

REPORT TO:	ETHICS COMMITTEE
SUBJECT:	UPDATE ON ETHICS COMPLAINTS RECEIVED UP TO AND INCLUDING 31 MARCH 2021
LEAD OFFICER:	INTERIM EXECUTIVE DIRECTOR OF RESOURCES & DEPUTY 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 annual report to the Ethics Committee to update members on any complaints or investigations undertaken by the Monitoring Officer during the last quarter to 31 March 2021 subject to what is set out at paragraph xxx below. The previous report, an annual report up to and including complaints received and considered by 31 December 2020 is accessible here:
<https://democracy.croydon.gov.uk/documents/s27834/Complaint%20under%20the%20Councillor%20Code%20of%20Conduct%20report.pdf>

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%2051%20-%20Members%20Code%20of%20Conduct.pdf>

- 3.5 Whilst each matter has different facts which would impact on the assessment, historic examples from previous years 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.
- 3.6 The Committee on Standards in Public Life("CSPL") recommended, as part of their 12th report into standards in local government, that the Local Government Transparency Code should be updated to require councils to annually publish a report detailing the following: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied. Whilst there has not been such a change to the Transparency Code as yet as this will require legislative changes and the Council already reports annually on the above matters, it is considered that it will create greater transparency and allow greater involvement by the Ethics Committee to change the current annual report of Code of Conduct complaints to a quarterly report.
- 3.7 The team responsible for receiving ethics complaints was made aware that the online "Complaints, Comments and Feedback" form on the website had not been working properly during the period July 2020- March 2021 in that customers were able to complete the form and submit it but the system was not then generating an email to Contact The Council's inbox with the details and accordingly these details were not passed on to the relevant teams in the authority. The issue has now been resolved however the quarterly report as detailed below does not include the matters which came in over this period as the team are currently awaiting responses from those customers affected to ascertain whether they wish to raise their concerns as ethics complaints. Once this information is received, the relevant information will be updated and members will have this information in the next quarterly report.
- 3.8 Since the last updating annual report to Members which covered complaints up to and including 31 December 2020, the Monitoring officer has received 17 complaints this quarter up to and including 31 March 2021. There are no high level themes which arise from the nature of the complaints – they have been diverse in their nature and fact specific, unlike in previous years where there were a number of complaints pertaining to planning related matters.
- 3.9 In respect of 4 of these matters, further information is still awaited to undertake the initial assessment process. In respect of 1 matter, the complainant withdrew the complaint and it was therefore not progressed. One of the matters already pertained to existing complaints by the same complainant and reflected allegations already dealt with in the earlier complaint and was therefore not progressed. A further matter was not within the remit of the Monitoring Officer and was therefore not progressed.
- 3.10 In respect of the remaining matters 10 matters, 9 matters have been assessed and no further action is to be taken when considered against the assessment

criteria adopted by the Council for this purpose and 1 remains at assessment stage.

- 3.11 Appendix A summarises the information detailed in paragraph 3.6 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 do not in any way indicate that a finding has been made against any members regarding compliance with the Code of Conduct. Such a finding would only be possible after an investigation and any necessary hearings in line with the Council's processes in this regard. None of the matters on Appendix A have made it past the assessment stage.
- 3.12 In relation to complaints handling going forward, the Deputy Monitoring Officer recommends that the views of the independent persons be sought prior to the initial assessment decision is made. The Council's current processes provide that the Monitoring Officer may, but is not obliged to consult with an IP prior to reaching a decision regarding initial assessment but it is considered good practice to do so and will therefore be implemented for future allegations.

4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 4.1 There are no direct financial implications arising from this report. Implementation of the recommendations contained in this report shall be contained within existing budgets.

Approved by: Geetha Blood, interim Head of Finance on behalf of the Director of Finance Investment and Risk.

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 3.11 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 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 human resources impacts arising from the recommendations in this report.

Approved by: Sue Moorman Director of Human Resources

8. EQUALITIES IMPACT

- 8.1 There are no equalities impacts arising from the recommendations in this report.

Approved by: Yvonne Okiyo, Equalities 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: Asmat Hussain - Executive Director of Resources (Deputy Monitoring Officer) Interim

APPENDICES TO THIS REPORT

Appendix A- Summary of code of conduct complaints for first quarter

BACKGROUND DOCUMENTS: None