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Ethics Committee

Meeting of held on Thursday, 30 September 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 and Mario Creatura

Also Present: Independent Members Don Axcell, Ashok Kumar, Alan Malarkey and Anne Smith

Apologies: None

PART A

1/20 Minutes of the Previous Meeting

The minutes of the meeting held on 26 May 2021 were not yet available for approval. They should be available for the next meeting of the Ethics Committee in November 2021.

2/20 Disclosure of Interests

There were none.

3/20 Urgent Business (if any)

There were no items of urgent business.

4/20 Dispensation Applications for Members

There have been no dispensations for members since the last meeting.

5/20 Complaint Monitoring and Associated Matters

Interim Director of Law and Governance Doutimi Aseh introduced the quarterly report, which provided an update on complaints and investigations undertaken by the Monitoring Officer during the last quarter to 31 July 2021.

The Monitoring Officer had received six complaints from March 2021 to July 2021. Two of those complaints needed further information in order to undergo the initial assessment process. A further three complaints have been

assessed against the Council's assessment criteria, and it was decided that no further action be taken. The final complaint was not within the remit of the Monitoring Officer and was therefore not progressed.

Five additional complaints were in progress at the time of the previous report and were now included in Appendix A as they had reached completion. Out of those five complaints, four were withdrawn by the complainants as their concerns were resolved. The final complaint was assessed, and it was decided that no further action be taken.

The Committee RESOLVED to:

- Note the contents of the report.

6/20 Register of Gifts & Hospitalities

This item was postponed to the next meeting of the Ethics Committee.

7/20 Members' Code of Conduct

Interim Executive Director of Resources and Monitoring Officer Asmat Hussain introduced this report, which presented the revised Code of Conduct.

The Council had been asked to review its Member and Officer Codes of Conduct in order to ensure that the Nolan principles were embedded in all the work undertaken by members within the Council. In May 2021, the Ethics Committee had agreed in principle to adopt the Local Government Association (LGA)'s Model Code of Conduct, subject to some revisions. The Committee was now being asked to consider the revised version of the Code of Conduct and associated guidance.

Officers had engaged in extensive consultation before finalising the report. The revised Code of Conduct had been agreed by the Whips, the Senior Leadership Team and the Executive Membership Team. Revisions to the Code of Conduct included emphasising the value of diversity and equality, the requirement by Members to attend essential training and a stipulation that Members needed to comply with the protocol and any guidance that may be issued from time to time by the Chief Executive or the Monitoring Officer. There would be further clarification on arrangements for dealing with the breach of the Code which would be brought back to the Committee in a further report. Training sessions on the Code had already begun within the Council, and the intention was that two further sessions would be provided to all councillors on 4 October 2021.

The revised Code of Conduct provided further detail on disclosure of interests, including details of what constitutes a 'Disclosable Pecuniary Interest'.

Members would also be required to register 'Other Registrable Interests' such as school governorships or positions on boards of charities. These must be disclosed by Members and they may not speak on the matter unless members of the public were also allowed to speak at the meeting. However, if members of the public were not present, the Code stipulated that the Member may not take part in the discussion or vote on the matter and must leave the room unless they have sought and been granted a dispensation. The same rules would apply for interests which directly related to the Member's financial interest or wellbeing or that of a relative or close associate.

The report recommended that the Ethics Committee agreed the revised Code of Conduct, which would be reviewed annually, and to acknowledge that the Code was a part of a suite of documents which would be used to support a high standard of conduct of the Council.

Councillor Prince asked if this was the right time to consider the changes to the Code of Conduct, given that the Government was preparing to respond to recommendations of the Committee on Standards in Public Life relating to sanctions for breaches of Member Codes of Conduct and there may be legislative changes arising from this. Officers explained that the Council's existing Code of Conduct was very light; for example it did not require members with pecuniary interests to leave the room, which could have an impact on the way a Committee voted. The current Code also did not reference issues such as bullying and harassment and was light on Equalities. Therefore, it was important that the new Code be agreed promptly. In addition, the new legislation was likely to centre on issues such as sanctions, and it was not thought that it would have an impact on the content of the revised Code.

In reply to concerns from Councillor Prince on the requirement for Members to comply with the guidance issued by the Chief Executive or Monitoring Officer, it was clarified that this would only be used in scenarios where members needed to receive stronger or more specific guidance on interests, and was unlikely to be used frequently.

Councillor Fraser proposed an amendment to the Code relating to Other Registrable Interests, saying that although those interests should be declared, the part about Members not having the right to speak or leaving the room should be omitted from the Code. This amendment was agreed, with the stipulation that it be reviewed in 12 months' time.

In response to Councillor Prince's question about including the Guidance in the Constitution, officers explained that this was necessary for reasons of transparency, as members of the public did not have access to the Member's Handbook. However, if Members wished, a proposal could be put forward to the Constitutional Working Group that the Constitution be split into Part 1 and

Part 2, with Part 2 containing the protocols and guidance aspects of the Constitution.

In response to the Chair's question as to whether there would be a consultation with Members regarding the final version of the Officers' Code of Conduct which was also being reviewed, officers confirmed that Members would be consulted.

The Committee RESOLVED to:

- Agree to recommend to Full Council that the revised Code of Conduct and guidance be adopted in replacement for the current Members' Code of Conduct in the Council's Constitution (subject to the amendment proposed by Councillor Fraser).
- Agree to recommend to Full Council that any changes to the Members' Code of Conduct guidance should be delegated to the Ethics Committee.

8/20 Access to Information Protocol

Interim Executive Director of Resources and Monitoring Officer Asmat Hussain introduced this report, which contained a revised version of the Access to Information Protocol. The first draft of the Protocol had been considered by the Ethics Committee in May 2021, and feedback was considered by officers in consultation with various Members including the Chairs of Scrutiny Committees. The Protocol was informed by the need for improved Member access to information, and the Council's commitment transparency and openness. Since then, a substantial amount of work was carried out to improve and update the Protocol. The report recommended that the Protocol form a part of the Constitution and be part of a training package of the new cohort of Members after the next election. A flowchart illustrating the way the protocol would work in practice was included in Appendix 2, and this would be included in the Members' Handbook. Workshops with officers and Members were planned in October. It was proposed that the Protocol take effect from January 2022.

The Information Protocol would form part of the work of the Constitutional Working Group. The Access to Information Protocol would need to be reconsidered once the Cabinet Member Advisory Committees (CMACs) were established. If answering a Members' request was not practicable, it would be clearly communicated why the request was denied (for example if a requested document cannot be located or does not exist).

In response to a request from Councillor Clouder for further detail on the flowchart, officers said they would revise the flowchart accordingly and bring it to the next Ethics Committee meeting.

In response to questions from Councillor Fraser about why the current Constitution did not make a reference to changes made to the Governance Review, officers said that this was due to the Council's capacity and resources, and the decision to prioritise urgent work. As a result, some recommendations have not yet been implemented. However, this would form part of the work programme that the Constitutional Working Group were currently reviewing.

In response to Councillor Fraser's question about officers' responsibilities regarding withholding information, officers explained that the Protocol stipulated that information would be given on a 'need to know' basis. If answering a Members' request was not practicable, it would be clearly communicated why the request was denied (for example if a requested document cannot be located or does not exist).

Members said that officers should provide the legal basis on which the information was denied and that sometimes they should be entitled to information which was not relating to a matter under scrutiny, as stipulated in the Protocol. Furthermore, it should be made clear in the Protocol which documents members were entitled to. Officers agreed to make those amends.

The Chair said that this report should be brought back to a future meeting of the Ethics Committee. He asked Members to endorse the sections which relate to Scrutiny, as they have not been objected to by the Committee. The report would be delayed in going to Full Council until further information and clarifications on specific points on the report were provided. Members agreed to endorse the sections that relate to Scrutiny and asked officers to follow the principles set out in the Protocol in relation to Scrutiny.

The Committee RESOLVED to:

- Endorse the sections of the Access to Information Protocol which related to Scrutiny.
- Delay the recommendation to Full Council to approve the Protocol until it had been further revised.
- Agree that the Committee would undertake an annual review of the Protocol and consider performance against standards for response as part of its annual review.
- Note that the Interim Executive Director of Resources and Monitoring Officer would arrange briefings for Members and Officers on the implications and operation of the Protocol.

9/20 Members Development Plan Update

Interim Director of Law and Governance Douthmi Aseh introduced the report and said that the Member Training Programme had been developed in response to proposals by the Member Development Panel at its meeting on 13 July 2021. The Member Development Panel would be meeting again on 12 October 2021 to consider the Plan.

Councillor Fraser said that there were problems with the Members' enquiry system and asked for Members to be engaged in the process ahead of the launch of the app, to ensure that the system worked for them. Officers agreed that Members would have an input into what the app would provide.

The Committee RESOLVED to:

- Note the report.

10/20 Work Programme

Members of the Ethics Committee were asked to consider and comment on the Work Programme. It was anticipated that this Work Programme would be considered at every meeting of the Ethics Committee to enable it to respond to issues of concern and incorporate any additional items.

Democratic Services & Governance Officer Cliona May said that at a previous Ethics Committee meeting it was decided that one of the meetings previously scheduled would be moved forward and asked if members would be happy to swap the meeting previously scheduled for 6 April 2021 for this meeting. This was agreed.

Two further meetings of the Ethics Committee were scheduled on the work programme, on 17 November 2021 and 9 February 2022.

The Committee RESOLVED to:

- Agree the Work Programme as outlined in the report.

11/20 Exclusion of the Press and Public

This was not required.

The meeting ended at 8.03 pm

Signed:

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Date:

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