

For General Release

REPORT TO:	ETHICS COMMITTEE
AGENDA ITEM NO:	21 September 2022
SUBJECT:	ANNUAL REPORT ON ETHICS COMPLAINTS for 2021
LEAD OFFICER:	STEPHEN LAWRENCE-ORUMWENSE DIRECTOR OF LEGAL SERVICES AND MONITORING OFFICER
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT: The Council has determined that the Ethics Committee shall be responsible for receiving and considering reports on matters of probity and ethics and to consider matters relating to the Code of Conduct.	
FINANCIAL IMPACT Implementation of the recommendations contained in this report shall be contained within existing budgets	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A	

1. RECOMMENDATIONS

The Committee is asked to:

- 1.1 Note the contents of the report

2. EXECUTIVE SUMMARY

- 2.1 The Council has determined that the Ethics Committee shall be responsible for receiving and considering reports on matters of probity and ethics. The Committee receives quarterly reports on ethics complaints received. This report is an annual report on ethics complaints trends from the 2021 annual year without seeking to duplicate matters already reported to members in previous quarterly reports which can all be accessed here:
https://democracy.croydon.gov.uk/ieListMeetings.aspx?Committeeld=171&utm_source=mod-gov&utm_medium=taxonomy&utm_campaign=%20committee-calendar-ethics
- 2.2 The report was prepared and ought to have been presented to members at the February 2022 meeting, however due to an administrative error, the report was

not placed on the agenda for members consideration and is accordingly presented to members now at the first Ethics Committee meeting following the election.

3. DETAIL

- 3.1 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.
- 3.2 Pursuant to the current arrangements which the Committee has approved on behalf of the Council, any complaints which pertain to Members Conduct are made in the first instance to the Monitoring Officer.
- 3.3 The Monitoring Officer has authority to undertake an initial assessment of the complaint in accordance with the Assessment Criteria which the Committee have specifically adopted for these purposes. The Assessment Criteria are summarised below.
 - Does the allegation relate to a Disclosable Pecuniary Interest? If so, this is a police matter.
 - Is the complaint about someone who is still a Member? If not no further action can be taken.
 - Has the matter already been the subject of an investigation – if so, the Monitoring Officer is unlikely to consider further action in the public interest.
 - Has a period of 3 months elapsed since the alleged conduct occurred – if so the Monitoring Officer may consider no further action is appropriate.
 - Is the complaint sufficiently serious to warrant further action?
 - Is the complaint malicious, politically motivated or tit-for-tat – if so the Monitoring Officer is unlikely to take action.
 - Is the complaint part of the ‘rough and tumble of political debate’ and conduct between Members – if so, the Monitoring Officer is unlikely to take action.
 - Has insufficient information been provided? If so, unless further information is provided no further action can be taken.
 - Is referring complaint the complaint for an investigation the best use of public resources and in the public interest? If not, no further action is likely to be taken particularly as no sanctions are available to the Council.
 - Does the complaint demonstrate a lack of understanding of the code or policies/procedures? If so, the complaint will likely be dealt with by recommending/arranging training.
 - Does the complaint relate to the manner in which meetings are conducted? If so, this will not be a matter in respect of which an investigation will be instituted.
 - Is the complaint one person’s word against another? If so, with no independent evidence it is unlikely further action will be taken.
 - Can the complaint be resolved informally without the need for an investigation e.g. by the offer of an apology. If so, the Monitoring Officer

will take this into account in deciding what further action should be taken on the complaint.

The list is not exhaustive and a full copy of the criteria for assessment of complaints can be access here:

<https://www.croydon.gov.uk/sites/default/files/articles/downloads/assessment-criteria-january2019.pdf>

- 3.4 The initial assessment by the Monitoring officer will indicate whether or not the complaint is one which ought to be referred for investigation and if that occurs, the matter is then referred to Members in accordance with the arrangements for dealing with allegations of breach of the code of conduct under the Localism Act 2011.
<https://democracy.croydon.gov.uk/documents/s17243/Part%205I%20-%20Members%20Code%20of%20Conduct.pdf>
- 3.5 There were a total of 23 ethics complaints received last year. Of those, all bar two were received from members of the public.
- 3.6 Of those 23, 4 were withdrawn by the complainants and did not proceed to assessment and 2 related to members who were no longer councillors and one related to internal party politics and therefore not within the remit of ethics complaints.
- 3.7 In terms of the remaining matters, the issue most often complained about by members of the public were perceived failures by members to respond to emails/correspondence/calls in the time frame that the complainant considered appropriate or dissatisfaction with the nature of those responses. This accounted for 6 of the remaining 16 complaints (38%).
- 3.8 Members will be aware that many councillors receive significant amounts of correspondence and contact from members of the public including via social media. This can cover not only ward matters but a range of matters relating to Council services, proposals and general dissatisfaction. Members do not receive administrative support in dealing with that correspondence/contact. By way of example, one member of the public contacted 19 different councillors (and some MP's) one after the other because of dissatisfaction about a parking ticket and although that member of the public did not make an ethics complaint it is illustrative of the nature of some of the contact which members receive. It is acknowledged that it would be helpful for councillors to be able, for example, to be able to direct members of the public to ways in which complaints services by the Council can be accessed, however it is not considered reasonable to expect Councillors to be able to respond to or address each and every item of correspondence or contact made, nor is it considered that a failure to do this would, as a matter of course, amount to a failure to comply with the Code of Conduct. Similarly correspondence or contact may pertain to matters which express a view or approach with which the Councillor does not agree and there is no obligation on a Member to advocate a view or position with which they do not agree or support.

- 3.9 In relation to accessing complaints services, it is noted that there are numerous separate regimes for complaints and numerous different means of instigating a complaint on the council's website depending on the nature of the matter a member of the public is concerned with – these range from contact the council and the corporate complaints team to parking specific complaints, adult social services specific complaints, children's care complaints, whistleblowing complaints, school complaints, NHS complaints, housing complaints, food and food safety complaints, trading standards, missed bin collection complaints etc. This may undoubtedly be confusing for a member of the public and searching "making a complaint" on the Council's website brings up several pages of options. The Monitoring Officer is investigating if it is possible to have a single landing page to which all searches for "making a complaint" on the Council's website are directed and that this landing page has links to all the relevant regimes and complaints processes. This could allow for direction to a single page on the Council's website rather than a series of searches which may or may not result in the member of the public selecting the correct regime to follow.
- 3.10 The remaining matters were a collection of matters ranging from assertions that members had failed to attend meetings which they ought to have done in order to advocate the complainant's point of view, were in attendance at more than one meeting at a time, made representations to committees which complainants did not agree with or which complainants considered supported a view other than their own and one in relation to alleged pre-determination.
- 3.11 There were no specific trends in terms of the subject matter of the complaints for the past year – for example they didn't pertain specifically to one area or service where members were involved although there were instances where complainants had complained about more than one member in relation to the same or similar facts – particularly where a complainant had contacted several councillors simultaneously or in short succession and then was not happy with lack of response/response times or nature of the response received.
- 3.12 Members will be aware from previous reports that this is similar to previous years where historic examples of when matters have not been considered appropriate for investigation have included where a Councillor has failed to respond to correspondence sent by a constituent or not responded as constituent wished them to or as quickly; where a councillor has not advocated on behalf of a constituent or has supported a different constituent or cause; or non-decision making councillors having a particular views on a matter which is being considered by the Council and expressing those views.
- 3.13 Members will note the equalities impact considerations make a recommendation that in future equalities data pertaining to complainants be collated and monitored to adhere to Council processes due to be implemented in this regard in future. Members are therefore recommended to agree that future annual reports regarding complaints against members will include this data for monitoring purposes.

4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

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

Approved by: Matt Davis Interim Director of Finance.

5. LEGAL CONSIDERATIONS

- 5.1 There are no additional legal considerations arising from the contents of this report.

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

6. CONSULTATION

- 6.1 There has been no consultation with Officers or Members regarding the contents of this report.

7. HUMAN RESOURCES IMPACT

- 7.1 There are no immediate human resources impacts arising from the recommendations in this report for Croydon Council employees or staff.

Approved by: Gillian Bevan Head of HR, Resource and ACE

8. EQUALITIES IMPACT

- 8.1 The Council has a statutory duty, when exercising its functions, to comply with the provisions set out in the Sec 149 Equality Act 2010. The Council must, in the performance of its functions, therefore have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 8.2 The Council provides access to complaints to ensure its commitment to aspects of Sec 149 and forms the basis of the borough's commitment to ensuring that Croydon is a fairer, safer, more inclusive borough, where everyone has a voice and feels as if they belong.

- 8.3 In order to ensure fairness to residents and to monitor satisfaction it is recommended that in future complaints should be collated by equality characteristic and subject to monitoring in this regard. This is in line with the Council standard for data collection which will be implemented going forward.

Approved by: D.McCausland Equality Programme Manager

9. ENVIRONMENTAL IMPACT

9.1 There are no environmental impacts arising from the recommendations within this report.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There are no crime and disorder reduction impacts arising from the recommendations within this report.

11. DATA PROTECTION IMPLICATIONS

11.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

NO

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

NO

CONTACT OFFICER: Stephen Lawrence-Orumwense Director of Legal Services and Monitoring Officer

APPENDICES TO THIS REPORT: None

BACKGROUND DOCUMENTS: None