

Title of report: Code of Conduct complaint against a Parish/ Town Councillor

Meeting: Standards Panel

Meeting date: 4 February 2025

Report by: Monitoring Officer

Classification

Fully Exempt

This report is 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.

2 Information which is likely to reveal the identity of an individual.

Decision type

This is not an executive decision

Wards affected

All Wards

Purpose

A report to request Standards Panel to determine a complaint under the Council's process for consideration of complaints under the Code of Conduct, following referral by the Monitoring Officer of a complaint which cannot be dealt with by Monitoring Officer resolution.

Recommendation(s)

That:

Standards Panel determines a complaint following a referral by the Monitoring Officer.

Alternative options

1. It is for the panel to decide whether there has been a breach of the code of conduct.
2. There are no other options as the Monitoring Officer has determined that the complaint cannot be resolved under Monitoring Officer resolution.
3. The process approved by Council says, at paragraph 3CI:

'Following completion of a formal investigation, if the MO decides that the matter should be referred to the Standards Panel, the MO will convene a meeting of the Standards Panel and shall give the complainant and the subject member at least 20 working days' notice. The authority to make a determination of breach rests solely with the Hearing Panel once the Monitoring Officer decides to refer the matter to a hearing.'

Accordingly, once the Monitoring Officer has referred the matter, then only the Standard's Panel can make a determination as to the complaint.

Key considerations

4. The Monitoring Officer has referred a complaint to the Standards Panel as it cannot be dealt with under Monitoring Officer's options for resolution following formal investigation.
5. On 25 September 2024, the Council received a complaint that Councillor Sinclair had failed to comply with the Code of Conduct of Ledbury Town Council. The complainant alleged that Councillor Sinclair has failed to observe the Code of Conduct for members, adopted by Ledbury Town Council. The complainant alleged that Councillor Sinclair's conduct towards him, during an incident that took place on 17 September 2024, was disrespectful and harassing.
6. The complainant also alleged that an email sent by Councillor Sinclair to seventeen recipients on 19 September 2024, appeared to refer to the incident on 17 September 2024 and was in breach of the code of conduct, since it disclosed confidential information and was disrespectful; and that Councillor Sinclair's conduct brought his role or local authority into disrepute.
7. In responding to the complaint, Councillor Sinclair provided to the Monitoring Officer copies of his communications with West Mercia police, when he reported the incident to them on 20 September 2024. Considered alongside Councillor Sinclair's email to the seventeen recipients, referred to above, the Monitoring Officer was of the view that paragraph 6.1 of the Code of Conduct, and the following general principles were also engaged:

I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else;

I act with integrity and honesty;

I lead by example and act in a way that secures public confidence in the role of councillor.

8. Following initial assessment, the Monitoring Officer, having consulted with two of the Council's Independent Persons, decided that the matter should be formally investigated.
9. The Monitoring Officer asked the investigator to consider the following paragraphs, and general principles, of the Code of Conduct for Ledbury Town Council:
 - 1.1 *I treat other councillors and members of the public with respect.*
 - 2.2 *I do not harass any person.*
 - 4.1 *I do not disclose information which I believe or ought responsibly to be aware of, is of a confidential nature.*
 - 5.1 *I do not bring my role or local authority into disrepute.*

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

I act with integrity and honesty.

I lead by example and act in a way that secures public confidence in the role of councillor.

10. The events giving rise to the complaint are described in the investigation report dated 10 December 2024, by Deborah Nickson, Senior Governance Lawyer.
11. The investigator concluded that Councillor Sinclair had breached the Code of Conduct of Ledbury Town Council.
12. The draft report was provided to the parties, and their comments are included in the final report.
13. The Monitoring Officer considered the options available to her upon completion of a formal investigation, having consulted with two of the Council's Independent Persons.
14. According to the process approved by Council, the Monitoring Officer's options are described at paragraph 3Cj:

Upon completion of an investigation, the MO will make one of the following decisions:

- a. There has been no breach and therefore no further action will be taken;*
 - b. There have been one or more breaches, but no further action is needed (for example: the member has already apologised for the breach);*
 - c. There have been one or more breaches, but the matters should be resolved in a way other than by a hearing (e.g. an appropriate form of resolution or actions to be taken); or*
 - d. That the matter be referred to a hearing.*
15. The Monitoring Officer's decision is that the matter cannot be resolved in a way other than by a hearing, noting that it is less than 12 months since Councillor Sinclair was found to be in breach of the Code of Conduct of Ledbury Town Council in case reference COC045, which is in the public domain. This itself follows a breach in October 2022 (reference COC012). Councillor Sinclair expressed that he was annoyed to find himself the subject of an investigation in this matter and displayed no regret at all for his conduct, indicating to the Monitoring Officer that he would not apologise if he were asked to do so.
 16. In the circumstances, the Monitoring Officer's decision following formal investigation was to refer the matter to a hearing. In reaching this decision, the Monitoring Officer consulted with two of the Council's Independent Persons, who agreed with this decision.
 17. The sanctions available to the Standards Panel, should it decide that Councillor Sinclair has breached the Code of Conduct for Ledbury Town Council, are set out at paragraph 4x. of the Council's arrangements for dealing with complaints under the Code of Conduct for members.

Community impact

18. Having an effective process for dealing with code of conduct complaints upholds the requirements of the Council's Constitution by ensuring that councillors behave with integrity and that councillors are accountable for their actions.

19. 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.

Environmental Impact

20. None

Equality duty

21. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is that a public authority must, in the exercise of its functions, have due regard to the need to –

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

22. 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

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

Legal implications

24. The system of regulation of standards of councillor conduct in England is governed by the Localism Act 2011. Local authorities must have a Code of Conduct for councillors, which must be consistent with the 'Seven Principles of Public Life', selflessness, honesty, integrity, objectivity, accountability, openness and leadership.
25. A referral to Standards Panel forms part of the Council's arrangements for making decisions about allegations made under the Code of Conduct, in accordance with section 28 (6) of the Localism Act 2011, which requires the Council to have in place arrangements under which allegations can be investigated, and decisions on allegations can be made.

Risk management

26. There are no risks arising directly from the report. Maintaining high standards of conduct mitigates risks to the reputation of the council.

27. There is no right of review or appeal against the standards panel decision.
28. If either party remains unhappy about the process only which has been followed, they may complain to the Local Government and Social Care Ombudsman

Consultees

29. None

Appendices

Appendix 1 Investigation Report by Deborah Nickson, Senior Governance Lawyer dated 10 December 2024 (to include appendices 1-19 to the report)

Background papers

None identified.