

Audit, Governance & Standards 20 November 2017 Committee

Complaints Received under the Members' Code of Conduct

Final Decision-Maker	Audit, Governance & Standards Committee
Lead Head of Service/Lead Director	Patricia Narebor – Head of Legal Partnership and Monitoring Officer
Lead Officer and Report Author	Donna Price – Interim Deputy Head of Legal Partnership
Classification	Public
Wards affected	All

Executive Summary

The report provides an update to the Committee on complaints received under the Members' Code of Conduct for the period 1 June 2017 to 31 October 2017. The Committee are asked to note the contents of the report.

This report makes the following recommendations to this Committee:

1. The Committee are asked to note the contents of the report.

Timetable

Meeting	Date
Audit, Governance & Standards Committee	20 November 2017

Complaints Received under the Members' Code of Conduct

1. INTRODUCTION AND BACKGROUND

- 1.1 It is a requirement under the Localism Act 2011 that all Councils adopt a Code of Conduct and that the Code adopted must be based upon the Nolan Principles of Conduct in Public Life. The current Members' Code of Conduct ("the Code") for Maidstone Borough Council is set out in the Constitution adopted in May 2015 (and is unchanged from the previous Code of Conduct).
- 1.2 The Localism Act 2011 requirement to adopt a Code of Conduct also applied to all the Parish Councils. Consequently, all the Parish Councils in the Maidstone area adopted their own Codes of Conduct with the majority adopting the Borough Council's Code of Conduct.
- 1.3 Under the Localism Act 2011 Maidstone Borough Council is responsible for dealing with any complaints made under the various Codes of Conduct throughout the Maidstone area.
- 1.4 The Constitution stipulates that oversight of Code of Conduct complaints would fall under the terms of reference of the Audit, Governance and Standards Committee.
- 1.5 As part of the Committee's oversight function it is agreed that the Monitoring Officer will provide reports on complaints to the Audit, Governance and Standards Committee. It should be noted that the Localism Act 2011 repealed the requirement to publish decision notices; therefore in providing the update to the Committee the names of the complainant and the Councillor complained about are both kept confidential in accordance with the Data Protection Act 1998.
- 1.6 In the previous report to this Committee it was reported that for the period 1 January 2017 to 31 May 2017 there had been one new complaint which related to three separate subject members. Unfortunately, due to an error in the recording procedure this was incorrect. The procedure has now been rectified and I can report that there were actually six complaints during the period relating to eight subject members.
- 1.7 Four of the complaints related to Parish Councillors and two to Borough Councillors. Following initial assessment none of the complaints were progressed as four failed the 'Legal Jurisdiction Test' and two failed the 'Local Assessment Criteria'.
- 1.8 Since the last report to this Committee there have been five new complaints submitted to the Monitoring Officer. Three of the complaints relate to Parish Councillors and two relate to Borough Councillors.

- 1.9 Two of the complaints received are at the initial assessment stage, two have not been progressed as they failed the Local Assessment Criteria and one was resolved by informal resolution with training being provided by the Monitoring Officer to the Parish Council.
- 1.10 The Constitution provides for a Hearings Sub-Committee to meet to consider any complaint which remains valid after investigation and consideration by the Monitoring Officer in consultation (as required) with the Independent Person. To date the Hearings Sub-Committee has not yet been required to meet.
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2. AVAILABLE OPTIONS

- 2.1 The Committee could decide that they no longer wish to receive the updates on complaints under the Code of Conduct. This is not recommended as it is part of the Committee's general oversight function.
- 2.2 That the Committee note the update on complaints received under the Members' Code of Conduct.
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3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 Option 2.2 that the Committee note the update on complaints received under the Members' Code of Conduct is recommended as it is essential that the Committee continue to oversee the complaints received.
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4. RISK

- 4.1 This report is presented for information only and has no risk management implications.
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5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 Members of the Audit, Governance and Standards Committee and the Independent Person in accordance with the relevant complaints procedure will be consulted with on individual complaints as and when necessary.
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6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 As the report is for information only no further action will be taken.
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7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	High standards of conduct are essential amongst Members in delivering the Council's priorities and the Code of Conduct and complaints procedure supports this.	Interim Deputy Head of Legal Partnership
Risk Management	This report is presented for information only and has no risk management implications, however, an effective Code of Conduct and robust complaints procedure minimises the risk of Member misconduct and is part of an effective system of governance.	Interim Deputy Head of Legal Partnership
Financial	There are no direct financial implications, however, should it be necessary to appoint external Independent Investigators the cost of this will be met by the Borough Council	Interim Deputy Head of Legal Partnership
Staffing	The complaints procedure is dealt within the remit of the Monitoring Officer with input from the Legal Team as required.	Interim Deputy Head of Legal Partnership
Legal	The requirements of the Localism Act 2011 with regards to the Code of Conduct and complaints procedure are set out within the report. The reporting process ensures that the Committee continues its oversight of the Code of Conduct as required by the Constitution.	Interim Deputy Head of Legal Partnership
Privacy and Data Protection	No personal information is provided as part of the report.	Interim Deputy Head of Legal Partnership
Equalities	Any potential to disadvantage or discriminate different groups within the community should be	Interim Deputy Head of Legal

	overcome within the adopted complaints procedures.	Partnership
Crime and Disorder	None identified in the report.	Interim Deputy Head of Legal Partnership
Procurement	None identified in the report.	Interim Deputy Head of Legal Partnership

8. REPORT APPENDICES

None

9. BACKGROUND PAPERS

None