

LONDON BOROUGH OF CROYDON

REPORT:	ETHICS COMMITTEE	
DATE OF DECISION	29 July 2024	
REPORT TITLE:	ANNUAL REPORT ON ETHICS COMPLAINTS FOR 2023	
CORPORATE DIRECTOR / DIRECTOR:	DIRECTOR OF LEGAL SERVICES AND MONITORING OFFICER	
LEAD OFFICER:	Stephen Lawrence-Orumwense Stephen.Lawrence-Orumwense@croydon.gov.uk Ext: 27443	
CONTAINS EXEMPT INFORMATION?	No	Public
WARDS AFFECTED:	ALL	

1. SUMMARY OF REPORT

- 1.1 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 2023 annual year without seeking to duplicate matters already reported to members in previous quarterly reports which can all be accessed via the [Ethics Committee](#) report pages on the Council's website.

2. RECOMMENDATIONS

For the reasons set out in the report the Committee are asked:

- 2.1 to note the report contents.

3. REASONS FOR RECOMMENDATIONS

- 3.1 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 trends in complaints received during 2023.

4. BACKGROUND AND DETAILS

- 4.1 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 allegations may be made. Members will be aware that the

current Code of Conduct was adopted by the Council in October 2021 and the complaints detailed in this report were subject to that Code of Conduct.

The Complaint Process

- 4.2 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. The Committee on Standards in Public Life Report on Local Government Ethical Standards (2019) acknowledged the role of Monitoring Officers in receiving and filtering complaints:

Filtering complaints

The Monitoring Officer usually filters complaints about councillor conduct and judges if the complaints are trivial or vexatious, or whether they should proceed to a full investigation. Usually this filtering is based on the judgment of the officer, often against a formal policy, though the Monitoring Officer may seek the advice of an independent person or members of a standards committee when they do so” (Chapter 3, Page 53).

- 4.3 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 but are summarised below.
- a. Does the allegation relate to a Disclosable Pecuniary Interest? If so, this is a police matter.
 - b. Is the complaint about someone who is still a Member? If not no further action can be taken.
 - c. 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.
 - d. Has a period of 3 months elapsed since the alleged conduct occurred – if so the Monitoring Officer may consider no further action is appropriate.
 - e. Is the complaint sufficiently serious to warrant further action?
 - f. Is the complaint malicious, politically motivated or tit-for-tat – if so the Monitoring Officer is unlikely to take action.
 - g. 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.
 - h. Has insufficient information been provided? If so, unless further information is provided no further action can be taken.

- i. 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.
- j. 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.
- k. 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.
- l. Is the complaint one person's word against another? If so, with no independent evidence it is unlikely further action will be taken.
- m. 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.

4.4 The list is not exhaustive and a full copy of the criteria for assessment of complaints can be access [here](#).

4.5 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.

4.6 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.

The Numbers of Complaints Received

4.7 There were a total of 14 complaints received last year. This is a substantial decrease on the previous year when 43 complaints were received. This follows correspondence from the Monitoring Officer at the beginning of 2023 to Members reminding them of their duties under the Code of Conduct and providing guidance which was circulated.

4.8 Of the 14 Complaints which were received, all of them, bar two, were from members of the public.

4.9 In respect of five of the 14 complaints, these were not able to be proceeded with as the complainants in question did not provide the additional information needed in order to assess the complaint. One of the 14 complaints was withdrawn as the subject matter of the complaint was a post which was removed.

Numbers of No Further Action and Informal Resolution

4.10 Of the remaining 8 matters and following initial assessment by the Monitoring Officer, no further action was taken in respect of 6 of these and the details of these matters are set out within the relevant quarterly reports to members as previously reported. 2 matters were dealt with by way of informal resolution following initial assessment by the Monitoring Officer, one where an apology was given and the second where action was

taken by the Member to clarify an ambiguous situation. In respect of the informal resolution, members involved engaged constructively with the process and with the proposed resolution. Members will recall that a finding by the Monitoring Officer of informal resolution does not equate to a finding of a failure to abide by the Code of Conduct but is in reliance on assessment criteria 13 which provides that: *“In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally without the need for investigation. Such informal resolution may involve, for example, a discussion with the Member or the Member offering an apology. In circumstances where informal resolution is offered by the Member and the complainant chooses not to accept this, the Monitoring Officer will take this into account in determining whether the complaint merits formal investigation and may decide that no further action will be taken in such circumstances.”* In both matters subject to informal resolution, the suggested resolution was accepted by the complainant and the Member concerned.

The Nature of the Complaints

- 4.11 In terms of the nature of the 8 complaints that were considered at initial assessment stage, four of the matters arose at or as a result of conduct which occurred at public meetings, one of the matters arose at a ward surgery, two related to correspondence and the manner of that correspondence and the remaining one matter pertained to use of social media but in the context of a Member being an administrator of a social media group, rather than in the context of what was posted by a member on social media.
- 4.12 Members will recall that a report was presented to Members in April 2023 on guidance for members on Social media usage: [Councillors and Social Media: A Guide for Members](#), which had previously been approved and was thereafter recirculated to members for their information. Members may consider it helpful if this guidance is circulated annually to members as part of the bulletins which are circulated.
- 4.13 In the context of meetings, following one of the complaints and as part of the informal resolution agreed between the parties, Full Council was reminded of the importance of civility at meetings and respect for differences and lived experience. This was taken up by the Civic Mayor.
- 4.14 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 but the substantial reduction in the number of complaints over 2023 compared to previous years is a positive as is the increased willingness of members to discuss matters with the Monitoring Officer to talk through areas of concern to them so that these can be addressed via the appropriate and most effective channels.

New Best Value Guidance / Characteristics of a Well-Functioning Council

- 4.15 The Department of Levelling Up, Housing and Communities (DLUC) has recently issued new guidance on the operation of the best value duty which applies to all local authorities under the provisions the Local Government Act 1999: “Best value standards and intervention: a statutory guide for best value authorities, May 2024”. This [statutory guidance](#) on the Best Value Duty is issued under section 26 of the 1999 Act.

- 4.16 Under the 1999 Act, local authorities must legally deliver what is termed 'Best Value' – a council must be able to show that it has arrangements to secure continuous improvement in how it carries out its work. "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". In practice, this covers issues such as how authorities exercise their functions to deliver a balanced budget (Part 1 of the Local Government Finance Act 1992), provide statutory services, including adult social care and children's services, and secure value for money in all spending decisions.
- 4.17 Best value authorities must demonstrate good governance, including a positive organisational culture, across all their functions and effective risk management. They are also required, pursuant to section 3 of the 1999 Act, to consult on the purpose of deciding how to fulfil the Best Value Duty. The annual process of setting the authority's budget, the corporate plan and the medium-term financial plan provides a key opportunity to conduct such consultation.
- 4.18 The guidance sets out characteristics of well-functioning Councils which, as it relates to ethical conduct and the remit of this committee, includes that the Monitoring Officer is sufficiently supported and protected to allow them to enforce regulations and codes of conduct without fear; that effective procedures are in place and followed to ensure members and all officers comply with the Nolan Principles, relevant codes of conduct and policies, including procurement. Characteristics which indicate potential poor function include authorities where there is an environment which allows for widespread failure to follow due process, the constitution, and codes of conduct or that there is a refusal to investigate allegations of breaches of Member/officer codes of conduct.
- 4.19 The Council undertook a review of the Code of Conduct and associated procedures and the outcome of the review of the Council's Members Code of Conduct and arrangements for dealing with allegations of breach of the Code was reported to the Ethics Committee in November 2023. The review confirmed that the Council's arrangements are effective and are in accordance with the statutory requirements and current good practice. There are tidying up amendments required to the Code and the arrangements which will be the subject of a further report to the Committee. The review report is available here: [Agenda for Ethics Committee on Wednesday, 15th November, 2023, 6.30 pm | Croydon Council](#).
- 4.20 In terms of operation of the Code of Conduct arrangements, the Monitoring Officer has found that members both those who may make complaints and those who are the subject of complaints actively and constructively engage with the ethics process which supports good governance and ethical conduct. The Monitoring Officers also has the benefit of advice from Independent Persons which are appointed under the Localism Act 2011 who are involved in providing their views to the Monitoring Officer at the initial assessment stage of the process to provide an independent perspective on the matters which are considered and this external perspective adds value to the considerations undertaken. There has also been a marked reduction in the number of complaints received over the last year to December 2023 when compared to the prior two years, which indicates that member awareness of and engagement with the ethics process is being supported.

- 4.21 This committee receives regular legal updates on matters pertaining to member conduct to support the guidance and information which this committee provides to members in support of a robust ethical conduct regime. This includes reports on outcomes of Code of Conduct matters at other authorities along with detailed commentary from the Monitoring Officer to aid in members' understanding of conduct related matters; guidance issued by bodies such as the LGA and how the Council is addressing such guidance; Statutory guidance with impacts on good ethical conduct and arrangements; Court findings in relation to ethics related matters along with Monitoring Officer commentary and direction to the relevant sections of the Members [Code of Conduct](#) and [guidance](#) for members on the Code so that the relevance of those findings are highlighted to members in the Croydon context.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 None

6. CONSULTATION

- 6.1 Not applicable.

7. CONTRIBUTION TO COUNCIL PRIORITIES

- 7.1 Reporting to Ethics Committee about complaints received under the ethics processes supports the Councils' priorities and Mayor's Business Plan by ensuring good governance is embedded and adopting best practice.

8. IMPLICATIONS

8.1 FINANCIAL IMPLICATIONS

8.1.1 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.

8.1.2 Comments approved by Lesley Shields, Head of Finance for Assistant Chief Executive and Resources on behalf of the Director of Finance. 20/06/24

8.2 LEGAL IMPLICATIONS

8.2.1 There are no additional legal considerations arising from the contents of this report which are not set out in the body of the report.

8.2.2 Comments approved by the Director of Legal Services and Monitoring Officer. (Date 11/07/2024)

8.3 EQUALITIES IMPLICATIONS

8.3.1 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))

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

8.3.3 Comments approved by Ken Orlukwu, Senior Equalities Officer, on behalf of Helen Reeves, Head of Strategy & Policy on 01/07/2024

OTHER IMPLICATIONS

8.4 None

9. APPENDICES

9.1 None

10. BACKGROUND DOCUMENTS

10.1 Not applicable.

11. URGENCY

11.1 Not applicable.