

# LONDON BOROUGH OF CROYDON

<b>REPORT:</b>	<b>Appointments and Disciplinary Committee</b>  <b>PART A</b>	
<b>DATE OF DECISION</b>	<b>9 December 2024</b>	
<b>REPORT TITLE:</b>	<b>Update on the recovery of the settlement payment to the former Chief Executive</b>	
<b>CORPORATE DIRECTOR / DIRECTOR:</b>	<b>Katherine Kerswell, Chief Executive</b>	
<b>LEAD OFFICER:</b>	<b>Katherine Kerswell, Chief Executive</b>	
<b>LEAD MEMBER:</b>	<b>Executive Mayor Jason Perry</b>	
<b>CONTAINS EXEMPT INFORMATION?</b>  <i>(* See guidance)</i>	NO	Public/Part A
<b>WARDS AFFECTED:</b>	<b>All</b>	

## 1 SUMMARY OF REPORT

- 1.1** This report updates the Committee on the recovery of the settlement payment to the former Chief Executive. There is also an assessment of the Council’s legal position and next steps in all the prevailing circumstances including the outcome of the referral of documents to the Metropolitan Police which is also reported to the Committee at the same meeting.
- 1.2** As the update and assessment concern contemplated legal proceedings and disclosure of legally privileged information, the substance of the report is set out in an Exempt/Part B report.

## 2 RECOMMENDATIONS

- 2.1** For the reasons set out in the report, the Committee is recommended to consider the update and assessment of the legal position and comment on the next steps.

### **3 REASONS FOR RECOMMENDATIONS**

- 3.1 For the Committee to consider the update, legal advice, public interest, the Council's duty of best value and other related duties and all other relevant factors in commenting upon the next steps.

### **4 BACKGROUND AND DETAILS**

- 4.1 The background to this report which has been the subject of numerous reports in recent years, is familiar to the Committee and is a matter of public record.

- 4.2 Broadly, it is the historical, widespread and high-profile corporate failure of the Council as publicly recorded by the external auditor in two reports of public interest. More specifically, it is implementing the following recommendations in the Richard Penn investigation report which was published by the Council on 24 February 2023:

*“The investigation has raised concerns about the actions and inactions of the former Chief Executive who is no longer employed by the Council. It is recommended that members consider a review of the settlement agreement that was signed by the Council with the former Chief Executive and whether the concerns raised in this initial investigation constitute a repudiatory breach of her contract and thus a breach of the terms of the settlement”.*

- 4.3 On 23 March 2023, the Committee received the Kroll report: an independent, forensic and fact-based review, undertaken by Kroll Associates UK Limited of the circumstances and decision-making process concerning the refurbishment of Fairfield Halls and related matters (the project).

- 4.4 The aim of Kroll's investigation was to provide clarity over the probity and integrity of decision making around the project, the reasons for the cost overrun and late delivery, the governance failures and report on any indications of fraud, conflict of interest, potential breaches of fiduciary duty and any other wrongdoing.

- 4.5 At that meeting the Committee resolved that the Kroll report provides yet more evidence of a repudiatory breach by the former chief executive of her contract of employment.

- 4.6 The Committee commented that it was in the public interest to begin legal action to recover as much of the settlement payment as was legally possible. In particular, taking legal action was a means of holding the former chief executive to account and restoring public trust and confidence in Council processes.

- 4.7 Further details, namely, the update and assessment of the legal position and the next steps are set out and discussed in the Exempt/Part B report.

### **5 ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 These are set out in the Exempt/Part B report.

## **6 CONSULTATION**

6.1 Not applicable.

## **7 IMPLICATIONS**

### **7.1 FINANCIAL IMPLICATIONS**

7.1.1 These are set out in the Exempt/Part B report.

### **7.2 LEGAL IMPLICATIONS**

7.2.1 These are set out in the Exempt/Part B report.

### **7.3 EQUALITIES IMPLICATIONS**

7.3.1 There are no immediate equalities implications arising.

## **8 APPENDICES**

8.1 None.

## **9 BACKGROUND DOCUMENTS**

None.