

# Joint Audit and Governance Committee



Report of the Monitoring Officer

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## Annual Report on the Councillors' Code of Conduct

### Recommendation(s)

To note the annual report for the 2016-17 municipal year.

### Purpose of Report

1. The purpose of the report is to update the Joint Audit and Governance Committee on complaints received under the Councillors' code of conduct and, where concluded, the outcome.

### Strategic Objectives

2. High standards of conduct underpin all of the councils' work and the achievement of both councils' strategic objectives.

### Background

3. Since 2012, district councils have had direct responsibility for Standards in Public Life, not only for our district councillors, but also for all parish councillors in our districts.
4. The Oxfordshire Secretaries and Monitoring Officers Group recommended a code of conduct which has been adopted by all of the district councils, the county council and almost all of the parish councils across both districts. At the current time, no changes are proposed. The code of conduct, is appended to this report.
5. The code of conduct is based on the seven principles of public life, or "Nolan" principles, which are: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

6. Although the councils have the responsibility for maintaining these standards, we are very limited in terms of sanctions, particularly when it comes to parish councillors. This, together with the fact that a number of parish complaints are between councillors and/or political activists, and the need to balance the public interest with the public purse, means that we often take a pro-active and/or alternative way to resolve disputes. This includes:
  - Giving advice to councillors/clerks which enables them to resolve their own difficulties or to use an alternative form of dispute resolution.
  - Refusing to accept complaints where there is no evidence of an attempt to resolve the matter informally, and no reasonable explanation of why this has not been explored.
  - Imposing a “high bar” when it comes to disputes between councillors and/or political activists.
  - Being clear when a matter is not a code of conduct matter and referring complainants to the relevant organisation such as the Oxfordshire Association of Local Councils.
  - Offering alternative forms of dealing with conflict, such as mediation, police involvement or training (after we have made an assessment of the circumstances).
7. On most occasions alternative interventions or advice are offered before a formal complaint is received, on others we use the alternatives as a form of “local resolution”.
8. The procedures were last ratified by the Joint Audit and Governance Committee in March 2016 and are operating well. No changes are proposed at the present time.
9. The vast majority of code of conduct work (apart from registers of interests) is done informally and consists of giving advice over the phone or by email. We do not routinely record this work but it is reasonably significant and is often valuable in avoiding more substantial problems later on.
10. Each council retains the services of two Independent Persons to assist in maintaining and promoting high ethical standards in the district councils and the parish councils in South and Vale. The role of “Independent Person” has been created by the Localism Act 2011. The Independent Persons both provide advice to the subject councillor and guidance to the Monitoring Officer.
11. We do record all complaints which come in to us formally (we insist that all are made in the proper format, unless there is a proper reason why this cannot be done).
12. In the administrative year May 2016 – 2017 the number of formal complaints we dealt with are as follows:

## **VALE**

### **Case V.2016.08**

#### Complaint:

- A complaint was made against a parish councillor for not registering a disclosable pecuniary interest, which gave him a conflict of interest at parish council level.

#### Decision:

- The Monitoring Officer made no findings of fact. The Monitoring Officer decided on no further action as:
  - o the councillor had subsequently resigned and,
  - o the error was that of the parish clerk who had amended the register of interest form but had not passed it on.

#### Independent Person:

- This facility was offered to the councillor, but he did not take it up.
- Given the decision, the views of the Independent Person were not sought by the Monitoring Officer.

### **Case V2017.01**

#### Complaint:

- A complaint was made against a parish councillor for inappropriate fly posting.

#### Decision:

- The Monitoring Officer made no findings of fact. The Monitoring Officer decided on no further action as:
  - o the alleged transgression was minor, non political and investigation would not be a good use of public funds.

#### Independent Person:

- The subject councillor made use of the Independent Person.
- The Independent Person gave his views to the Monitoring Officer and also submitted some text for the decision notice.

### **Case V.2015.04**

This complaint was the only one throughout the period which was referred for investigation, and which incurred external costs, hence more information is provided on the matter.

Although this complaint was originally made in 2015, it was not resolved until 2017, as it was referred for investigation (see below).

#### Complaint:

- A complaint was made against a district councillor who was driven by a licensed taxi driver after a night out in a private capacity. There was a difference of opinion between the councillor and the driver about whether or not the driver had driven through a red light.

- The complainant alleged that during the discussion between himself and the councillor, the councillor told him that he was in a position of authority within the council and in a position to determine that his driver's licence was no longer valid. Thus moving the councillor from acting as a private citizen to (allegedly) acting in an official capacity.

**Decision:**

- The Monitoring Officer handled this complaint directly in the early stages. The Monitoring Officer followed the processes in the council's published code of conduct complaints procedures. This included writing to the subject councillor to gain his views of the allegation.
- After the initial assessment of the complaint and the response, the Monitoring Officer, in consultation with the Independent Person, took the decision to refer the matter to an independent investigator, Alex Oram of CH&I Associates, who had previously undertaken this type of work for South Oxfordshire District Council and who has expertise in this matter. The Monitoring Officer issued a decision notice to that effect.
- Alex Oram interviewed all parties and reviewed the evidence available. He then produced a final report.
- This report recommended that the councillor be offered the opportunity to seek a local resolution of the complaint. In the investigator's view this should involve the councillor offering the complainant an apology for the distress his actions caused. The Monitoring Officer and the Independent Person supported this course of action. The councillor accepted the recommendation and an apology has been given to the complainant.

**Independent Person**

- One of the Independent Persons was involved throughout the case: both in providing guidance to the Monitoring Officer on her approach, and in providing advice and support to the subject councillor.

**SOUTH**

**Case S.2016.06**

**Complaint:**

- A complaint was made against a parish councillor alleging unlawful treatment of an officer, resulting in dismissal.

**Decision:**

- The Monitoring Officer made no findings of fact. The Monitoring Officer decided on no further action as:
  - o The actions were made by the entire council, not by a single councillor and were, therefore, outside of the code of conduct;
  - o the actions related to employment law.

**Independent person:**

- The services of the Independent Person were offered to the subject councillor.
- The views of the Independent Person were not sought by the Monitoring Officer.

**Cases S.2016.07, S.2016.08 and S.2016.09**

Complaints:

- Parish Councillor X, plus a known political activist, complained about fellow Parish Councillor Y. Parish Councillor Y, complained about Parish Councillor X. The complaints were about emails which were exchanged, leaked and deemed to be insulting and malicious. Also Councillor X publicly called Councillor Y's mental health into question.

Decision

- The Monitoring Officer made no findings of fact. The Monitoring Officer decided on no further action as:
  - o A district council officer had visited the parish and met with both councillors and the parish clerk in an attempt to resolve matters informally. Councillor X was not prepared to compromise or assist in any way.
  - o The complaints were deemed to be politically motivated and were clearly tit-for-tat complaints.
  - o The "bar" is set higher for complaints between councillors and politically active people than when the complaint comes from members of the public.

Independent Person

- The services of the Independent Person were offered to the subject councillor
- The views of the Independent Person were not sought by the Monitoring Officer.

**Case S.2016.10**

Complaint:

- Allegations against a district councillor that he was misusing or confusing his councillor role with a private role in relation to planning matters and land use, in particular that he had given a false statement to the police.

Decision:

- No formal decision was reached as the complainant decided to withdraw the complaint on the basis that he felt the councillor would have reconsidered his actions.

Independent Person

- The services of the Independent Person were offered to the subject councillor
- The views of the Independent Person were not sought by the Monitoring Officer.

**Cases S.2016.12, S.2016.13 and S.2016.14**

Complaints:

- Complaints were made against three councillors from Q Parish Council for allegedly interfering in a planning matter. This included trespass on land and giving false information to builders.

#### Decisions

- No further action as Q Parish Council was not the decision maker in planning matters and therefore the matter was not significant enough to pursue. Also, see below for more information on Q Parish Council.

#### Independent Person

- The services of the Independent Person were offered to the subject councillor.
- The views of the Independent Person were not sought by the Monitoring Officer.

### **Cases S.2016.15, S.2016.16, S.2016.17 and S.2016.18**

#### Complaints:

- Two councillors put in complaints regarding two other councillors, concerning their behaviour on Q Parish Council.

#### Decision

- The Monitoring Officer made no findings of fact. The Monitoring Officer decided on no further action as:
  - o Both the complainants and the subject councillors were members of Q Parish Council. A “high bar” applies to dealing with complaints between councillors.
  - o The complainants could not suggest a way of resolving the matter informally. However, representatives from South Oxfordshire District Council and the Oxfordshire Association of Local Councils met with the clerk, chairman and vice chairman. As a result of this meeting, training for the entire parish council has been arranged. It is hoped that this will go some way towards healing the rifts in the parish council. This also included issues raised in Cases S.2016.12 -14 above.

#### Independent Person

- The services of the Independent Person were offered to the subject councillors, who made good use of them.
- The views of the Independent Person were not sought by the Monitoring Officer.

### **Register of Interests**

13. All councillors and co-optees at both parish and district level, are required to submit a register of their interests which is publicly available. All of these registers are signed off and published by the district council (Monitoring Officer). Members and co-optees are also required to keep their registers up to date. The democratic services team requests these documents from parish clerks (on behalf of their members) as well as from district councillors after election/co-option and sends reminders bi-annually for amendments to be registered.
14. There is an option for members/ co-optees to request that their addresses and similar identifiers are removed from the public register if this is “sensitive”. Until recently, we only had three councillors making this request (of about 1000 potential councillors). However, these requests are becoming more frequent. The Monitoring Officer has granted all requests in order to reduce potential risks to both the council and to individual members. With current trends in making contact (via email, messaging and social media) home addresses are becoming less

relevant. The original forms have the home addresses, but are not put in the public domain.

15. This area is being kept under review in light of the incoming General Data Protection Regulations and increased councillor awareness of the issues raised.

### **Financial Implications**

16. The administration of code of conduct complaints is met from existing budgets. The Independent Persons undertakes their role voluntarily. The cost of CH&I Associates was £4338 In the matter of Case V.2015.04.

### **Legal Implications**

17. The Localism Act 2011 requires councils to have a code of conduct which sets out the standards expected of councillors in their official capacity. Councils must also have in place procedures to investigate and determine allegations against councillors.

### **Risks**

18. If the councils fail to adopt and maintain a code of conduct and processes for the investigation of complaints, there is a risk to the councils' reputation and also the integrity of their corporate governance and decision making process. Both councils have these in place.
19. Using alternative methods of dispute resolution where there is no formal complaint, or where the parties agree, or where the Monitoring Officer suggests local resolution also presents no immediately identifiable risks.

### **Other Implications**

20. None.

### **Conclusion**

21. This report is for the Joint Audit Governance Committee to note and to be aware of the work of the Monitoring Officer in respect of Councillor code of conduct matters.

### **Background Papers**

None.