without those responsibilities and this is recognised in the expectations they are entitled to have.
  - (ii) While there should be a close working relationship between a Cabinet member and the relevant corporate director and other senior staff, such relationships should never be allowed to become so close or appear to be so close, as to bring into question the abilities of staff to deal impartially with other Members, individuals or organisations.
  - (iii) These Members must still respect the impartiality of officers, must not ask them to undertake work of a party political nature, or to do anything that would prejudice that impartiality or apply inappropriate pressure on officers.
  - (iv) At some meetings a resolution may be passed which authorises a named Officer to take actions between meetings in consultation with a member of the Executive or Chair/ Vice Chair. In these circumstances

it is the Officer, not the Member, who takes the action and is accountable for it.

- (v) The Executive Procedure Rules set out the only circumstances in which a Member may take decisions, acting individually.

## 12. Ward Members

- (i) Members shall be given timely access to information that they require to carry out their role as Ward Members. Corporate Directors must ensure that all relevant staff are aware of the requirement to keep local Members informed so that Members can contribute to the decision-making process and fulfil their representative role.
- (ii) This requirement is particularly important:
  - (a) during the early stages of policy development, where practicable;
  - (b) following any specific incident in their ward;
  - (c) in relation to specific or sensitive operational matters such as significant service disruption, ongoing planning enforcement cases; proposed changes to services sited within their wards and significant anti-social behaviour issues;
  - (d) whenever any form of public consultation exercise is undertaken.
- (iii) Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward(s) affected will be invited to attend the meeting as a matter of course.
- (iv) When an event occurs in the borough which has or will have a significant impact on the Council and/or Croydon residents and/or businesses, the Chief Executive will ensure that the Leaders of all groups and the relevant Ward Councillors are informed as soon as possible.
- (v) Staff responsibilities for responding to member enquiries, related processes and the timescales for response are set out in the Access to Information Protocol.

## 13. Scrutiny and Opposition Members

- (i) The principle of equal rights for all Members is particularly important in the context of scrutiny and overview, and staff responsibilities for ensuring that scrutiny's statutory rights to relevant information are met are set out in the Access to Information Protocol.
- (ii) However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between staff, particularly those at a senior level in the organisation, and the administration shall differ from that with opposition groups.

## **STAFF RESPONSIBILITIES**

14. **Staff are responsible for day-to-day managerial and operational decisions.** Their role is to give advice and information to Members and to implement the policies determined by the Council.
15. Staff are always accountable to their line manager who sets their work priorities, and not to individual Members. While staff should always seek to assist a Member they must not exceed the bounds of authority they have been given by their managers. If a matter requires urgent attention, Members should contact the relevant Head of Service in the first instance.
16. Certain employees e.g. Head of Paid Service, Monitoring Officer, Chief Financial Officer (Section 151 Officer) and the Statutory Chief Officers have responsibilities in law over and above their obligations to the Authority and its Members which they must be allowed to discharge.

## **EXPECTATIONS**

17. Members can expect from staff:
  - (i) A commitment to the Authority as a whole, and not to any political group or individual Member;
  - (ii) A working partnership;
  - (iii) An understanding of and support for respective roles, workloads and pressures;
  - (iv) Timely response to enquiries and complaints in accordance with agreed standards and processes;
  - (v) Professional advice not influenced by political views or preference, which does not compromise the political neutrality of employees;
  - (vi) Regular, up to date information and discussion on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
  - (vii) Awareness of and sensitivity to the political environment in which they are working;
  - (viii) Respect, dignity and courtesy;
  - (ix) Training and development in order to carry out their role effectively;
  - (x) Integrity, mutual support and appropriate confidentiality;

- (xi) That staff shall not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- (xii) That staff shall at all times comply with the Officer Code of Conduct.

18. Staff can expect from Members:

- (i) A working partnership;
- (ii) An understanding of and support for respective roles, workloads and pressures;
- (iii) An understanding and knowledge of the local area and a willingness to share this with staff;
- (iv) Political leadership and direction;
- (v) Respect, dignity and courtesy;
- (vi) Integrity, mutual support and appropriate confidentiality;
- (vii) Not to be subject to bullying or harassment or to be intimidated or put under undue pressure or improper influence. Members should have regard to the seniority of employees in determining what reasonable requests are, having regard to the power relationship between Members and staff, and the potential vulnerability of staff, particularly at junior levels.
- (viii) That Members shall not use their position or relationship with staff to advance their personal interests or those of others or to influence decisions improperly;
- (ix) That Members shall at all times comply with the Member Code of Conduct.

19. Practical implications of some of the principles set out above are shown below:

- (i) Members and staff should be courteous to each other at all times even if they disagree with their respective views. Members and staff should not shout or raise their voice in an aggressive or rude manner and should not undermine respect for each other at Council meetings or in any other forum in which they participate in their role as a Member or member of Council staff, including social media.
- (ii) In public forums, staff will not use Councillors' first names; staff will be introduced to the meeting in the first instance with reference to their job title.

- (iii) Members shall not raise matters relating to the conduct or capability of an individual member of staff or staff collectively in meetings held in public. While it is legitimate for members to express well-founded concern constructively about the way a service is run or a policy is implemented by staff, a personal attack by a Member on a member of staff or on staff generally at a formal or informal Member meeting will never be acceptable, nor will a personal attack by a member of staff on a Member. This would be damaging both to effective working relationships and to public respect for the Council. In general, staff are unable to defend themselves against criticism in a public forum. Attacking the conduct of a staff member in public can constitute bullying, as can undue pressure brought by either staff or Members in private. Chairs of meetings have a particular responsibility to ensure that personal attacks are not made by any attendee during public meetings.
- (iv) Members and staff should respect each other's non-working time. Emails may be sent outside normal working hours but responses should not be expected at such times, and phone calls should not be made. While many staff members are willing to be contacted by Members outside normal working hours (and vice versa), this step should only be taken in cases of genuine importance or urgency or by prior arrangement.
- (v) Staff have a duty to provide information, advice and recommendations to Members. Such information etc can be provided both formally and informally but should be given formally and in writing where significant or potentially controversial issues are at stake.
- (vi) Staff must therefore be able to report to Members as they see fit and without any political pressure.
- (vii) More detail about the basis on which decisions must be taken appear in the Access to Information Procedure Rules and the Protocol on Decision Making.

## **RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS**

- 20. Relationships with a particular individual or party groups should not be such as to create public suspicion that a member of staff favours that Member or group above others. Members of staff may be a member of a political party but may not have an active political role or stand for elected office if they are in a politically restricted post.
- 21. Members and staff should immediately (no later than three working days from when the relationship is identified) inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles. The Monitoring Officer will maintain a record of such declarations.

22. It is not enough to avoid actual impropriety. Members and staff should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where a conflict of interests could be perceived. For example, a Member should not sit on a body or participate in any decision which directly affects the staff member on a personal basis.
23. The Officer Code of Conduct provides more detail on expected standards in concerning working relationships between staff and Members. Staff should refer to the Officer Code of Conduct and/or seek advice from the Monitoring Officer if in any doubt. Staff are also required to undertake e-learning on the Officer Code of Conduct annually.

## **BRIEFINGS**

24. In order for the Mayor, Cabinet members and Committee Chairs and/or Vice Chairs to discharge their responsibilities, those Members will be briefed from time to time by Directors on service issues, proposals and policy development. Directors may, from time to time, nominate other staff members to attend these meetings. These informal meetings may be on a one-off or regular basis, in accordance with the requirements of the Members and roles concerned.
25. Political groups which are not represented on the Executive may also have nominated leads for particular portfolios and if those leads so request, the relevant Director(s) will make themselves available to brief them on service issues relating to Committee papers once the agenda has been published.
26. The Mayor or Leader of any other group represented on the Council, may request the Chief Executive or relevant Corporate Director to prepare reports on matters relating to the Council for consideration by the group. Such requests must be reasonable and should not seek confidential information (eg relating to casework or personal details of applicants for services).
27. If the Corporate Director considers that the cost of providing the information requested for a group is unreasonable, or if the request is unreasonable in other respects, the request will be referred to the Chief Executive for determination, where necessary in consultation with the Mayor or Leader of the relevant group.
28. The Mayor or Leader of any other group may ask the Chief Executive or Corporate Director to give or arrange a private and confidential briefing for the group. Senior staff members may be properly called upon to support and contribute to such deliberations by groups but must at all times maintain political neutrality. Staff requested to give such a briefing should seek advice from the Monitoring Officer before doing so.
29. Any briefing offered to or requested by a group will be offered (and described in broad terms) to any other group(s). Where possible, such briefings should

be to all or a combination of groups. The detailed content of informal briefing sessions shall remain confidential between staff and the group concerned.

30. Staff advice and reports to groups will be limited to a statement of material facts relating to matters of Council business and identification of options and the merits and demerits of such options for the Council. Reports will not address any political implications and advice should not include making recommendations to a group. The observance of this distinction will be assisted if staff are not present at meetings or parts of meetings where matters of party business are to be discussed.
31. When staff provide information and advice to a group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council, Cabinet or Committee meeting when the matter in question is considered.
32. Special care needs to be exercised whenever staff are involved in providing information to a group meeting which includes persons who are not Members of the Council. Such individuals are not bound by the Member Code of Conduct (and in particular the provisions relating to declaration of interests and confidentiality) and for this and other reasons staff may decline to attend and/or give advice to such meetings.

#### **IF THINGS GO WRONG**

33. From time to time the relationship between Members and staff may break down or become strained. It shall always be preferable to resolve matters informally.
34. Procedure for Members
  - (i) In the event that a Member is dissatisfied with the conduct, behaviour or performance of a member of staff, the Member should consult the Group Whip and then raise the matter with the appropriate Corporate Director. Where the matter concerns a Corporate Director, it should be raised with the Chief Executive. Where the matter concerns the Chief Executive it shall be raised with the Chief People Officer or with the Mayor as appropriate. Where there is a prima facie case for a disciplinary investigation, this will be dealt with in accordance with the Council's disciplinary procedures.
  - (ii) If a Member is concerned about the way a service or part of it is performing as opposed to the conduct of a specific officer, and if the concerns cannot be resolved through discussion with the manager of the service, the Member should raise the matter with the Chief Executive and/or request that the Mayor and/or relevant Cabinet Member consider the matter. The Member may also wish to consider referring the matter for consideration to the Scrutiny Chairs and/or to General Purposes and Audit Committee, as appropriate.



35. Procedure for staff

- (i) If a member of staff wishes to raise a concern about a Member's behaviour they can either escalate it to their line manager, Corporate Director or to the Council's Monitoring Officer, as appropriate to the circumstances. Officers also may use the Council's Whistleblowing Procedure.
- (ii) Having been notified of a concern in this way, the line manager, Corporate Director or Monitoring Officer will take appropriate action, including approaching the Member concerned and raising with the Group Leader and/or Whip or referring the matter to the Monitoring Officer where there is a potential breach of the Code of Conduct.
- (iii) Group Leaders and Whips should promote a positive atmosphere of trust, respect and understanding between Members and staff and must be prepared to deal with and seek to resolve any reported incidents of breaches of this Protocol by their Group Members. In the event of receiving a report of this nature, a Group Leader and/or Whip will actively consider the matter and seek to achieve a satisfactory outcome, reporting that outcome to the member of staff who reported the issue.

**RESPONSIBILITY FOR THIS PROTOCOL**

- 36. The Monitoring Officer has overall responsibility for this Protocol and will annually review how it is working.
- 37. The Monitoring Officer will report annually to the Ethics Committee on matters relating to this Protocol.
- 38. Where amendments/variation to this Protocol are necessary due to legislative changes, the Council Solicitor may make such consequential changes to this Protocol as are necessary to take such changes into account.

**GLOSSARY**

<b>Chief Officer</b>	The Chief Executive, Corporate Directors and Directors
<b>Executive</b>	The Executive is made up of the Elected Mayor and between 2 and 9 Councillors (also known as the Cabinet). The Executive take strategic decisions on all of the Council's functions which are not the responsibility of any other part of the Council. The term 'Executive' may refer to the elected Mayor, to the Mayor and Cabinet acting together, individual Cabinet Members or officers taking decisions which have been delegated to them.
<b>Guardians</b>	The Council's programme which provides staff a safe space to confidentially share concerns about behaviour or the culture at Croydon, talk through issues and be signposted to

	relevant support and guidance by specially trained members of staff.
<b>Member</b>	Members of the Council include: <ul style="list-style-type: none"> <li>• The elected Mayor</li> <li>• Elected Councillors</li> <li>• Non-voting, co-opted Members of Committees</li> </ul>
<b>Monitoring Officer</b>	This officer has a specific role to ensure that the Council, its staff and Members maintain the highest standards of conduct in all they do.
<b>Political group</b>	Members may be part of a political group on the Council if they are a member of a political party.  If they are not a member of a political party, they can still be a member of a political group (for example, a group of Independent members) if two or more members who wish to be part of that group sign a notice saying that they wish to be treated as a political group.
<b>Statutory Chief Officers</b>	The following roles are known as statutory Chief Officers because the Council is legally required to have these posts and the roles have specific responsibilities set out in legislation: <ul style="list-style-type: none"> <li>• Chief Executive (or Head of Paid Service),</li> <li>• Chief Financial Officer (Section 151 Officer),</li> <li>• Monitoring Officer,</li> <li>• Director of Adult Social Services (held by the Corporate Director Adult Social Care and Health)</li> <li>• Director of Children’s Social Services (held by the Corporate Director Children, Young People and Education)</li> <li>• Director of Public Health</li> </ul>