

Meeting:	Audit and governance committee
Meeting date:	Wednesday 20 September 2017
Title of report:	Annual report on code of conduct complaints
Report by:	Monitoring officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To enable the committee to be assured that high standards of conduct continue to be promoted and maintained.

Recommendation(s)

That:

- (a) the annual report on code of conduct complaints be reviewed and any areas for further work be identified for inclusion in the work programme.**
- (b) The monitoring officer be authorised to agree a protocol for handling disclosable pecuniary interest (DPI) complaints with West Mercia Police**

Alternative options

1. There are no alternative options as the report provides a factual summary of the work undertaken in the last year.

Key considerations

2. 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.
3. Herefordshire Council, and all parish and town councils in the county, have a statutory duty in the Localism Act 2011 to "promote and maintain high standards of conduct by members and co-opted members of the authority.
4. The committee is responsible for conducting an annual review of the complaints received.
5. This report covers the municipal year 2016/17.

Code of Conduct

6. In accordance with the provisions the Localism Act 2011 the council has adopted a code of conduct, and this has also been made available to all parish councils in the county to inform the adoption of their own code. This report considers the code as was adopted prior to May 2017.

Independent Persons

7. The Act also requires that the council 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. Their view may also be sought in dealing with allegations which have not been investigated and they may be asked to provide support to subject members who are the subject of an allegation. During 2016/17 the council had two independent persons, John Sharman and Richard Stow. The monitoring officer is grateful for the time and commitment these independent members have given. John Sharman has been appointed for 4 years and is especially thanked for his time as his term of office has now expired. Recruitment for further independent persons will be commenced.

Arrangements

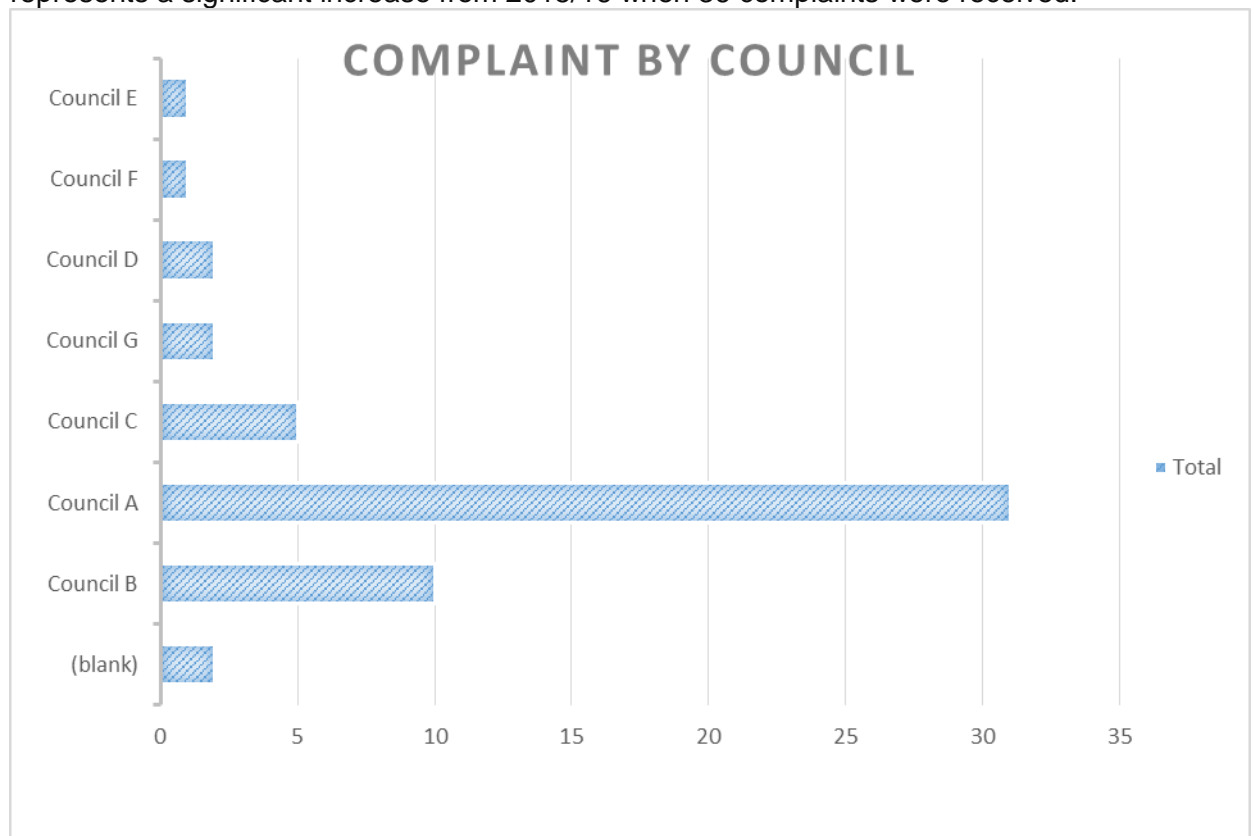
8. A revised standards procedure was approved by the committee on 9 May 2016 to investigate code of conduct complaints subject to the views of parish councils being received by 6 October 2016. Two parish councils responded and the new standards procedure ([live link](#)) was adopted on 1 December 2016.

Register of interests

9. The council maintains a register of interests for members of Herefordshire Council and parish councillors; these declarations are published on the Herefordshire Council website ([parish councils](#) and [Herefordshire Council](#)).

Standards complaints 2016/2017

During the period 30 April 2016 to 1 May 2017, there were 54 standards complaints. This represents a significant increase from 2015/16 when 36 complaints were received.



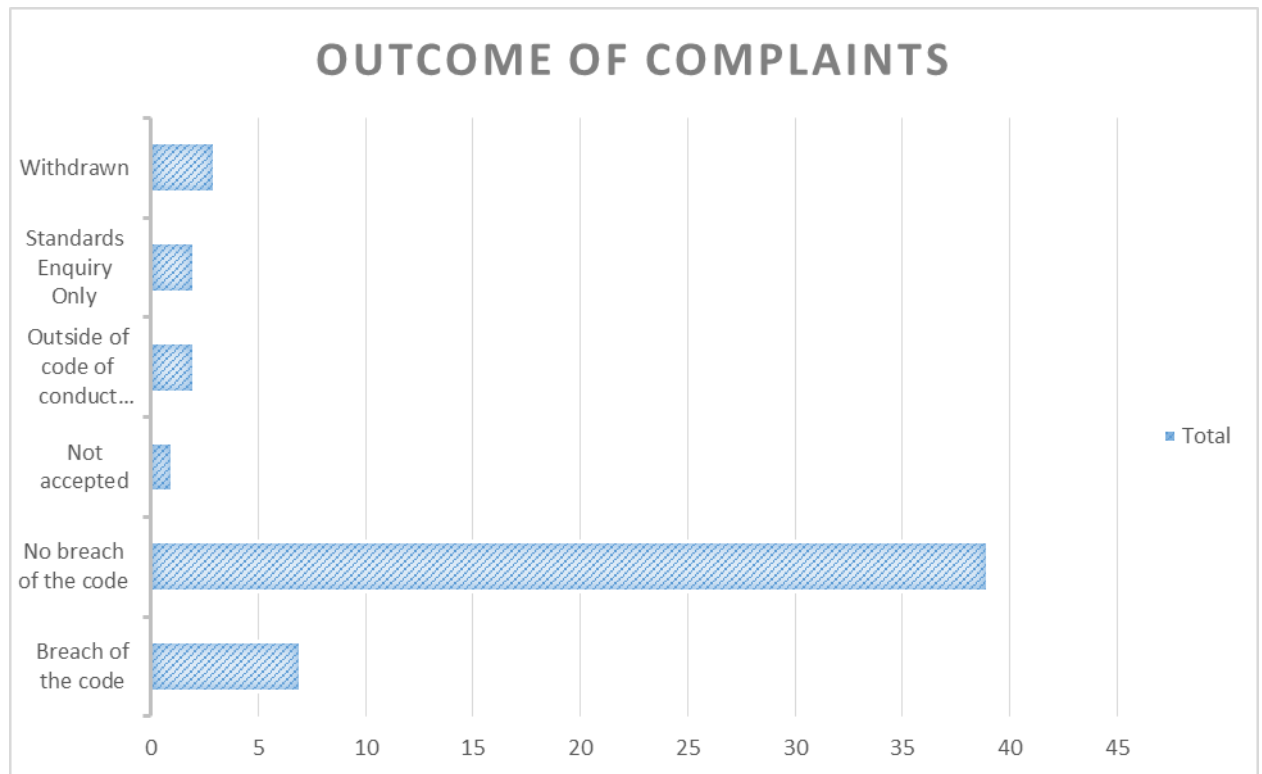
10. Of the 54 complaints received during the year, 9 related to Herefordshire ward councillors and the remaining 45 were against parish councillors. Below are details of the number of complaints received since the introduction of Localism Act 2011 and the breakdown of complaints between Herefordshire ward councillors and parish councillors. As can be seen from the figures, the majority of complaints received are against parish councillors.

Year	Total no of complaints received	No of complaints against Herefordshire ward councillors	No of complaints against parish councillors
2013/14	36	16	20
2014/15	11	3	8
2014/15	36	12	24
2015/16	54	9	45

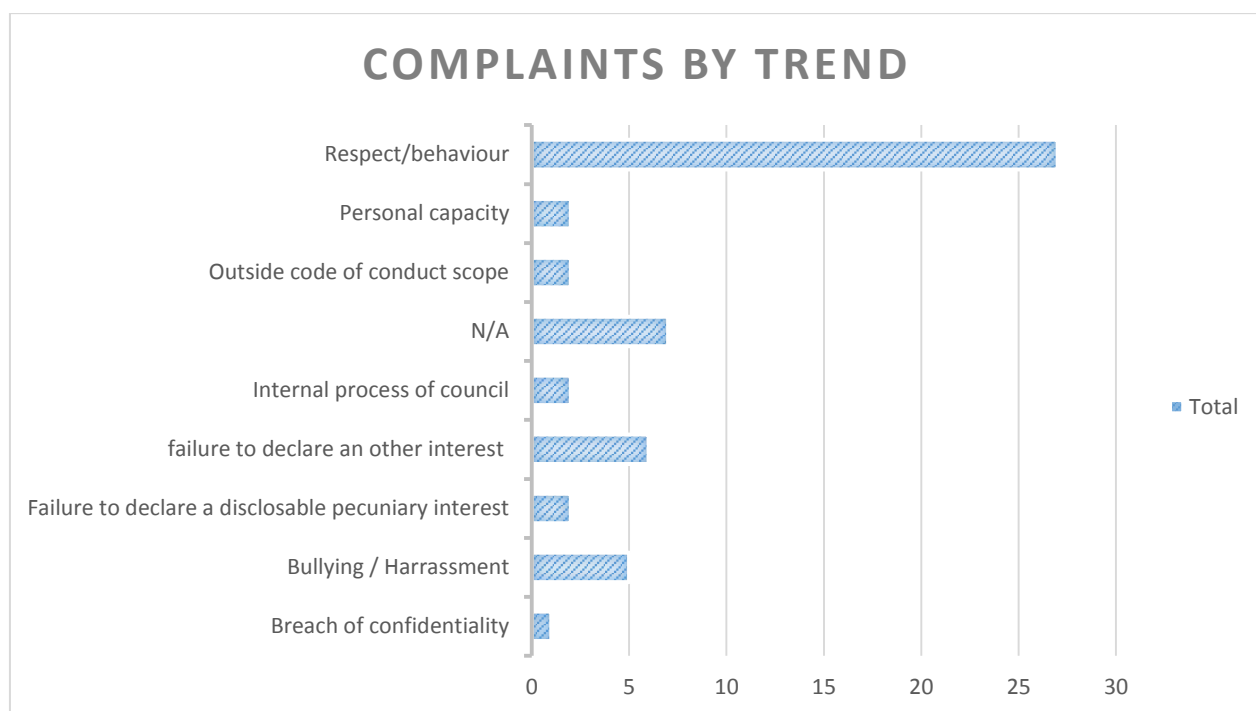
11. Due to the high number of complaints being received about one council during the latter part of 2014/15 and the beginning of 2015/16, an external firm was appointed to investigate the allegations of breaches of the code of conduct. The investigation

concluded on 10 May 2017 and all councillors and complainants involved have been informed of the outcome of the complaints.

12. There were no standards panel held during the year and all complaints were dealt with by monitoring officer resolution. Of these complaints, the outcome for 39 was no breach of the code and for 7 a breach of the code. One breach of the code of conduct related to a Herefordshire ward councillor. Where a breach of the code was identified, the monitoring officer recommended an apology or a revised register of interest to be completed. The remaining 8 complaints were either withdrawn, not accepted by the monitoring officer or were standards enquiries.



13. On analysis of all complaints received, 50% complaints relate to a lack of respect which includes behaviour at meetings, email correspondence and social media. During the last quarter of 2016/17, there was an increase in the number of complaints in relation to councillors failing to declare an interest, whether disclosable or non disclosable. Of those complaints where a breach was found the monitoring officer reminded the subject member to take care when other interests may need to be declared and if necessary to seek advice before the meeting or requested that a new register of interests form was completed. Further training in these areas might be of benefit to both local and parish councillors and will be covered in the annual training.



14. Of the complaints received during the year, 28 complaints were received from councillors complaining about other councillors and 26 complaints were made by members of the public.
15. A new code has been adopted by this council and recommended to all town and parish councils.
16. The Committee on Standards in Public Life published its annual report ([live link](#)) and has stated that a review of the standards will be taking place during 2018 and the findings and recommendations will be published during the latter part of 2018 so further changes may be necessary.
17. The monitoring officer is aware that the current arrangements do not stipulate how a failure to declare a disclosable pecuniary interest which may be a criminal offence should be dealt with. Although the arrangements are an operational matter for the monitoring officer to determine, any comments on the first draft of a protocol would be appreciated which is attached at appendix 1.

Community impact

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

Equality duty

20. 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.
21. 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

22. There are no resource implications arising directly from this report which is for information.
23. 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.
24. The Independent Persons receive no allowances and are only reimbursed their travel expenses for meetings with the monitoring officer.
25. .
26. The cost of the external investigation mentioned in paragraph 11 cost £14,000 (exclusive of VAT). The external investigation was funded by the monitoring officer budget and is not recoverable from the relevant council.

Legal implications

27. The review evidences that the council complies with the duties required under the Localism Act 2011.

Risk management

28. There are no risks arising directly from the report which is for information. Maintaining high standards of conduct mitigates risks to the reputation of the council. How the arrangements are managed can be cause for complaint and are dealt with by the chief executive. The fact that only recommendations can be made exposes the council to risk of criticism, this is a result of the national framework which the committee in public life will be considering.

Consultees

29. The Independent Person has been consulted on the draft report and their views have been incorporated within the report. However he expressed concern that the report should not be published without individual parish councils named. The committees working groups for standards have previously discussed naming of councillors and parishes/town councils involved in complaints and deemed it appropriate for such details to only be published when a standards panel is convened.

Appendices

30. Appendix 1 – draft protocol for dealing with potential criminal offences.

Background papers

31. None identified.