

Croydon Council

For General Release

REPORT TO:	ETHICS COMMITTEE
AGENDA ITEM NO:	21 SEPTEMBER 2022
SUBJECT:	UPDATE ON ETHICS COMPLAINTS RECEIVED UP TO AND INCLUDING 31 JULY 2022
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. This is the quarterly report to the Ethics Committee to update members on any complaints or investigations undertaken by the Monitoring Officer during the first two quarters of the year up to 31 July 2022, subject to what is set out at paragraph 3.8 below.

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. Members will be aware that a new Code of Conduct was adopted by the Council in October 2021 and the complaints detailed in this report were subject to that new Code of Conduct.
- 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. In reaching this decision, the Monitoring Officer may, although is not obliged to do so, consult with an Independent Person (IP) before reaching this decision. The Monitoring Officer did not consult with an IP in respect of any of the matters set out in Appendix A.
- 3.5 If the matter is referred for investigation, 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>
- 3.6 Whilst each matter has different facts which would impact on the assessment, 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.
- 3.7 As this is the first meeting of the Ethics Committee since the election, this report provides an update on the first two quarters of the year, up to 31 July 2022. During this period, the Monitoring Officer has received 30 complaints. In respect of 13 of those matters, further information was needed from complainants in order to progress the complaints, but this was either not provided or the complainants subsequently withdrew the complaints, and no further action was taken by the MO pursuant to Assessment Criteria 8. One matter was not within the remit of the Monitoring Officer and was therefore not progressed. In respect of 10 of the remaining 16 matters, these were linked complaints with the same subject matter and in respect of the same members and the Monitoring Officer concluded that training of those members was warranted as the failure appeared to stem from a lack of understanding of what was then the newly adopted Code of Conduct (under assessment criteria 10). 3 matters had no further action taken due to the person complained about no longer being a councillor (under assessment criteria 2). In respect of the remaining 3 matters, no further action was taken as the allegations were not substantiated.
- 3.8 Appendix A summarises the information detailed in paragraph 3.7 above pertaining to the complaints which have been completed. It should be noted that any such disclosure of information needs to have the necessary regard to the Councils' obligations under Data Protection and the processes adopted by the Council in relation to Code of Conduct complaints. The Committee also need to be mindful that the contents of Appendix A only represent complaints made and

assessment decisions against the criteria as detailed in paragraphs 3.3 and 3.4 above rather than the outcome of an investigation and any necessary hearings in line with the Council's processes in this regard. None of the matters on Appendix A progressed beyond the assessment stage.

4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 4.1 There are no direct financial implications arising from this report. All costs are included within existing budgets and no pressures will be caused from this review.

Approved by: Nish Popat – Interim Head of Corporate Finance.

5. LEGAL CONSIDERATIONS

- 5.1 There are no additional legal considerations arising from the contents of this report which are not set out in the body of the report although Members attention is specifically drawn to the information contained in paragraph 3.8 pertaining to disclosure of information in relation to Data Protection and the Council's ethics processes as well as the fact that the complaints detailed within this report only reflect the outcomes of assessment decisions and not findings following an investigation or hearing under the Localism Act 2011 requirements.

Approved by: Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Director of Legal Services and 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 human resources impacts arising from the recommendations in this report for Croydon Council employees or staff.

(Approved by: Gillian Bevan Head of HR – Resources and Assistant Chief Executives)

8. EQUALITIES IMPACT

- 8.1 The Council should pay due regard to section 149 of the Equality Act 2010 when exercising their functions. This includes having due regard to the Public Sector Equality Duty as detailed:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act. (Section 149(1)(a))

- Advance equality of opportunity between people who share a protected characteristic and those who do not. (Section 149(1)(b))
- Foster good relations between people who share a protected characteristic and those who do not. (Section 149(1)(c))

There are no breaches of this duty or further equalities impacts arising from the recommendations in this report.

Denise 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

Appendix A- Summary of code of conduct complaints for first and second quarter 2022

BACKGROUND DOCUMENTS: None