

For General Release

REPORT TO:	FULL COUNCIL 28 JANUARY 2019
AGENDA ITEM NO:	
SUBJECT:	ASSESSMENT CRITERIA: RECOMMENDATION OF THE ETHICS COMMITTEE REFERRED TO FULL COUNCIL FOR DECISION
LEAD OFFICER:	Jacqueline Harris-Baker, Director of Law and Governance, Council Solicitor and Monitoring Officer
WARDS:	All
<p>CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON: Following consideration by Ethics Committee, full Council is recommended to consider the proposed amendments to the Assessment Criteria which form part of the ethics arrangements adopted by the Council under the provisions of the Localism Act 2011, such matters being reserved to Full Council. .</p>	
<p>FINANCIAL IMPACT Implementation of the recommendations contained in this report shall be contained within existing budgets.</p>	
<p>FORWARD PLAN KEY DECISION REFERENCE NO.: N/A</p>	

1. RECOMMENDATIONS

Council is asked to:

- 1.1 Amend the Assessment Criteria as set out in Appendix 1 to this report for the reasons set out within the body of the report.

2. EXECUTIVE SUMMARY

- 2.1 At its meeting of the 18 October 2018, the Ethics Committee received and considered a report regarding the ethics arrangements under the Localism Act 2011, including the assessment of Members' Complaints and undertook a review of the complaints process to assess whether it remained fit for purpose.

2.2 The Ethics Committee recommend changing the Assessment Criteria as set out in Appendix 1.

3. DETAIL

3.1 The Localism Act 2011 (“the Act”) requires that the Council adopt a Code of Conduct and have in place arrangements under which allegations that a Member has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

3.2 The 2011 Act requires local authorities to have mechanisms in place to investigate allegations that a Member has not complied with the Code of Conduct, and arrangements under which decisions on allegation may be made. (Pursuant to Sections 28(6) and (7) of the Localism Act 2011)

3.3 The Council’s Code of Conduct forms part of the Constitution, Part 5I, and can be accessed here:

<https://democracy.croydon.gov.uk/documents/s9027/Part%205I%20-%20Members%20Code%20of%20Conduct.pdf>

3.4 The initial stage of these arrangements under the Localism Act is the Assessment of Member complaints. Pursuant to the current arrangements any complaints which pertain to Members Conduct are made in the first instance to the Monitoring Officer.

3.5 The Monitoring Officer has authority to undertake an initial assessment of the complaint in accordance with the Assessment Criteria which have specifically been adopted for these purposes by the Council. The current Assessment Criteria can be accessed here:

<https://www.croydon.gov.uk/sites/default/files/articles/downloads/criteriacomplaints.pdf>

3.6 Following the review of the arrangements in place, the Ethics Committee indicated, in relation to Assessment Criteria 4, which provides a three month threshold within which complaints ought to be raised, that the Council should be seen to act reasonably and fairly in cases where there was a good reason for a complaint not having been made in the three months following any incident. The Committee also considered that the three month timeframe should not act as a barrier to the assessment of a complaint where there was good reason for the lateness of the complaint submission.

3.7 As a result, the Committee recommended that Assessment Criteria 4 be revised to allow the Monitoring Officer to assess such complaints where it was appropriate to do so. The Committee recommended that Assessment Criteria 4 be amended to read:

“Where the period of time that has passed since the alleged conduct occurred is such that there would be little benefit in taking further action at the time of receipt

of the complaint for these purposes, it is considered that when the period of three months has elapsed since the alleged conduct occurred and no complaint has been received then this criterion will be likely to be engaged and the Monitoring Officer may consider that, in the circumstances of the case, it is appropriate to take no further action after the three month period”

3.8 Accordingly, full Council is asked to amend the Assessment Criteria as recommended by the Ethics Committee. A copy of the updated Assessment Criteria incorporating the proposed new wording via tracked changes, is set out at Appendix 1.

3.9. For Members ease of reference, the minutes of the Ethics Committee can viewed via the link (see item 26/18). :

<https://democracy.croydon.gov.uk/documents/g1779/Printed%20minutes%2018th-Oct-2018%2018.30%20Ethics%20Committee.pdf?T=1>

4. CONSULTATION

4.1 The Ethics Committee has the role of considering the Code and the arrangements made under the Localism Act 2011 in respect of the Code and making recommendations to full Council in relation to any proposed updates to the Members’ Code of Conduct and the associated arrangements under the Act, as detailed earlier within this report.

5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1 There are no financial implications arising from the recommendations within this report.

Approved by Ian Geary, Head of Finance, Resources & Accountancy on behalf of the Director of Finance, Investment & Risk.

6. COMMENTS OF COUNCIL SOLICITOR AND MONITORING OFFICER

6.1 The Council is required to adopt a Code of Conduct and the necessary arrangements and it is good practice for Members to consider and review the Code and those arrangements to assess whether or not they remain fit for purpose. The Ethics Committee has the role of considering the Code and the arrangements under the Localism Act and making recommendations to full Council in this regard, Members approval is accordingly sought in relation to the recommendations within this report on the basis of the Ethics Committee recommendations.

Approved by: Sandra Herbert Head of Litigation and corporate Law for and on behalf of Jacqueline Harris-Baker director of Law and Monitoring Officer.

7. HUMAN RESOURCES IMPACT

7.1 There are no HR implications arising from the recommendations within this report.

(Approved by: Gillian Bevan, Head of HR Resources on behalf of Sue Moorman, Director of Human Resources)

8. EQUALITIES, ENVIRONMENTAL AND CRIME AND DISORDER REDUCTION IMPACT

8.1 There are no equalities, environmental or crime and disorder reduction impacts arising from the recommendations within this report.

CONTACT OFFICER: Jacqueline Harris-Baker, Director of Law and Governance, Council Solicitor and Monitoring Officer (ext 62328)

APPENDIX 1: Assessment Criteria, updated.

BACKGROUND DOCUMENTS: None

Croydon Council

Assessment Criteria: Code of Conduct complaints

In considering complaints received that there has been a failure by a Member or co-opted member of the Council to comply with the Council's Code of Conduct, the Monitoring Officer shall have regard to the following factors in reaching a decision on whether a complaint is appropriate to refer for investigation. The criteria set out are not exhaustive and include but are not limited to the following:

1. Does the information pertain to an allegation regarding Disclosable Pecuniary Interests? If so, this is a matter for the Police and is not a matter in respect of which the Council will accept an allegation.
2. Where the complaint is about someone who is no longer a Member or co-opted Member of the Council, no further action will be taken.
3. Where the complaint has already been the subject of an investigation by other regulatory authorities and the Monitoring Officer considers that further action will not benefit the public interest, no further action will be taken.
4. Where the period of time that has passed since the alleged conduct occurred is such that there would be little benefit in taking further action at the time of receipt of the complaint. For these purposes, it is considered that where a period of three months has elapsed since the alleged conduct occurred and no complaint has been received then this criterion will be likely to be engaged and the Monitoring Officer may consider that, in the circumstances of the case, it is appropriate to take no further action after the three month period.
5. Where the complaint is not considered sufficiently serious to warrant further action, no further action will be taken.
6. Where the complaint appears to be simply malicious, politically motivated or tit-for-tat no further action will be taken.
7. Where the complaint appears to relate to the "rough and tumble of political debate" and pertains to conduct between Members or Members and co-opted Members rather than between Members and the public or Members and officers, no further action will be taken.
8. Where the information provided is insufficient to make a decision as to whether the complaint should be referred for investigation, unless or until further information is received, no further action will be taken on the complaint.

9. Having regard to the sanctions available to the Council and bearing in mind the public interest, including the public interest in ensuring that best use is made of public resources, it is not appropriate to refer the matter for an investigation.
10. Where the complaint indicates that there is a lack of understanding of the Code or the Council's procedures, policies or protocols, the issues may be dealt with by way of recommending and/or arranging training rather than referring the matter for an investigation.
11. Where the complaint relates to the manner in which formal Council meetings are conducted, this will not be a matter in respect of which an investigation is instituted.
12. Where the complaint is one person's word against another's with no independent impartial witness verification such that ascertaining the true facts of the complaint may prove improbable, it is unlikely that further action will be taken on the complaint.
13. In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally without the need for investigation. Such informal resolution may involve, for example, a discussion with the Member or the Member offering an apology. In circumstances where informal resolution is offered by the Member and the complainant chooses not to accept this, the Monitoring Officer will take this into account in determining whether the complaint merits formal investigation and may decide that no further action will be taken in such circumstances.

Complainants should be aware that the decision of the Monitoring Officer to take no further action on a complaint is final and is not subject to an internal right of appeal or review. Complainants do, however, retain their rights to approach the Local Government Ombudsman or seek legal redress if they remain dissatisfied. The Local Government Ombudsman can be contacted on 0300 061 0614 or 0845 602 1983 or by writing to them: The Local Government Ombudsman, PO Box 4771, Coventry CV4 0EH

The assessment criteria set out above will be reviewed and amended as necessary and in light of local experience.

January 2019