

Title of report: Code of Conduct for Councillors Update 2024/25

Meeting: Audit and Governance Committee

Meeting date: Tuesday 28 January 2025

Report by: Head of Legal Services and Deputy 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.

Recommendation(s)

That the Committee:

- a) **notes the update on the Code of Conduct complaints arrangements in respect to the first 6-month period of 2024/25 to September 2024; and**
- b) **approves the draft response to Ministry of Housing, Communities and Local Government (MHCLG) as set out in Appendix 2 to this report for the reasons set out in the paragraphs 40 to 44 of this report.**

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. This committee agreed that this should be 6 monthly and the committee's recommendation was approved by Council in March

2024. This report provides a summary of the work undertaken during the first 6 months of the 2024/25 administrative year ('the review period').

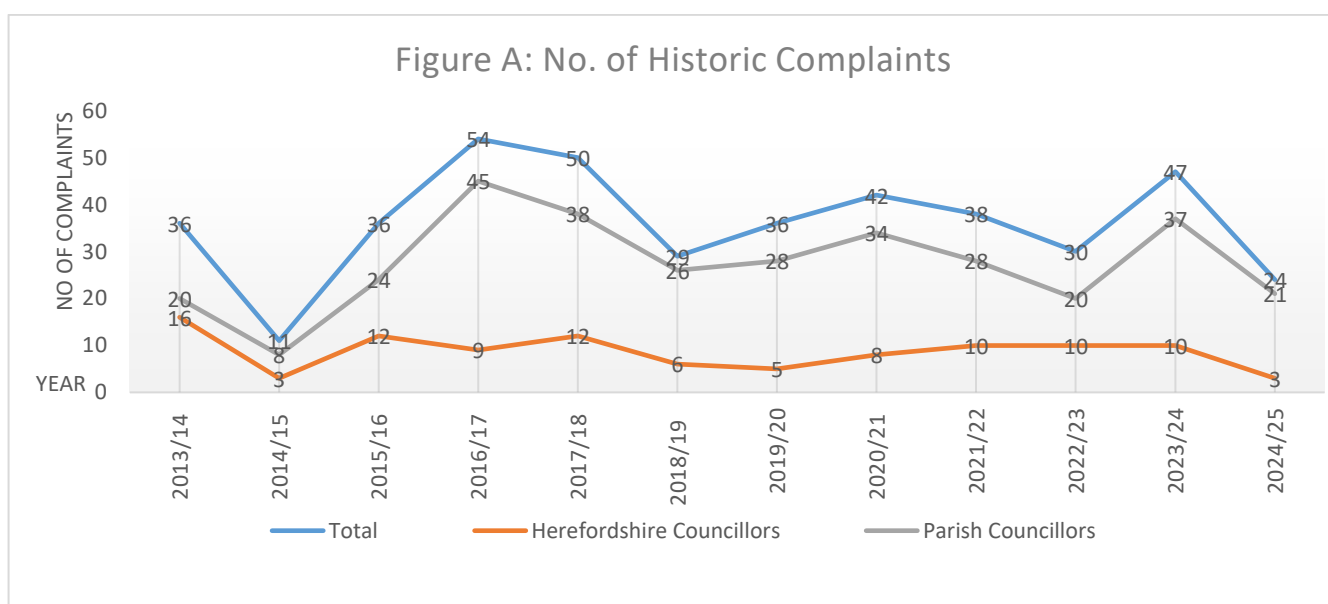
Key considerations

- 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'.
- 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.

Code of Conduct Complaints to September 2024

Number of Complaints

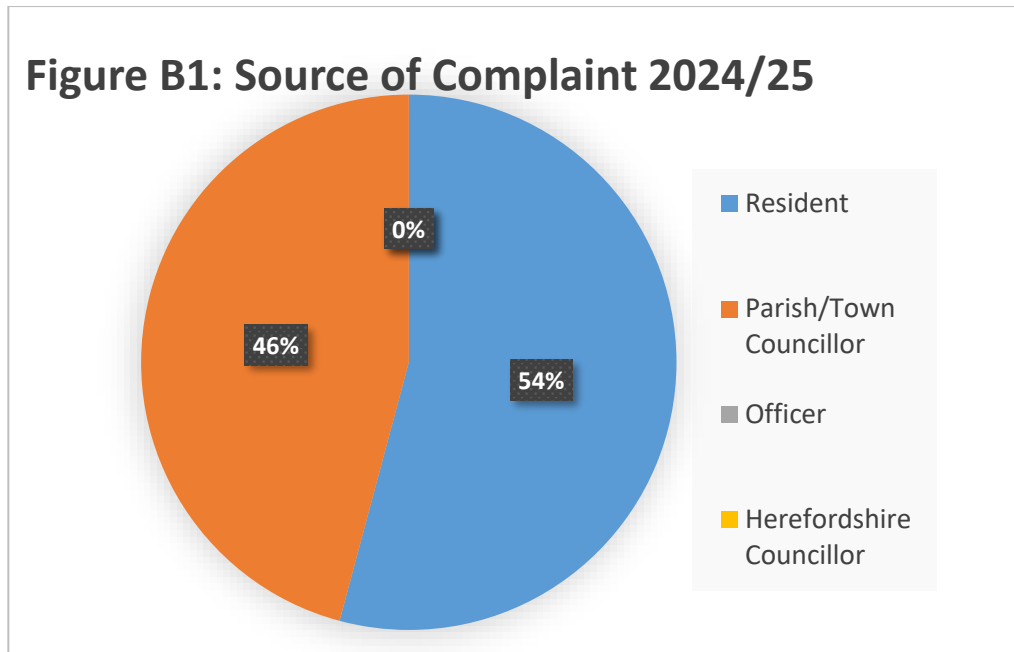
- Since the introduction of the Localism Act 2011, the number of complaints handled by Herefordshire Council has been tracked. There are 53 Herefordshire councillors and approximately 1,300 parish councillors each of whom is subject to a councillor code of conduct.
- Since the last update to this Committee, from 1 April 2024 to 30 September 2024 the Council received 24 Code of Conduct complaints.
- Figure A below shows the number of complaints received since 2013. The numbers had been reducing since 2021 but the year ending 31 March 2024 saw a significant increase in complaints. The increase in complaints has not been repeated in the current administrative year and it is expected that the average number in the low 30's will be repeated. There has been a marked decrease in complaints against Herefordshire Council councillors (3) with the majority being against Parish/Town Councillors. This is not a surprise when considering the numbers of Parish/Town Councillors.



Source of Complaints

- Figure B1 shows that, for the review period, the source of complaints has been almost evenly split between residents and Parish/Town Councillors. No complaints have been received from

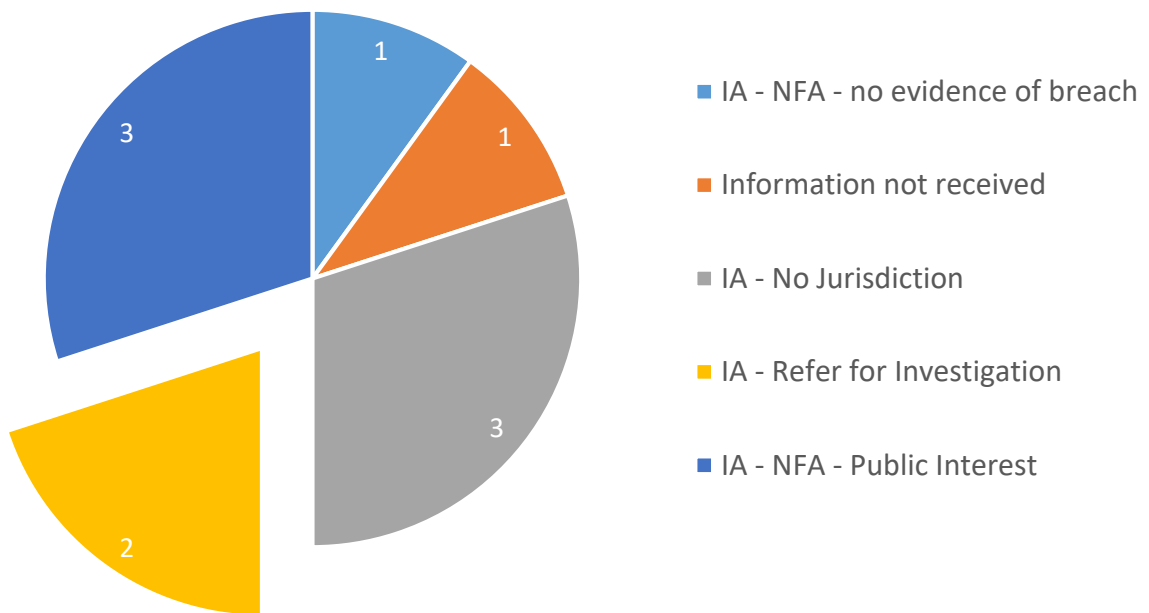
members of Herefordshire Council or officers of any council. This is higher than last year where Parish/Town Councillors were the source of 22% of all complaints.



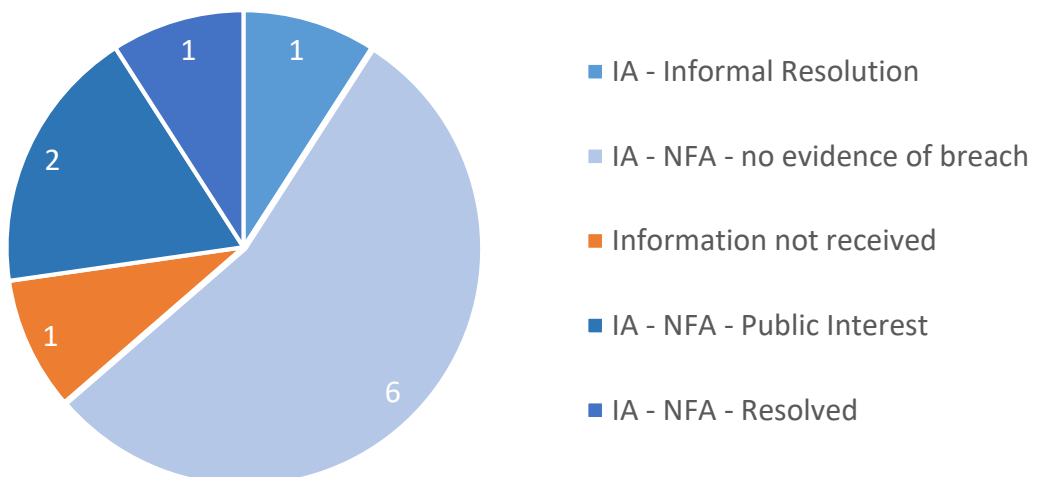
8. The number of complaints raised by Parish/Town Councillors demonstrates that the issues between Parish/Town Councillors are being 'resolved' using the Code of Conduct process. Further, the outcomes generated by the complaints are a poor use of resources when considering the substance of the complaints (see below). The trend appears to indicate that some Parish/Town Councillors use the Code of Conduct process to resolve differences of opinion or behaviours rather than matters being resolved by the Councils themselves. Local views continue to appear, that disputes and differences between Councillors should be dealt as a Code matter rather than the Councils having sufficient processes and resources to settle disputes within each council themselves.
9. Currently the Code of Conduct allows anyone to raise a complaint and the local arrangements require the Council to receive and treat the complaint as valid under our local assessment and jurisdiction criteria. Although the process allows the Monitoring Officer to screen out any 'tit for tat' complaints, this still means that no local resolution may have been attempted and the screening process itself is a poor use of resources.
10. Some Parish/Town councils have signed up to the Society of Local Council Clerks (SLCC), Country Associations, National Association of Local Councils (NALC) and others [civility and respect pledge](#) which requires training for councillors and staff and to have good governance arrangements in place. Examples include Ross on Wye TC (June 2023), Leominster TC ([Sept 2022](#)), Hereford City Council and Ledbury [TC](#). Part of this requires each Parish/Town councils to have a local resolution process that needs to be followed. The intention appears to be to try and resolve any issue as early and quickly as possible.
11. Information provided by NALC has indicated that only 7 Parish/Town Councils have signed up to the pledge (4.6%) in Herefordshire. This is extremely low even compared to the national average of 17% nationally signed by local councils. NALC confirms that this rate is the second lowest in the country.

12. Some Parish/Town councillor sourced complaints do appear to be referred to Herefordshire after some informal resolution has been tried. However, the majority do not and in some instances it appears that the Parish/Town council and/or councillors do not try or believe any local resolution is possible or achievable. As such, a complaint to Herefordshire Council is almost seen as the next stage in the dispute.
13. The table below shows the outcome of 10 Parish/Town Councillor sourced complaints in 2023/24 and 11 Parish/Town Councillor sourced complaints in 2024/25 at the initial assessment stage.

Parish/Town Councillor complaints - outcomes 2023/24



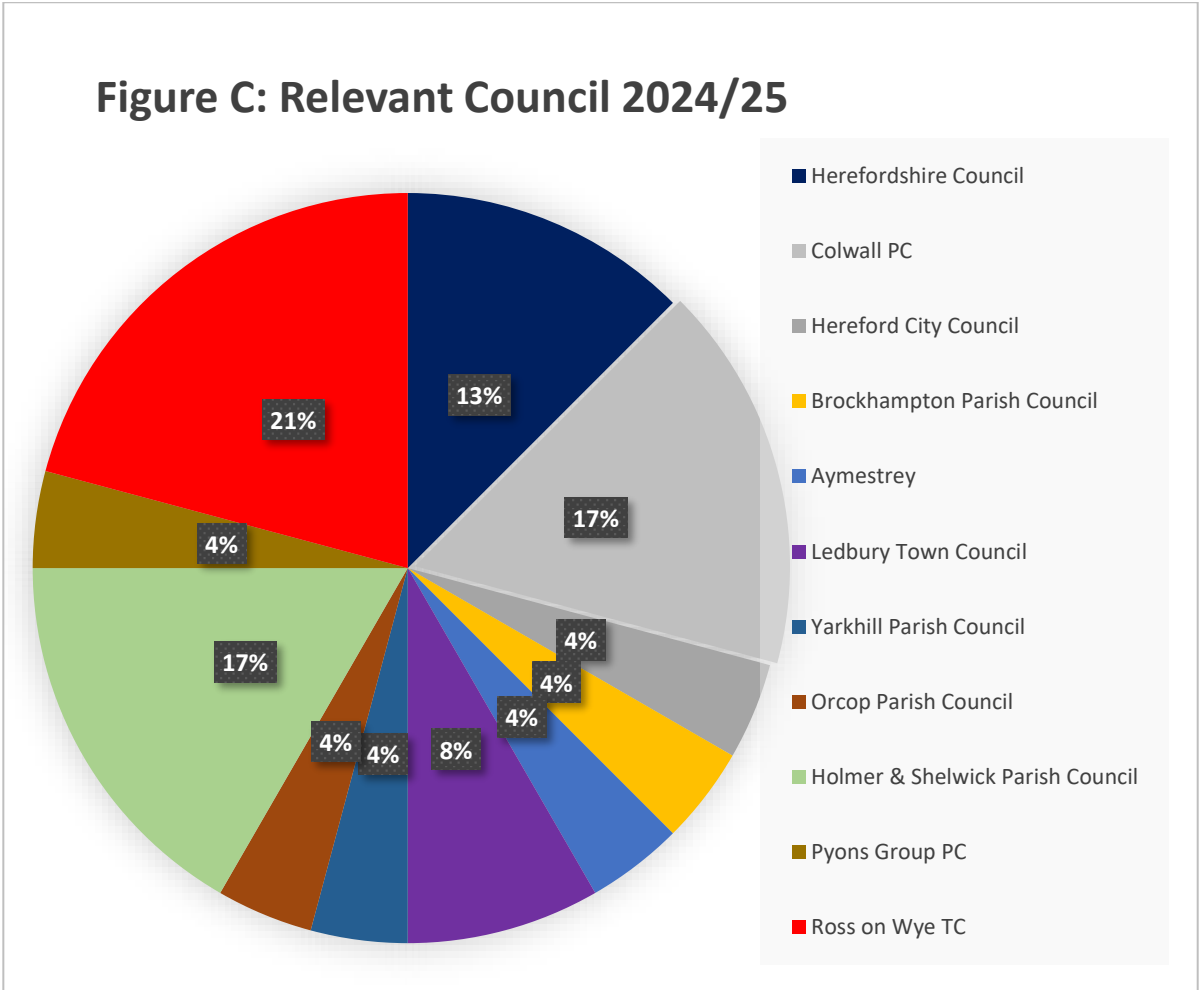
Parish/Town Councillor complaints - outcomes 2024/25



- 14. Only in 2 instances was a matter referred to investigation (meaning a potential breach) and no further action was taken at the initial investigation stage for 19 complaints due to no information being provided, the complaint being of minor affect, there not being evidence of a breach or the Councillor having already taken the remedial action to resolve the issue.
- 15. The committee will be aware that the Monitoring Officer circulated guidance about the most common complaint raised of Parish/Town Councillors around lack of respect. It is also noted that the number of complaints has fallen this year. However, almost half of all complaints in the review period in 2024/25 relate to Parish/Town Councillor sourced complaints and all have been discontinued at Initial Assessment stage. The numbers of Parish/Town Councillors sourced complaints that have attempted some form of local resolution first appears to be low.
- 16. The Code of Conduct complaints form has been updated so that if a complainant is a councillor then they are asked what form of local resolution they have tried to resolve the issue first. This will be monitored and, should it be clear that no local resolution is being attempted, then the committee may be asked to consider whether this should be a pre-condition to the arrangements that the Council has before it will accept a Code of Conduct complaint between elected members.

Relevant Council

- 17. Figure C shows the council in which the complained about Councillor is located. The majority of complaints by number relates to members of Parish/Town Councils. Complaints were received in respect of 3 Councillors of Herefordshire Council.

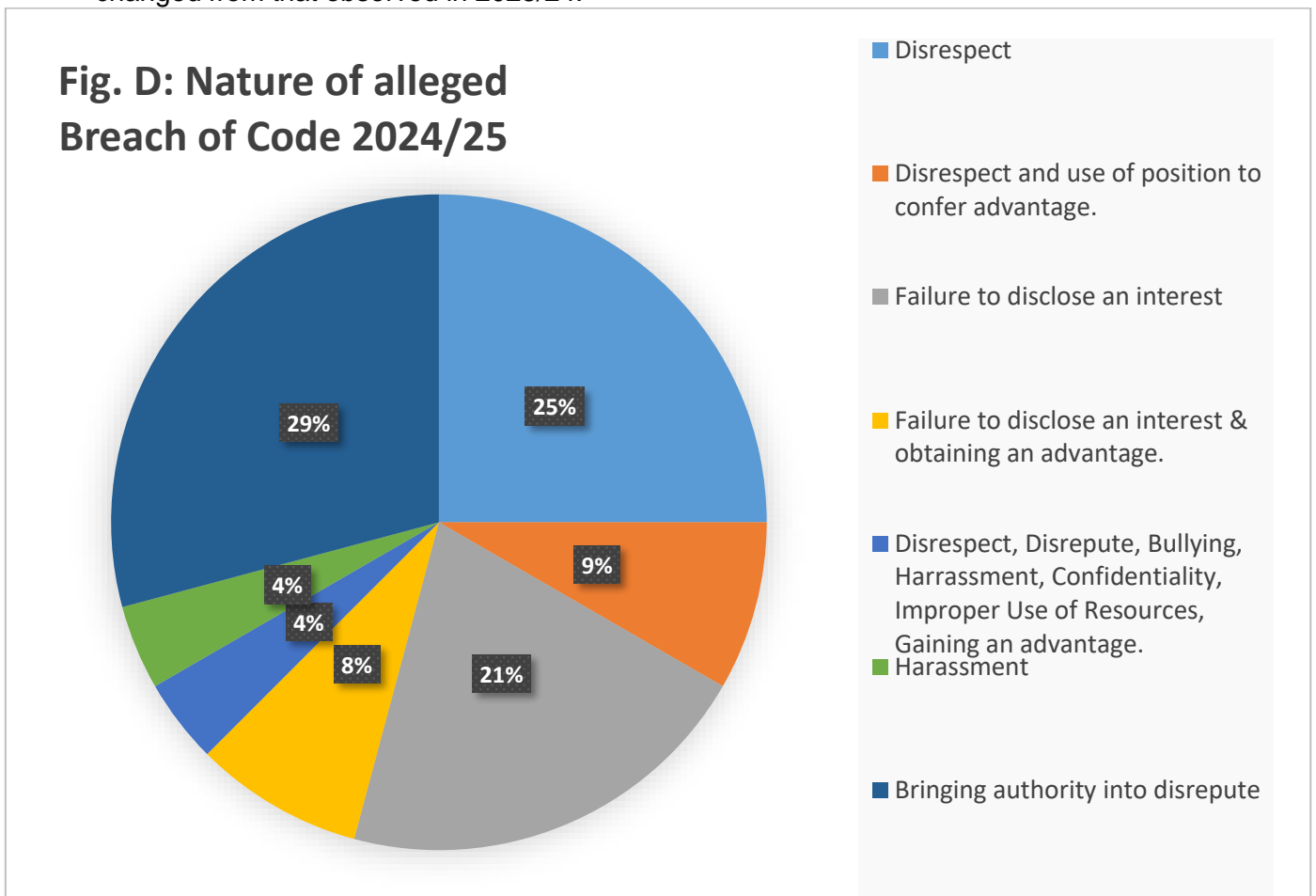


18. It is noted that no complaints have been received in the review period in respect to Bartestree with Lugwardine where 14 complaints had been received in 2023/24. 2 complaints have been received in respect to Ledbury TC and higher than normal numbers for Colwall PC, Holmer & Shelwick PC and Ross on Wye TC.

Nature of Complaints

19. A complaint requires a potential breach of the relevant Code of Conduct. Although this has been recorded by officers, due to the fact there is not a standard Code of Conduct (not all Parish/Town Councils have adopted the Herefordshire Code), this means that there is overlap in the recorded potential breaches. As such there are wide ranging descriptions of potential breaches of the Code of Conduct of the relevant council.

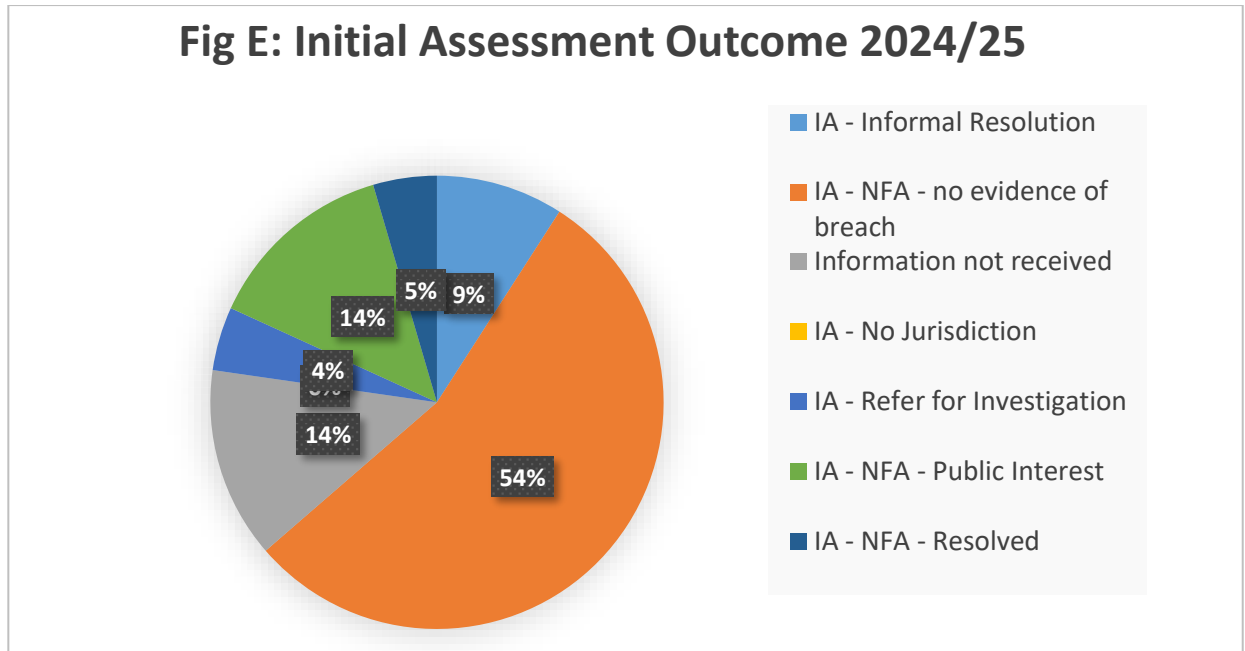
20. Figure D shows the range of allegations raised. It is clear that the majority of complaints relate to 'disrespect' (sometimes in combinations with other allegations) and a failure to disclose an interest, typically in the context of representations about planning applications. This has not changed from that observed in 2023/24.



21. Guidance on disrespect was produced by officers and circulated to the Parish/Town Clerks in April 2024 in an effort to raise awareness of councillors' commitment under the Code of Conduct to treat others with respect.

Outcome of Complaints

22. Figure E shows the outcomes of complaints at the first stage of the complaint process (initial assessment) during the review period.



23. Out of the 24 complaints received, 21 have been resolved during the review period at the initial assessment stage. 1 matter has been referred for investigation and remains unresolved. 2 others are on hold as they are being considered by other statutory bodies under their own compliance codes.
24. As at 30 September, there were 21 complaints that had been closed during the review period. Closed complaints includes where a complaint was withdrawn, or resolved at the initial assessment stage and after the subsequent full investigation stage. Resolved includes where there is a finding of a breach, no breach or where there is no further action taken. NFA includes where the member has already taken remedial action to correct the matters in the complaint.

Current Complaints

25. No 2023/24 complaints remain open at the date of preparation of this report, the last for the review period having been closed by 31 May 2024. There is only 1 complaint that remains open for the review period (2 further are on hold).

Historic Complaints per Parish/Town Council.

26. Appendix 1 to this report contains the number of complaints received against each Parish/Town Council since 2019/20.
27. Over that period, over 50% of all complaints have been generated by 4 Parish/Town Councils (79 out of total 169), although Llangarron has not received any complaints in 2023/24 or 2024/25 and Bartestree with Lugwardine PC and Walford PC have not received complaints during 2024/25.

Sanctions

28. Our arrangements are that where there has been a breach of the Code of Conduct 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 implement. Under our procedures, they are not able to substitute their own sanction but there is currently no ability for Herefordshire Council to enforce any recommendation.
29. Both subject members (for Herefordshire Council) and the Parish Council are asked to confirm whether or not sanctions have been complied with.
30. Decision notices for all breaches are made public on the Council's [website](#).
31. Where a complaint is resolved without a formal investigation, no finding of breach can be made. This committee has agreed that the Standards Panel will receive a copy of all decision notices made following initial assessment, no matter what the outcome is. In this instance, the decision notice is provided to the Complainant and Subject Member, as well as the Clerk as Proper Officer, but it is not published.

Standards Panel

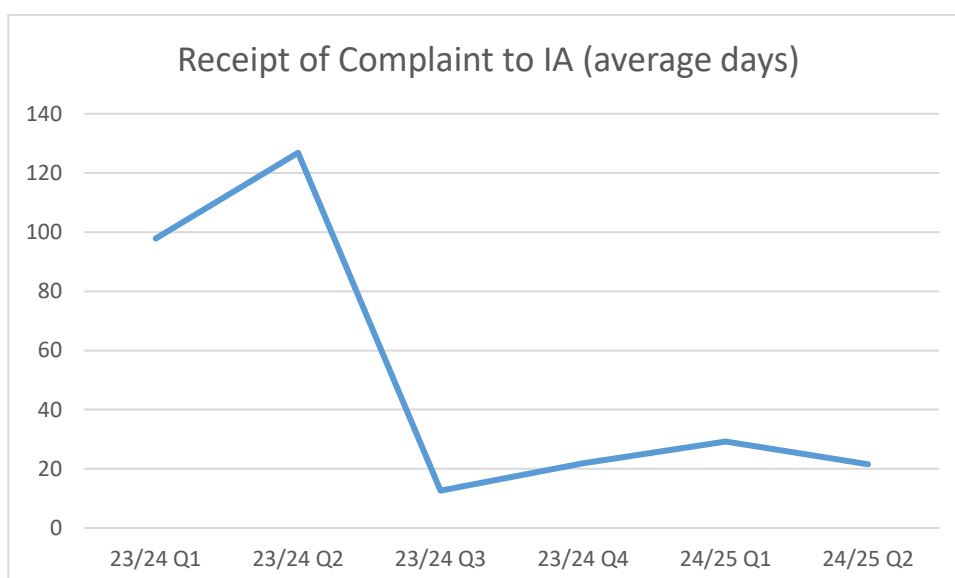
32. A Standards Hearings panel was not convened during the review period.

Key Performance Indicators

33. These are currently in an early form as data captured before the current administrative year was incomplete. Data is robustly captured currently and demonstrates the following key indicators.

Time for Initial Assessment

34. This is the average time taken in days from receipt of the complaint to the initial decision of the Monitoring Officer. This date is not a pure measure as it is dependent on a number of factors, including the subject member's response who may request an extension of time to respond, particularly if a complaint is complex.



35. This reduced from an average of 98 days in Q1 2023 to 13 days in Q3 2023 and, during the review period, was an average of 22 days.

Time for Independent Person Response

36. This is the response time for the Independent Persons to provide their views on matters before a decision is made by the Monitoring Officer (as required by the Localism Act 2011). This is currently an average of 2 days which is considered to be exceptional.

37. Time between Initial Assessment and Outcome

This is the time taken from Initial Assessment decision when a matter is proceeding to formal investigation, to outcome following that investigation. During the review period, only 1 case have been subject to investigation. The case concluded its investigation on 11 December 2024. This case took 21 days from receipt to Initial Assessment decision that the matter was proceeding to formal investigation. The formal investigation concluded on 11 December and took 56 days due to the number of interviews and delays in interviewees making themselves available. The matter is due to be referred to a Standards Panel.

Comments from the Council's Independent Persons

38. The Council has four Independent Persons who support the Code of Conduct process. Their input is invaluable and much appreciated by the Authority. This committee has a standing invite to the Independent Persons to address the committee on any matter relating to Standards and comments will be provided at the meeting.

Conclusions

39. The data represents a review period of 6 months but demonstrates the following trends and observations, particularly when the review period is considered in the context of the historic data that is included in the report:
- a. There is a downward trend in complaints which appears to be settling at the 'normal' levels of approximately 30 per year.
 - b. There has been a marked reduction in complaints concerning Herefordshire Councillors (3 as opposed to the 'normal' of 10 per year)
 - c. Over half of all complainants during the review period were generated by Parish/Town Councillors. Over half of these complaints were generated by other Parish/Town Councillors and all in the review period did not proceed past the initial assessment stage due to lack of information, of minor importance or the matter being considered as being resolved
 - d. An extremely low number of Parish/Town councils have signed up to the NALC/SLCC civility and respect pledge which ordinarily requires a local resolution process as part of good governance arrangements and best practice. Obviously, Parish/Town councils may have adopted their own local resolution process independently.
 - e. Cases concerning councillor to councillor complaint are a particular concern, since the parties have each committed to adherence to the Code of Conduct and it is regrettable that those cases are not capable of resolution without recourse to the Monitoring Officer.
 - f. Although the majority of complaints over previous 5 years relate to a small number of Parish/Town Councils, there have not been any complaints relating to Llangarron Parish Council in the last 2 years and no complaints in respect to Bartestree with Lugwardine or Walford in the review period.

Government Consultation on Standards

40. On 18 December 2024, the Ministry of Housing, Communities and Local Government issued a consultation on proposed changes to the standards and conduct framework in England.
41. The consultation requests feedback from any party who wishes to reply and all Councillors are encouraged to provide their personal response using the [government website](#) by 25 February 2025. Officers wrote to all Herefordshire Councillors on 6 January and the Independent Persons inviting them to make a response.
42. A formal response to the consultation should also be submitted and the suggested responses provided by relevant officers is attached in Appendix 2. The suggested responses have also been circulated to group leaders in advance on this report and their suggestions have been incorporated where possible.
43. The main thrust of the Council's response is that it supports:
 - a) a national Code of Conduct but with the ability to add further local provisions;
 - b) the requirement to maintain a Standards Panel;
 - c) the Independent Persons should maintain their current role but there could be an opportunity for the Council's to co-opt members of the public onto the Standards Panel;
 - d) the current process of the Monitoring Officer initially triaging the merits of complaints continues;
 - e) the publication of breaches only (not all complaint outcomes);
 - f) there should be power for Councils to suspend up to a maximum period of 12 months;
 - g) the role of any third party independent body should be limited to (i) considering sanction appeals (sanction only) where the sanction is a suspension of greater than 1 month (ii) determine any disqualification sanction (should disqualification be deemed necessary by the government) (iii) determining any complaints regarding the process and (iv) determining any appeals by a complainant. The council does not support that disqualification should be a sanction imposed by the Standards Panel or that complainants should have a right to appeal so points ii) and iii) only apply where the government determines that they are needed;
 - h) any suspension sanction can be reduced by the Council if associated sanctions (such as a training requirement) have been complied with; and
 - i) a power for interim suspension should be available (and could be a partial suspension) but only anticipates that this would be used in the most limited of circumstances.
44. The committee is requested to approve the consultation response to enable officers to reply to MHCLG.

Community impact

45. This report provides information about the council's performance in relation to the Code of Conduct.
46. 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

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

Equality duty

48. The Public Sector Equality Duty requires the Council to consider how it can positively contribute to the advancement of equality and good relations, and demonstrate that it is paying 'due regard' in our decision making in the design of policies and in the delivery of services.
49. The mandatory equality impact screening checklist has been completed for this activity and it has been found to have no impact for equality. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty. However, the model Code of Conduct requires that Councillors do not discriminate unlawfully against a person and should any complaint be received alleging this as a breach, then we would investigate accordingly and report such within this report.

Resource implications

50. There are no resource implications arising directly from this report which is for information. 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.

Legal implications

51. 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 and the requirements of the Council's constitution.

Risk management

52. 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

53. Independent Persons for Standards.
54. Group Leaders in respect to the MHCLG consultation

Appendices

- Appendix 1 – Historic Complaints per Parish Council
Appendix 2 – Proposed response to MHCLG consultation

Background papers

None identified.

Report Reviewers Used for appraising this report:

Governance	Jen Preece	Date 06/01/2025
Finance	N/A	
Legal	Sean O'Connor	Date 03/01/2025
Communications	Luenne Featherstone	Date 08/01/2025
Equality Duty	Harriet Yellin	Date 08/01/2025
Procurement	N/A	
Risk	N/A	

Approved by	Claire Porter	Date 08/01/2025
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