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Ethics Committee

Meeting of held on Friday, 19 February 2021 at 10.00 am. This meeting is being held remotely; to view the meeting, please click [here](#).

MINUTES

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

PART A

1/21 Disclosure of Interests

There were none.

2/21 Urgent Business (if any)

There were no items of urgent business.

3/21 Statutory Chief Officer Disciplinary Procedure

The Ethics Committee considered a report, introduced by the Director of HR, in which it was asked to consider and agree a Statutory Chief Officer Disciplinary Procedure in line with the Joint National Council (JNC) Model Disciplinary Procedure, for use by the Appointments Committee in relation to disciplinary matters relating to Statutory Chief Officers, i.e. staff reporting to the Chief Executive. The Committee was recommended to approve this procedure for use in relation to such matters and for disciplinary matters regarding Non-Statutory Chief Officers referred to the Appointments (Investigating and Disciplinary) Sub-Committee. The Council's Constitution currently made provision for the Appointments Committee to consider disciplinary matters above a defined threshold relating to the Head of Paid Service, Monitoring Officer and the Section 151 Officer, collectively known as the Statutory Chief Officers.

The Council had recently undertaken a review of its policies and procedures in order to ensure that they were up to date, and to address significant issues arising from both the current senior management restructure and the independent investigation that was commissioned by the Council in response to the Report in the Public Interest.

At its Annual Meeting on 21 May 2015, Council delegated responsibility to the Ethics Committee to agree those processes and procedures. This review had

identified that the Ethics Committee has not previously exercised its delegated responsibility and this would be rectified through agreeing this report.

The JNC Model Procedure recommended establishing an 'Investigating and Disciplinary Committee' to undertake and manage a number of elements of the disciplinary process. As the Council's Constitution places overall responsibility for disciplinary matters for the Statutory Chief Officers with the Appointments Committee, in Croydon this body would be constituted as the Appointments Investigating and Disciplinary Sub-Committee. It was recommended that the Sub-Committees would be politically balanced and comprise three Members, at least one of whom must be a Member of the Cabinet.

The Constitution of the Council had previously not reflected national considerations and decisions, and agreeing this report would bring the Council Constitution up to date and in line with other local authorities.

The Chair thanked officers for the report and said that the flowchart in the Appendix was helpful in clarifying the process.

In response to queries raised by the Committee the following was clarified:

- that proportional representation on the Appointments Committee currently had a ratio of 4:2, and this would be reflected in the Sub-Committee in the same proportion. However, in meetings of three people, the ratio would be 2:1.
- that the Council's Constitution had a rolling programme where different aspects of it were regularly reviewed. In addition, there was an annual review of the Constitution that was undertaken and there was a range of officers in the Council who were responsible for reviewing different parts of the Constitution.
- approval of the new process and procedure was delegated to the Ethics committee, and consequently would come into force immediately.

The Committee RESOLVED to:

1) Agree the process and procedure detailed in Appendix One of this report to apply to any future disciplinary/staffing issues that fall within the functions of the Appointments Committee under paragraphs 2.1(6) and (8) of Part 3 of the Constitution and as set out in this report.

4/21 Complaint under the Councillor Code of Conduct

The Head of Litigation & Corporate Law and Deputy Monitoring Officer introduced the report and advised the Committee that the current complaints process under the Councillor Code of Conduct was two-stage : the first stage, was delegated to the Council's Monitoring Officer, to undertake initial assessment of the complaint and decide whether an investigation would be appropriate. If an investigation was undertaken and found a potential breach

of the Code, a Hearings Panel (a Sub-Committee) would be convened to determine the matter. Any determination of the Hearings Panel would be made in consultation with the Independent Person.

The Localism Act stipulated that councils adopt a Member Code of Conduct which complied with the Nolan Principles, and have in place Arrangements under which a breach of the code can be investigated. There was a likelihood of complaints being made regarding councillor conduct in the context of the circumstances which gave rise to the Grant Thornton Report in the Public Interest. As a result, the report recommended that an Assessment Sub-Committee be established in order to enable the Monitoring Officer to consult with Members when dealing with any such complaints. Any Member sitting on an Assessment Sub-Committee would be prohibited from sitting on a Hearing Sub-Committee to separate out responsibilities. Three Members would be appointed to the Sub-Committee on a politically balanced basis, and training would be provided by the Local Government Association (LGA).

In response to queries raised by the Committee the following was clarified:

- It was common for Arrangements to provide for Monitoring Officers to have discretion to seek advice from an Assessment Sub-Committee in certain circumstances. It was not anticipated that this arrangement would have a wider remit than the complaints relating to the Grant Thornton Report in the Public Interest.
- Best practice stipulated that the Independent Person be consulted in writing, in order to produce a clear audit trail.
- LGA training would be provided to all Members of the Sub-Committees, including the Independent Persons.
- That the Sub-Committee would likely only meet in the event of a complaint about a serious breach of the code of conduct, rather than for minor complaints.
- Training would also be provided to those on the Hearing Panel, and the LGA would meet with officers after this meeting to discuss the content and timing of that training.

The Chair said that although the Recommendation 1.3 referred to nominating and agreeing the Assessment Sub-Committee membership at the meeting, more time was needed to discuss this, and so it was proposed that this be delegated to the Monitoring Officer in consultation with the Chair of the Committee to nominate members. The Committee agreed this proposal.

The Chair proposed that Recommendation 1.4 be amended to say that training would be provided to Members of the Hearing Panel, as well as the Assessment Panel. The Committee agreed this proposal.

The Committee RESOLVED to:

1.1 Note the contents of the report;

1.2 Agree to the establishment of an Assessment Sub-Committee for the purpose of supporting the Monitoring Officer's consideration of complaints regarding the conduct of elected members which may be received against the Council's Assessment Criteria for Member complaints

1.3 Agree that the Assessment Sub-Committee shall comprise three members of this Committee to be nominated by the Committee on a proportional basis; This would be delegated to the Monitoring Officer in consultation with the Chair, and carried out after the meeting.

1.4 Agree that the Local Government Association be requested to provide training for the members sitting on the Assessment Sub-Committee and the Hearing Committee in this additional role;

1.5 Agree that the Independent Person be consulted on the complaint and their views referred to the Assessment Sub-Committee for consideration; and

1.6 TO RECOMMEND TO FULL COUNCIL that the Arrangements agreed by the Council under section 28(6) of the Localism Act and the terms of reference for the Ethics Committee, if necessary, be updated, for the avoidance of doubt, to reference the discretion of the Monitoring Officer to refer a complaint to an Assessment Sub-Committee of the Ethics Committee for Member' views to assist the Monitoring Officer in discharging his/her duties in regard to the assessment of complaints received concerning elected and co-opted members.

5/21 Exclusion of the Press and Public

This item was not required.

The meeting ended at 7.34 pm

Signed:

Date:

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