

Appendix A

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

ADMINISTRATION COMMITTEE –11 JUNE 2018

REPORT OF THE CHIEF EXECUTIVE AND THE MONITORING OFFICER

PROPOSED CHANGES TO ETHICAL GOVERNANCE

This report recommends changes to the Members' Code of Conduct and to the arrangements for dealing with complaints alleging breaches of the code and proposes the establishment of an independent ethics panel. The report also recommends changes to the Member/Officer Protocol.

For Decision

1. Introduction

- 1.1 At its meeting on 16 May 2018 the Administration Committee agreed with our proposal to carry out a review of ethical governance in the Council, including the Members Code of Conduct and the arrangements for dealing with complaints that members have breached the Code.
- 1.2 In the aftermath of the Grenfell Tower fire tragedy, the Committee acknowledged that the Council needs to ensure that it attains the highest ethical standards in its governance and management.
- 1.3 This means that the Council expects elected members and Council officers to display the highest standards of ethical conduct over and above adherence to the seven Nolan principles of conduct in public life.
- 1.4 We owe a special duty to those who are bereaved and/or who survived the Grenfell Tower fire tragedy. In 2017, the Council formally agreed to adopt the principles set out in Bishop James Jones' Hillsborough Charter for Families Bereaved through Public Tragedy. The Council has committed to, amongst other objectives, treating people with respect and courtesy, and being open and accountable. Adhering to the best possible ethical standards will help us live up to these commitments.
- 1.5 The proposals in this report aim to make emphatically clear the high standards of conduct expected from members, and to strengthen the credibility and independence of arrangements for adjudicating on complaints when those standards are not felt to have been met. They also make clearer the distinctive roles of officers and members.

- 1.6 These changes contribute to the Council's response to the review by the Centre for Public Scrutiny (CfPS). Their report *Change at the Council* identified twelve principles which it encouraged the council to incorporate into its codes of conduct.
- 1.7 This report recommends
- Changes to the Members Code of Conduct
 - Changes to the Arrangements for dealing with complaints that Members have breached the Code of Conduct including the reference of complaints to an independent Ethics Panel
 - The establishment of an Ethics Panel to advise the Council on best practice and to provide advice on complaints
 - Changes to the Protocol on Member/Officer Relations to clarify the roles of and the relationships between members and officers.
- 1.8 The above changes are part of a number of proposals to strengthen ethical governance at the Council. For example, the Committee will be asked in July to approve amendments to the "Code of Conduct protocol for councillors involved in planning matters". The Officers' Code of Conduct is also being reviewed by the Council's Human Resources department.
- 1.9 A full response to the CfPS report in respect of the way the council makes decisions will be considered by Leadership Team in July.
- 1.10 Officers have consulted with the Council's current Independent Person in developing these proposals and revising the Members Code of Conduct.

2. Proposed Changes to the Members' Code of Conduct Code

- 2.1. The Council has a duty under the Localism Act 2011 to promote and maintain high standards of conduct by members. In discharging this duty, the Council must adopt a code of conduct, consistent with the "Nolan Principles" ie the Seven Principles of Conduct in Public Life, dealing with the conduct that is expected of members and co-opted members when they are acting in that capacity.
- 2.2. The Council's code of conduct was first adopted by the Council in July 2012. Our proposed amended Code can be found at Appendix 1 to this report.
- 2.3. The most significant amendments are to;
- Require members to treat people with respect, paying particular attention to the commitments of the Charter for Families Bereaved through Public Tragedy.

- Recognise that members are expected to have a continual dialogue with residents to understand their needs and views.
- Clarify when the requirements of the Code apply.
- Include the Seven Principles of Conduct in Public Life (in their original form) in an Appendix to the Code.
- Require members not to conduct themselves in a manner which is likely to bring the Council into disrepute.
- Require members to promote equality and to not unlawfully discriminate against any person.
- Require members to notify the Monitoring Officer of any offers of gifts or hospitality, either accepted or declined, with an estimated value of at least £20 (the current Code provides for any gifts and hospitality accepted and with an estimated value of at least £50 to be declared)

2.4 The amendments are consistent with the following principles recommended in *Change at the Council*: connecting with residents; listening to every voice; acting with integrity; being clearly accountable.

3. Proposed Changes to Arrangements for dealing with Complaints and the establishment of an Ethics Panel

3.1. The Localism Act 2011 requires the Council to put in place arrangements under which any complaints that members have breached the Code of Conduct can be investigated. The Council must appoint at least one Independent Person whose views must be sought and taken into account by the Council before makes a decision on a complaint which it has decided to investigate.

3.2. Under the currently adopted arrangements, complaints can be settled informally by, for example, an apology by the member who is the subject of the complaint. Complaints which are investigated, and where the investigating officer concludes that there is evidence of the breach of the Code, are formally considered by the Audit and Transparency Committee which will take into account the views of the currently appointed Independent Person.

3.3. To further demonstrate our commitment to the highest ethical standards, we propose that the Council sets up and appoints an Independent Ethics Panel, made up of three Independent Persons appointed under the Act. This Panel will carry out the statutory role in relation to complaints, specifically:

- advising the Council on the best practice to promote and maintain high standards of conduct by the Members and Co-opted Members of the Council.
- advising the Council on the adoption or revision of a Members' Code of Conduct.

- advising the Council on the adoption or revision of the arrangements for dealing with complaints alleging a breach of the Members' Code of Conduct.
 - advising whether a complaint should be investigated
 - making recommendations to be taken into account by the Audit and Transparency Committee before it takes a decision on a complaint which has been investigated.
- 3.4. We also propose that the panel should have a wider remit to advise the Council on matters relating to ethics and ethical conduct, anticipate ethical challenges and foster good practice.
- 3.5. Our proposed terms of reference for the Ethics Panel are set out in Appendix 2.
- 3.6. We propose that the option, in appropriate circumstances, for complaints to be dealt with quickly and informally by the Monitoring Officer, following consultation with an Independent Person or the Ethics Panel, remains.
- 3.7. Members of the Panel will be appointed through an open recruitment process in line with the current job description and person specification for the Independent Person.
- 3.8. The Council currently pays the Independent Person an allowance of £500 a year. We propose remunerating members of the Panel with an allowance of £300 per day, anticipating a minimum of four days' work per year.

4. Protocol on Member/Officer Relations

- 4.1. The Protocol on Member/Officer Relations is contained in the Council's Constitution. Its purpose is to make clear the respective roles and responsibilities of members and officers so that residents and others in the Borough are best served.
- 4.2. This protocol has been amended to make clearer the distinction between the democratic responsibilities of members and the operational and managerial roles of officers. It sets out what officers and members should expect from each other and how they should forge a positive working relationship. A fully revised version can be found at Appendix 3.
- 4.3. It also adds some detail on how decisions are made and the particular roles of officers and Members in preparing reports, giving and receiving briefings, and making decisions.
- 4.4. The CfPS review specifically recommended that the Council "clarify the different roles of officers and members in the decision-making process".

5. Financial Implications

- 5.1 The Council currently pays the Independent Person an allowance of £500 a year. These costs are included in the Council's revenue budget. If the proposals in this report are agreed, allowances will increase to a minimum of £1,200 per year per panel member. Based on three panel members, as set out in the report, costs are expected to be £3,600 per year. These additional costs can be funded from an existing corporate budget and contained within the existing revenue budget.

6. Equality Implications

- 6.1. The Council when taking decisions in relation to any of its functions must comply with its public sector equality duty as set out in s149 of the Equality Act 2010. The changes we propose in this report will, in our view, have a positive impact by strengthening the ethical governance of the Council and its interaction with and understanding of the communities it serves.
- 6.2. The appointments to the Ethics Panel will be advertised in accordance with the provisions in the Localism Act 2011 and the recommendations for appointments made following the consideration of appropriate and relevant selection criteria.

7. Recommendations

- 7.1. The Administration Committee is asked to recommend that the Council:
- a) Adopt the revised Members' Code of Conduct;
 - b) Agree that the arrangements for dealing with complaints are amended by the introduction of an independent Ethics Panel;
 - c) Agree the terms of reference and membership of the Ethics Panel;
 - d) Agree the proposed allowance for the Independent Persons;
 - e) Adopt the revised Member/Officer Protocol; and
 - f) Delegate the authority to the Monitoring Officer to make any necessary consequential or incidental changes to the documents to be approved by Council or to the Constitution to ensure that the approved ethical governance arrangements work coherently together.

Barry Quirk

Chief Executive

LeVerne Parker
Monitoring Officer

Background Papers – None

Contact Officer – LeVerne Parker Chief Solicitor and Monitoring Officer 020 7361
2180