

Audit, Governance & Standards Committee	14 September 2020
--	--------------------------

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	Jayne Bolas – Principal Solicitor, Contentious and 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 March 2020 to 1 September 2020.

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	14 September 2020

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.	Principal Solicitor, Contentious and Corporate Governance
Cross Cutting Objectives	No impact.	Principal Solicitor, Contentious and 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..	Principal Solicitor, Contentious and 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.	Principal Solicitor, Contentious and Corporate Governance
Staffing	The complaints procedure is dealt within the remit of the Monitoring Officer with input from the Legal team as required.	Principal Solicitor, Contentious and 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.	Principal Solicitor, Contentious and Corporate Governance
Privacy and Data Protection	No personal information is provided as part of the report.	Principal Solicitor, Contentious and Corporate Governance

Equalities	Any potential to disadvantage or discrimination against different groups within the community should be overcome within the adopted complaints procedure.	Principal Solicitor, Contentious and Corporate Governance
Public Health	None identified in the report.	Principal Solicitor, Contentious and Corporate Governance
Crime and Disorder	None identified in the report.	Principal Solicitor, Contentious and Corporate Governance
Procurement	None identified in the report.	Principal Solicitor, Contentious and 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 The Local Government Association (the LGA) prepared a model Code of Conduct following recommendations made by the Committee on Standards in Public Life which is an independent, advisory, non-governmental public body funded by the Cabinet Office. The consultation on the draft member code of conduct ran for a 10 weeks period from Monday 8 June until Monday 17 August. The monitoring officer made representations for the consultation period to be extended but a response was not received from the LGA. The LGA is currently reviewing the consultation responses and will finalise the model Code. Most Code of Conducts adopted by district and parish councils within Kent are modelled on the Kent County Council Code of Conduct. Further work will need to be undertaken to review the Council's Code of Conduct following completion of the model Code of Conduct and action taken by KCC.

- 2.4 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.
- 2.5 The Constitution stipulates that oversight of Code of Conduct complaints is part of the remit of the Audit, Governance and Standards Committee.
- 2.6 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.
- 2.7 Since the last report to this Committee on 16 March 2020 3 existing Parish Council complaints have been concluded as follows:
- Allegation related to a disclosable pecuniary interest.
Informal resolution completed with written apology and training and policy suggestions to the Parish Council.
 - Allegation of bullying and bringing office in to disrepute.
Informal resolution completed with written apology and training and policy suggestions to the Parish Council.
 - Allegation of bullying and bringing office into disrepute.
Local assessment criteria applied so no further action taken. Complaint rejected.

There have been 3 new Parish Council complaints as follows:

- Allegation of bullying, conduct bringing disrepute and preventing access to information.
Informal resolution completed by offering further training to the Parish Clerk and Chairman.
 - Allegation of intimidation, compromising integrity, conduct bringing disrepute and preventing access to information.
The complaint is currently under consideration.
 - Allegation of breach of confidentiality, improper use of information and conduct bringing disrepute.
The complaint is currently under consideration.
- 2.8 There has been 1 complaint made against a Borough Councillor being an allegation of conflict of interest and conduct bringing office into disrepute. 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.