

# LONDON BOROUGH OF CROYDON

<b>REPORT:</b>	<b>ETHICS COMMITTEE</b>	
<b>DATE OF DECISION</b>	<b>19 APRIL 2023</b>	
<b>REPORT TITLE:</b>	<b>UPDATE ON ETHICS COMPLAINTS RECEIVED IN THE FIRST QUARTER UP TO AND INCLUDING 31 MARCH 2023</b>	
<b>CORPORATE DIRECTOR / DIRECTOR:</b>	<b>DIRECTOR OF LEGAL SERVICES AND MONITORING OFFICER</b>	
<b>LEAD OFFICER:</b>	<b>Stephen Lawrence-Orumwense</b> <a href="mailto:Stephen.Lawrence-Orumwense@croydon.gov.uk">Stephen.Lawrence-Orumwense@croydon.gov.uk</a> <b>Ext: 27443</b>	
<b>LEAD MEMBER:</b>		
<b>DECISION TAKER:</b>	<b>ETHICS COMMITTEE</b>	
<b>KEY DECISION?</b>	<b>No</b>	
<b>CONTAINS EXEMPT INFORMATION?</b>	<b>YES</b>	Public
<b>WARDS AFFECTED:</b>	<b>ALL</b>	

## 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. This is the quarterly report to the Ethics Committee to update members on any complaints received by the Monitoring Officer during the first quarter of the year up to 31 March 2023.
- 1.2** The report is supported by Appendix A, which is an anonymised summary of complaints received, Appendix B which is a schematic of the Complaints process for members' information a draft and Appendix C, a draft note to all Members from the Monitoring Officer about expected standards of Conduct .

## 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 quarterly report to the Ethics Committee to update members on any complaints received by the Monitoring Officer during the first quarter of the year up to 31 March 2023. This information is subject to what is set out at paragraph 4.7 below.

## 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 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.
- 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).*

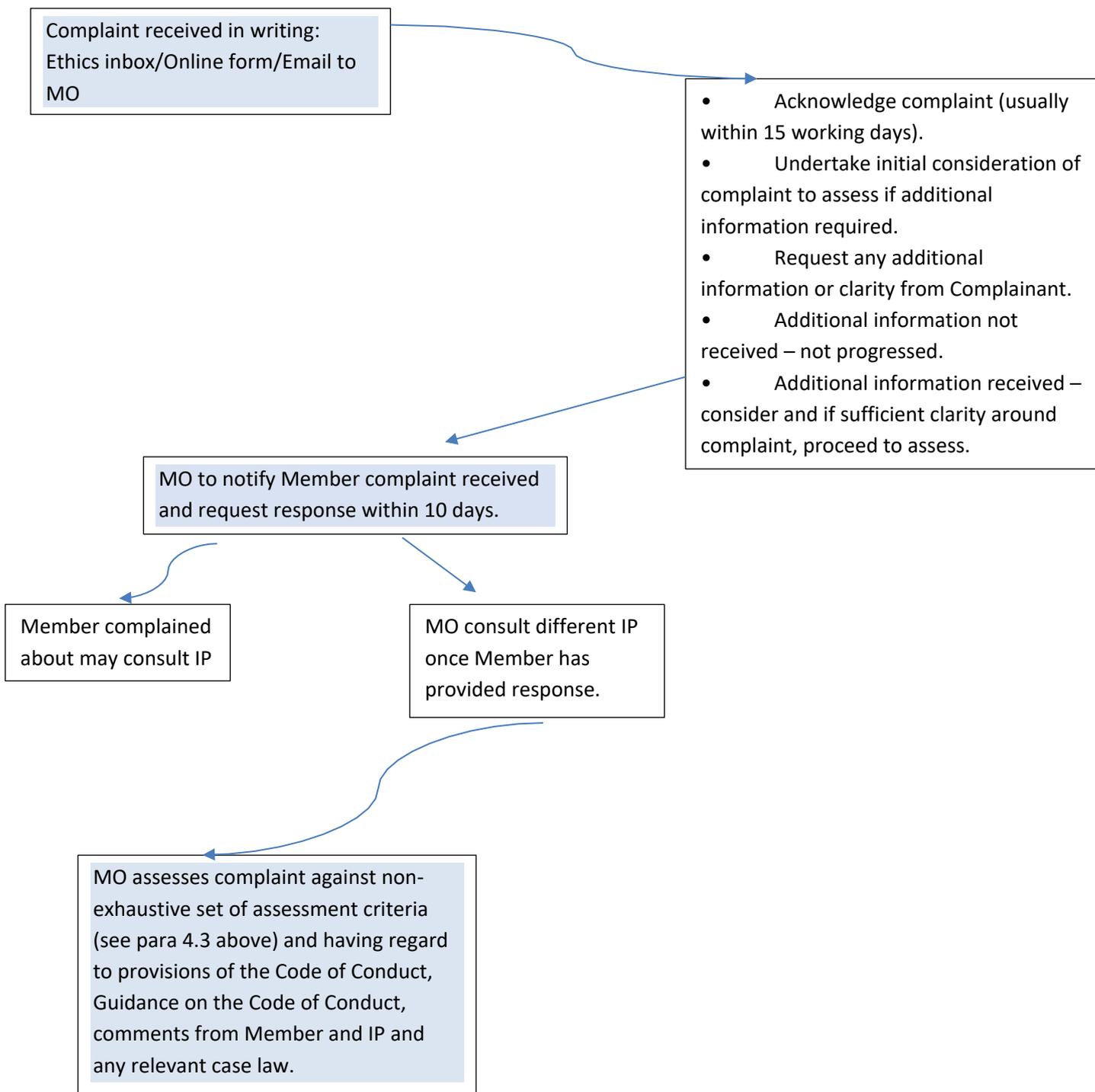
- 4.3 The Monitoring Officer has authority to undertake an initial assessment of the complaint in accordance with the Assessment Criteria which the Committee have specifically adopted for these purposes. The Assessment Criteria are not exhaustive but are summarised below.
- a. Does the allegation relate 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?

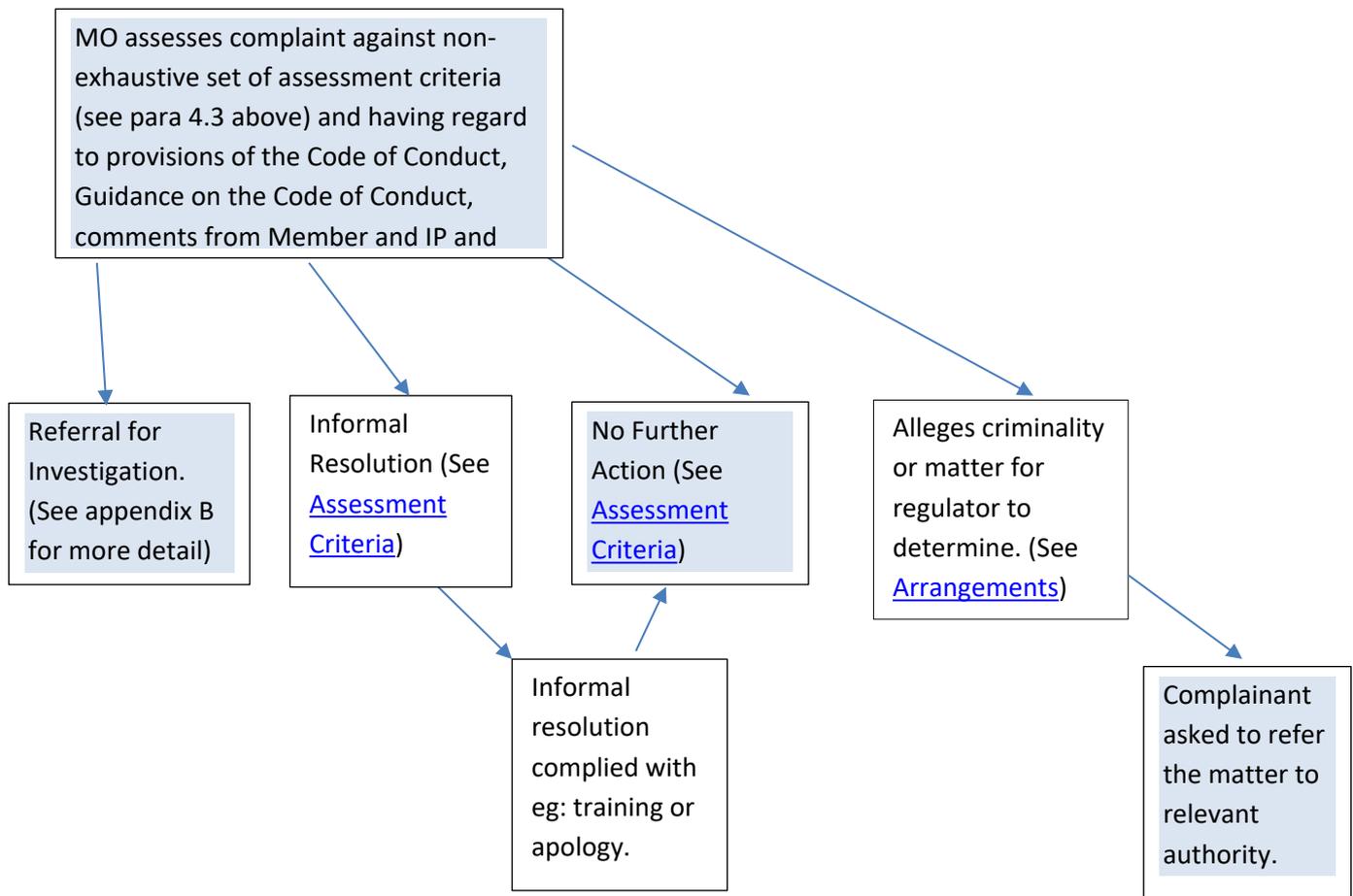
- f. Is the complaint malicious, politically motivated or tit-for-tat – if so the Monitoring Officer is unlikely to take action.
- g. Is the complaint part of the ‘rough and tumble of political debate’ and conduct between Members – if so, the Monitoring Officer is unlikely to take action.
- h. Has insufficient 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.
- 4.7 This report provides an update on the first quarter of the year, up to 31 March 2023. Between the date of the last updating report which set out the fourth quarter of 2022, the Monitoring Officer has received 12 complaints, 7 of which are awaiting further information in order to allow the Monitoring Officer to consider against the assessment criteria, 4 have had comments from the member concerned and are being considered by the MO with assistance and views of an Independent Person and 1 is awaiting further comments from the complainant before being finalised as detailed in Appendix A. Appendix B confidential information which pertains to those complaints which have been completed and will need to be considered by Members in private session.
- 4.8 Appendix A summarises the information detailed in paragraph 4.7 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 have progressed beyond the assessment stage.

4.9 For Members ease of reference, the process which is followed in relation to Assessment of Complaints received by the MO is set out below. A more detailed process is set out at Appendix B which includes the process through to determination following investigation and hearing:





4.10 In the last quarter, there has been a significant increase in the numbers of concerns raised about Code of Conduct matters (which have not led to formal complaints and engagement of the complaints process) as well as in formal code of conduct complaints and related queries under the Code of Complaint process. This has considerable resource implications in reviewing and addressing the matters raised, both those that engage the formal process and those that do not. Whilst the complaints detailed within this quarterly report are not yet finalised so that lessons learnt cannot yet be crystallised, the Monitoring Officer considers that there is a need to raise awareness on the standard of behaviour expected of members, in particular, in their interaction with one another whether in person or via media. Consequently, it is proposed that the Monitoring Officer sends a note to all members advising of the recent increase in Code of Conduct related matters and the need to adhere to the standards of behaviour expected by the Council's Code. It is proposed that both a copy of the Code as well as the guidance which supports the Code be attached. This is proposed as an awareness raising, as well as a preventative exercise designed to foster high standards of behaviour by members. Appendix C sets out this proposed note to Members.

## 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. 04/04/23

### **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 although Members attention is specifically drawn to the information contained in paragraph 4.8 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.

8.2.2 Comments approved by the Director of Legal Services and Monitoring Officer. (Date 04/04/2023)

### **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 The Council prohibits discrimination in any of its functions and will endeavour to investigate any complaints of this nature in accordance with the relevant processes and in a thorough manner sharing the outcome where appropriate.

**OTHER IMPLICATIONS**

8.4 None

**9. APPENDICES**

9.1 Appendix A: For General Release: Code of Conduct Complaints

Appendix B: For General Release: Process map: Complaints

Appendix C: For General Release: Note to Councillors on Code of Conduct

**10. BACKGROUND DOCUMENTS**

10.1 Not applicable.

**11. URGENCY**

11.1 Not applicable