

For General Release

REPORT TO:	ETHICS COMMITTEE
AGENDA ITEM NO:	8 FEBRUARY 2023
SUBJECT:	ANNUAL REPORT ON ETHICS COMPLAINTS for 2022
LEAD OFFICER:	STEPHEN LAWRENCE-ORUMWENSE DIRECTOR OF LEGAL SERVICES AND MONITORING OFFICER
CABINET MEMBER:	
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 2022 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?CommitteId=171&utm_source=mod-gov&utm_medium=taxonomy&utm_campaign=%20committee-calendar-ethics

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 not exhaustive and 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%2051%20-%20Members%20Code%20of%20Conduct.pdf>
- 3.5 There were a total of 43 ethics complaints received last year. Of those, all bar two were received from members of the public.
- 3.6 Of those 43, 1 of the matters is still under consideration at assessment stage and is not able to be detailed further. Of the remaining matters, 9 related to persons who were no longer councillors, and no further action was taken due to the person complained about no longer being a councillor (under assessment criteria 2). 20 of the complaints required additional information in order to consider the matter under the ethics processes and the additional information was not provided and it was therefore not possible to proceed with those matters and the Monitoring officer took no further action under Assessment Criteria 8. In respect of 10 of the remaining 13 matters, these were linked complaints with the same subject matter and in respect of the same members and the interim 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). In respect of the remaining 3 matters, no further action was taken as the allegations were not substantiated.
- 3.7 In terms of the nature of the complaints, other than the linked complaints referred to above, 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.
- 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. 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 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.
- 3.10 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.

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.

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 – 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.

Approved by : 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: None

BACKGROUND DOCUMENTS: None