

## Supplement to the agenda

### Audit and Governance Committee

Monday 31 July 2023, 10.00 am

Conference Room 1, Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE

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# Title of report: Annual report on code of conduct

**Meeting:** Audit and Governance Committee

**Meeting date:** 31 July 2023

**Report by:** Monitoring Officer

## Classification

Open

## Decision type

This is not an executive decision

## Wards affected

(All Wards)

## Purpose

To enable the committee to be assured that high standards of conduct continue to be promoted and maintained. To provide an overview of how the arrangements for dealing with complaints are working together with views from the latest standards panel sampling review.

## Recommendation(s)

**That:**

- a) **The annual report on code of conduct complaints be noted.**

## Alternative options

1. There are no alternative options, the constitution requires the committee to annually review overall figures and trends from code of conduct complaints. The report provides a factual summary of the work undertaken during the periods 1 May 2021 to 30 April 2022 and 1 May 2022 to 30 April 2023.

## Key considerations

2. Herefordshire Council, and all parish, city and town councils in the county, have a statutory duty under the Localism Act 2011 to 'promote and maintain high standards of conduct by members and co-opted members of the authority'.

3. The Monitoring Officer is responsible for dealing with allegations that councillors have failed to comply with the members' code of conduct and for administering the local standards framework. The committee is responsible for receiving an annual review by the Monitoring Officer.
4. The current Code of Conduct was adopted by the Council in May 2022 and is based on the Local Government Association model code, with amendments made by the Council to ensure that members have to register an interest in any body which is not open to the public without formal membership.

### **Independent Persons**

5. Section 28(7) of the Localism Act 2011 requires the Council to appoint "at least one independent person" whose views are sought and taken into account before it makes its decision on an allegation of a breach of the code of conduct.
6. The Council has adopted the LGA Guidance on Member Model Code of Conduct Complaints Handling, with an amendment to provide that two Independent Persons will be consulted as part of our arrangements.
7. During the year 2022/23, the number of Independent Persons was reduced from four to two due to resignations. However, as a result of a recruitment exercise, that number has now increased to four, with two new appointments being made by the Council at its Annual Meeting in May 2023. The Monitoring Officer is grateful for the work and support from all of the independent persons.
8. Under the agreed complaints handling procedure, the Independent Persons will offer support to councillors who are subject to complaints if required. During the year, no support was requested.

### **Arrangements**

9. The Council maintains a register of interests for members of Herefordshire Council; these declarations are published on the Herefordshire Council website and where possible, we ask Parish Councils to publish their own register of interest forms for their parish councillors and provide us with copies and/or link to the register.
10. The Council's register of interests also includes the register for gifts and hospitality. Over the period covered by this report, registers have been updated in order to record offers of gifts and hospitality which have been accepted or declined. All members, both new and returning, were asked to update their register of interests following the local elections in May.
11. Members do regularly update their registers and these are republished on our website.

### **Dispensations**

12. Since last year's annual code of conduct report, there have been no new dispensations granted. Any previous dispensations are no longer valid, due to the local government elections in May 2023.

### **Protocol with the police**

13. The protocol with West Mercia Police has remained unchanged during the year. There is a single point of contact between the council and West Mercia Police where information is exchanged between the monitoring officer and the superintendent.

14. During 2022/23 there has not been any recourse to refer any code of conduct complaint to the police.

### **Code of Conduct Complaints**

15. During the period 1 May 2021 to 30 April 2022 there were 38 Code of Conduct complaints.
16. During the period 1 May 2022 to 30 April 2023 there were 30 Code of Conduct complaints. Some councillors were subject to more than one complaint and so the total number of councillors subject to complaints received in the period was 24.
17. During the review period, there has been regrettably an issue with the timeliness of dealing with some complaints. This has been down to:-
- a. a turnover of staff with all staff who worked on complaints leaving the Council or taking other roles. An interim has been appointed to deal solely with the complaints, and we are currently recruiting for a permanent member of staff who will deal with complaints as part of their role, together with the Deputy Monitoring Officer, both of whom will be assisted by a paralegal. This will ensure that there is always cover for complaints.
  - b. part of the work being externalised to Cornwall Council, leading to delays in our own processes and not knowing at what stage the work was at. All matters are now dealt with in-house, and will only be externalised where the Monitoring Officer considers appropriate due to the seriousness of the case or the position of the subject member.
  - c. complaints being received in the Corporate Complaints unit and then having to be sent onto Legal Services, resulting in them being double or triple handled. The processes have now been changed and complaints can be made through an e-form which is direct to our Code-of-Conduct inbox, thereby avoiding unnecessary delays.
18. Since the introduction of the Localism Act 2011, the number of complaints handled by Herefordshire Council has been tracked and is set out in the table below. There are 53 Herefordshire councillors and approximately 1300 parish councillors each of whom is subject to a councillor code of conduct. As can be seen from the figures below, the majority of complaints received continue to be against parish councillors.

<b>Year</b>	<b>Total no of complaints received</b>	<b>No of complaints against Herefordshire ward councillors</b>	<b>No of complaints against parish councillors</b>
2013/14	36	16	20
2014/15	11	3	8
2015/16	36	12	24
2016/17	54	9	45
2017/18	50	12	38
2018/19	29	6	26
2019/20 (excludes 3 withdrawn complaints)	36	5	28
2020/21	42	8	34
2021/22	38	10	28
2022/23	30	10	20

19. Of these, the following outcomes were reported:

<b>Outcome</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>	<b>2022/23</b>
Withdrawn by complainant	3	0	1	0
Rejected	8	16	3	1
Breach of the code of conduct	7	3	10	6
No breach of the code of conduct	13	20	18	11
Other course of action / no further action	11	3	4	3
Still open complaints / appeals received	4	12	2	6
Informal resolution	* no data was collected	* no data was collected	* no data was collected	3
<b>Total number of complaints received against councillors</b>	46	54	38	30

20. On analysis of all complaints received, the primary cause for complaint in both years relates to behaviour/disrespect.
21. Details of the complaints by parish council are:

	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>	<b>2022/23</b>
<b>Parish Council</b>				
Ashton Ingram Parish Council		1		
Avenbury Parish Council				
Ballingham, Bolstone & Hentland Parish Council		2		
Bartestree Parish Council		4	1	3* the number of complaints were spread over two financial years and the total number is 9
Belmont Rural Parish Council		3	1	2
Bishopstone Parish Council			1	
Bodenham Parish Council	1			
Bridstow Parish Council			1	
Brimfield and Little Hfd. Parish Council				1
Bromyard and Winslow Town Council	2			
Burghill Parish Council				1
Callow Parish Council		1	1	2
Cradley Parish Council				1
Clifford Parish Council	1			
Dilwyn Parish Council		1		
Dorstone Parish Council			1	

Eardisland Parish Council			1	
Eardisley Parish Council				
Edwyn Ralph Parish Council	1			
Holmer & Shelwick Parish Council			1	1
Ledbury Town Council	4	3	6	4
Leominster Town Council			1	
Linton Parish Council	1			
Little Birch Parish Council			1	
Llangarron Parish Council	6	5	2	
Lyonshall Parish Council		4		
Madley Parish Council			1	
Marden Parish Council				
Mathon Parish				
Much Cowarne Parish Council				
Orcop Parish Council		1		1
Orleton Parish Council			1	
Pencombe Parish Council		1		
Pixley and District Parish Council	1			
Stoke Lacy Parish Council		1		1
Tarrington Parish Council	3			
Upton Parish Council			3	3
Vowchurch Parish Council	1			
Walford Parish Council	6	7	4	
Welsh Newton & Llanrothal Group Parish Council	1			
Weston-Under-Penyard PC			1	
Wigmore Parish Council			2	
<b>Total (excludes withdrawn complaints)</b>	<b>28</b>	<b>34</b>	<b>30</b>	<b>20</b>

22. The independent persons' views were sought for all complaints received in 2022/23.

### Sanctions

23. Our arrangements are that where there has been a breach of the code and recommendations are made by the monitoring officer, the subject member is asked to comply. In the event it is a parish councillor, then the report and recommendations are sent to the Parish Council for them to agree. Under our revised procedures, they are not able to substitute their own sanction and either have to agree with the Monitoring Officer's recommendation, or not.
24. Both subject members (for Herefordshire Council) and the Parish Council are asked to confirm whether or not sanctions have been complied with.
25. Where there is a breach of the code, the decision notice is published on the Council's website: [https://www.herefordshire.gov.uk/downloads/download/1911/councillor\\_complaints\\_decision\\_notices](https://www.herefordshire.gov.uk/downloads/download/1911/councillor_complaints_decision_notices)

## **Standards Panel**

26. A Standards panel was convened on 14 July 2023 to undertake a sample review of monitoring officer resolution decisions during the period 1 May 2022 to 30 April 2023.
27. In total, the panels reviewed 12 complaints against individual councillors. The panel identified improvements and made recommendations; some of which have been implemented during the review year. These included continuing to give full reasons for decisions, signposting to alternatives where a matter didn't fall within the member's Code of Conduct and tracking of complaints by functional area where possible (such as planning, licensing etc).

## **Community impact**

28. This report provides information about the council's performance in relation to the Code of Conduct.
29. Having an effective process for dealing with Code of Conduct complaints upholds principles A and G of the code of corporate governance by ensuring that councillors behave with integrity and are accountable for their actions. This should provide reassurance to the community that councillors are behaving in the best interests of their constituents.

## **Environmental impact**

30. There are no environmental impacts arising from this report.

## **Equality duty**

31. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
32. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

## **Resource implications**

33. There are no resource implications arising directly from this report which is for information.
34. The Council has a statutory duty in the Local Government and Housing Act 1989 to provide the monitoring officer with sufficient resources to allow them to perform their duties.
35. The Independent Persons receive no allowances and are only reimbursed their travel expenses for meetings with the Monitoring Officer, or for panel hearings/meetings.



## **Legal implications**

36. There is no statute that specifically requires the Monitoring Officer to produce an annual report. However, the report evidences that the council complies with the duties required under the Localism Act 2011.

## **Risk management**

37. There are no risks arising directly from this report which is for information. Maintaining high standards of conduct mitigates risks to the reputation of the Council. The fact that the Monitoring Officer is only able to make recommendations regarding a breach of the code of conduct exposes the Council and Monitoring Officer to risk of criticism, which was recognised by The Committee on Standards In Public Life.

## **Consultees**

38. None.

## **Appendices**

None.

## **Background papers**

None identified.

