

Audit, Governance & Standards 15 March 2021 Committee

Complaints Received Under the Members' Code of Conduct

Final Decision-Maker	Audit, Governance & Standards Committee
Lead Head of Service	Patricia Narebor – Head of Legal Partnership and Monitoring Officer
Lead Officer and Report Author	Gary Rowland – Senior Lawyer, Corporate Governance
Classification	Public
Wards affected	All

Executive Summary

The report provides an update to the Committee on complaints under the Members' Code of Conduct previously reported as under consideration and received in the period 1 September 2020 to 1 March 2021.

This report makes the following recommendations to this Committee:

1. That the contents of the report be noted.

Timetable

Meeting	Date
Audit, Governance & Standards Committee	15 March 2021

Complaints Received Under the Members' Code of Conduct

1. 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. The Code of Conduct complaints procedure supports this.	Senior Lawyer - Corporate Governance
Cross Cutting Objectives	No impact.	Senior Lawyer - Corporate Governance
Risk Management	The report is presented for information only and has no risk management implications. An effective and robust Code of Conduct complaints procedure minimises the risk of Member misconduct and is part of an effective system of governance..	Senior Lawyer - Corporate Governance
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.	Senior Lawyer - Corporate Governance
Staffing	The complaints procedure is dealt within the remit of the Monitoring Officer with input from the Legal team as required.	Senior Lawyer - Corporate Governance
Legal	The requirements of the Localism Act 2011 with regards to the Code of Conduct 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.	Senior Lawyer - Corporate Governance
Privacy and Data Protection	No personal information is provided as part of the report.	Senior Lawyer - Corporate Governance
Equalities	Any potential to disadvantage or discrimination against different groups within the community should be overcome within the adopted complaints procedure.	Senior Lawyer - Corporate Governance
Public Health	None identified in the report.	Senior Lawyer - Corporate

		Governance
Crime and Disorder	None identified in the report.	Senior Lawyer - Corporate Governance
Procurement	None identified in the report.	Senior Lawyer - Corporate Governance

2. INTRODUCTION AND BACKGROUND

- 2.1 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.
- 2.2 The Localism Act 2011 requirement to adopt a Code of Conduct also applied to all Parish Councils. Most Parish Councils in the Maidstone area have adopted a similar Code of Conduct to the Borough Council, based on a Kent wide model. A few Parish Councils have adopted their own particular Code.
- 2.3 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.
- 2.4 The Constitution stipulates that oversight of Code of Conduct complaints is part of the remit of the Audit, Governance and Standards Committee.
- 2.5 As part of the Committee's oversight function it is agreed that the Monitoring Officer will provide reports on complaints to the Audit, Governance & 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 2018.
- 2.6 Since the last report to this Committee on 14 September 2020 3 existing Parish Council complaints have been concluded as follows:

- Allegation of bullying, conduct bringing disrepute and preventing access to information.

Concluded informally by offering further training to the Parish Clerk and the Chairman to clarify their respective roles.

The Parish Council was also recommended to review its HR procedures to ensure that members follow the relevant procedure when dealing with staffing matters and appropriate communication channels are followed.

- Allegation of intimidation, compromising integrity, conduct bringing disrepute and preventing access to information.

Concluded informally. The Monitoring Officer recommended that the Parish Council engaged an independent mediator to assist the parties towards a mutual resolution.

- Allegation of breach of confidentiality, improper use of information and conduct bringing disrepute.

The complaint was rejected. Whilst the complaint passed the Legal Jurisdiction Test, it failed the Local Assessment Criteria. Subject Member was advised (by way of comment) to consider a more appropriate use of language during future meetings.

There have been 4 new Parish Council complaints as follows:

- Allegation of conduct bringing Office or Authority into disrepute.

The complaint was rejected. Whilst the complaint passed the Legal Jurisdiction Test, it failed the Local Assessment Criteria.

- Allegation of seeking to confer an advantage or disadvantage on any person and misuse of Council's resources.

The complaint was rejected. Whilst the complaint passed the Legal Jurisdiction Test, it failed the Local Assessment Criteria.

- General allegations were made. The complainant was asked to specify which of the general obligations they alleged to have been breached.

No response was received, and the complaint was not taken further.

- Allegation of deliberately quoting false information in a DPI form.

The complaint was rejected. Whilst the complaint passed the Legal Jurisdiction Test, it failed the Local Assessment Criteria.

- 2.7 There has been 1 complaint made against a Borough Councillor being an allegation of compromising the impartiality or integrity of those who work for or on behalf of the Authority, bringing Office or Authority into disrepute and attempting to use position as a Councillor improperly to secure an advantage. No breach of the Code was established.

3. AVAILABLE OPTIONS

- 3.1 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.

3.2 That the Committee note the update on complaints received under the Members' Code of Conduct.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 Option 3.2 that the Committee note the update on complaints received under the Members' Code of Conduct is recommended as it is important that the Committee continue to oversee the complaints received.

5. RISK

5.1 This report is presented for information only and has no risk management implications.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 Members of the Audit, Governance & Standards Committee and the Independent Person will be consulted on individual complaints, as and when necessary, in accordance with the relevant complaints procedure.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 As the report is for information only no further action will be taken.

8. REPORT APPENDICES

None.