

Meeting: Standards Panel

Meeting date: 14 July 2023

Title of report: Review of Code of Conduct Complaints

Report by: Monitoring Officer

Classification

Open – Report

Appendices 1 to 13 are exempt by virtue of the paragraph(s) of the Access to Information Procedure Rules set out in the constitution pursuant to Schedule 12A of the Local Government Act 1972, as amended:

1 Information related to any individual

and the public interest in maintaining this exemption whilst the report is being considered by the Panel outweighs the public interest in disclosing the information.

Key Decision

This is not an executive decision.

Wards Affected

All Wards

Purpose and summary

To review a sample of Code of Conduct complaints resolved between 1 May 2022 - 30 April 2023.

Recommendation

THAT

- (a) The Standards Panel provide comments on the sample of the complaints received, to be included in the Annual Report of the Monitoring Officer.**

Alternative Options

1. There are no alternative options – the Constitution provides that the Standards Panel undertake a sample of decisions made by the Monitoring Officer to resolve code of conduct complaints.

Key Considerations

2. In accordance with the Localism Act 2011, the Council must have procedures in place to deal with complaints about member conduct. It is entirely for the council to decide the details of those procedures, but they must appoint at least one Independent Person whose views are to be considered before making a decision on a complaint that they have decided to investigate. The Council has made a decision that two Independent Persons will support the Monitoring Officer with each complaint, and the Council has a panel of four Independent Persons to draw from.
3. The Council agreed in 2018 that an annual review of decisions made by the Monitoring Officer in respect of code of conduct complaints would be carried out by the Standards Panel.
4. The following criteria for identifying a sample of complaints to review was approved in 2018 as follows:
 - a) All complaints which had resulted in dissatisfaction from the subject member or the complainant;
 - b) All complaints handled solely by the monitoring officer without any view from the independent person;
 - c) All complaints which form part of a cluster of complaints which relate either to an individual or an individual parish council;
 - d) All complaints which have been made against members of the cabinet or those acting in support to the cabinet;
 - e) All complaints that have been rejected as out of the scope of the complaints procedure; and
 - f) A random sample of complaints from each of the following categories:
 - I. Rejected under the initial assessment process with the views of the independent person sought
 - II. Rejected under the initial assessment process without the views of the independent person sought
 - III. Monitoring Officer resolution with a breach of the code of conduct
 - IV. Monitoring Officer resolution without a breach of the conduct
 - V. Discontinued with no finding as the subject member has resigned and it is not in the public interest to continue with the complaint.
5. The criteria in a) above is no longer appropriate, as there is no longer an appeals process for complaints. It is therefore suggested that this be removed from future criteria.

Complaints Received

6. During the period of this report (1 May 2022 to 30 April 2023), there were 29 complaints received. As at 30 April, there were 12 complaints still open and these have not been included within this sampling process.
7. The panel should note that during the year there was an issue with timeliness of dealing with complaints. This was partly due to staff resources, and also to the system where complaints were received and acknowledged within the Corporate Complaints team and then sent to the Legal Team. This has now been addressed and an e-form has been created which sees the complaints sent direct to a dedicated Code of Conduct inbox.
8. For each of the categories in paragraph 4 above, the following numbers of complaints have been identified:

- a) Dissatisfaction from the subject member or complainant: No longer applicable
 - b) Complaints handled solely by the monitoring officer: None
 - c) Cluster of complaints which relate either to an individual or an individual parish: None
 - d) Complaints against members of the Cabinet or those providing support to the Cabinet:
1
 - e) All rejected complaints: 9
 - f) Random sample of complaints with a monitoring officer resolution of breach or no breach of the code: 11
9. In relation to categories in f), many of these are duplicated and are within other categories. The random sample therefore contains only complaints with a Monitoring Officer resolution of breach/no breach of the Code.
10. Appendix 1 lists the complaints under each of the criteria.
11. Appendices 2 to 13 contains the original complaint, subject member's comments and decision notices.
12. The role of the Panel under the Constitution (2.8.27) is 'To undertake an annual sample review of decisions by the Monitoring Officer under the Code of Conduct complaints process.'

Community Impact

13. 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 and that appropriate action is being taken to ensure that the Code is being upheld. By undertaking an annual sample of complaints determined under monitoring officer resolution should provide assurance that all code of conduct complaints are being dealt with and that recommendations are appropriate.

Equality duty

14. 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.

15. 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 policies and in the delivery of services. Equalities data is collected with the complaints form.

Resource implications

16. There are no resource implications arising as a result of this report.

Legal Implications

17. There are no legal implications arising as a result of this report.

Risk Management

18. There are no risks arising directly from the report.

Consultees

19. None.

Appendices

Appendix 1 List of all complaints to be sampled.

Appendices 2-13 Complaint forms, subject member comments and decision notices.

Background Papers

None