

Joint Audit and Governance Committee



Report of Patrick Arran, Monitoring Officer
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DATE: 15 November 2022

Annual Report on the Councillors' Code of Conduct Complaints for 2021-22

Recommendation

To note the annual report on the councillors' Code of Conduct for the 2021-22 municipal year.

Purpose of Report

1. This report provides a summary of the complaints determined in the 2021-22 municipal year which were made against district and parish councillors for alleged breaches of the Code of Conduct and covers developments in respect of the adoption of a new code, revised code of conduct complaints procedures and the training delivered to district councillors, parish councillors and parish clerks.

Corporate Objectives

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

Background

3. District and parish councils have responsibility for promoting and maintaining standards in public life. The Monitoring Officer is responsible for dealing with allegations that councillors have failed to comply with the members' Code of Conduct and the councils have responsibility for providing arrangements for the consideration of allegations of a breach of the Code.
4. All councils must adopt a code of conduct dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. At its meeting on 29 March 2022 this committee considered a report recommending the adoption of a revised Oxfordshire Code of Conduct based on the

Local Government Association (LGA) Model Code. The revised Code provides for definitions of bullying and harassment, a requirement to treat other councillors, officers and members of the public with respect and includes other “registrable” interests and non-registrable interests. The Code, which is intended to be adopted by all three tiers of local government in Oxfordshire, has been adopted by all of the district councils and the county council. All the parish councils across both districts have been recommended to adopt the revised Code.

5. All codes of conduct must be underpinned by the seven principles of public life, or “Nolan” principles, which are:
 - Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership.
6. At its meeting on 30 November 2021 this committee considered a report on revised arrangements for investigating complaints under the Code of Conduct to replace those in existence since March 2016. The revised arrangements, agreed by the committee and subsequently by each Council, provide a more detailed description of the process for the consideration of allegations of a breach of the Code, manage expectations for the public and councillors in respect of how complaints will be dealt with, include provision for an informal resolution of complaints where there is a breach of the Code, but which is not considered serious enough to investigate, and introduced a Public Interest Test. These arrangements for dealing with complaints have introduced an element of rigour to the process and has enabled the Monitoring Officer to robustly deal with complaints at an early stage.
7. Although the councils have the responsibility for maintaining these standards, there are currently very limited options in terms of sanctions. This, together with the cost of investigating complaints and the fact that a number of parish complaints are generally interpersonal disputes between councillors means that the Monitoring Officer will seek to resolve complaints informally where possible and appropriate.
8. All councillors should be encouraged to play an active role and take responsibility for promoting high standards of conduct. During October and November of 2021 refresher training was offered to all district and parish councillors within the districts, including the use of social media. Training on the new Code was provided for district councillors in June, parish clerks in August and parish councillors in September and October.
9. Administering the complaints process is a high resource activity and therefore parish councils are encouraged to make every effort to reduce complaints arising in the first instance. Officers will seek to deal with complaints in a pragmatic way and this includes:

- giving advice to councillors / clerks to seek to enable them to resolve their own difficulties or to use an alternative form of dispute resolution
 - requiring evidence of an attempt to resolve the matter informally or a reasonable explanation of why this has not been explored before a formal complaint is progressed
 - imposing a “high bar” when it comes to interpersonal disputes
 - being clear when an issue is not a code of conduct matter and referring complainants to the relevant organisation’s complaints process or the Oxfordshire Association of Local Councils
 - offering alternative forms of dealing with conflict such as mediation or training
 - Where possible, alternative interventions or advice are offered before a formal complaint is received
10. As mentioned above, much of the code of conduct work (apart from registers of interests) is done informally and consists of giving advice over the telephone or by email. Officers do not routinely record this work, but it is reasonably significant and is often valuable in avoiding more substantial problems later on.
11. The councils retain the services of six “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” was created by the Localism Act 2011. The independent persons provide overview of the process and are available to advise the subject councillor and to consult with the Monitoring Officer. The six independent persons (previously each council had only two) were appointed by each Council at the annual meetings in May 2021 for terms of office until May 2026.
12. Complaints submitted formally are recorded and where possible, officers require complainants to ensure that they use the pro-forma provided for that purpose.
13. A short summary of the formal complaints concluded in the 2021-22 municipal year is included in the appendix to this report. One complaint resulted in a finding of a breach of the Code of Conduct.

Register of Interests

14. All councillors and co-optees at both district and parish level, are legally required to submit a register of their interests to the Monitoring Officer which is publicly available. Following the adoption of the revised Code all district councillors are required to submit revised register of interest forms to take account of the requirement to register other interests. Those parish councils which have adopted the revised Code are also provided revised register of interest forms to take account of this change. All of these registers are signed off and published by the district council. Councillors and co-optees are also required to keep their registers up to date. The Democratic Services team receives these documents from parish clerks (on behalf of their councillors) as well as from district councillors after election / co-option. Reminders are sent for amendments to be registered.
15. There is an option for councillors / co-optees to request that their addresses and similar identifiers are removed from the public register if these are “sensitive interests”. This is where the councillor believes that disclosure of that information could lead to the member or co-opted member, or a person connected with them

being subject to violence or intimidation. Over the past year the Monitoring Officer has continued to receive a number of these requests. The Monitoring Officer has taken a sympathetic approach and granted all requests in order to reduce potential risks to both the councils and to individual councillors.

Financial Implications

16. Code of conduct work and the administration of code of conduct complaints is met from existing budgets. The independent persons currently undertake their role voluntarily although occasional expenses and training costs are met. No external investigators were engaged during 2021-22.

Legal Implications

17. All legal implications are set out in the body of the report.

Risks

18. If the councils fail to adopt and maintain a code of conduct and processes for the investigation of complaints, they will fail to comply with the statutory requirements. In turn, this could impact on the councils' reputation and the integrity of corporate governance and decision-making processes.
19. Using alternative methods of dispute resolution reduces the cost of dealing with formal complaints, reduces the stress impact for the complainant and subject member and often provides a more satisfactory outcome for all parties involved.

Other Implications

20. None.

Conclusion

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

Background Papers

None

APPENDIX

SOUTH

Case Reference	District or Parish	Nature of Complaint	Decision	Comments
2021/2022 MUNICIPAL YEAR				
202122.01	Parish	Complaint about alleged bullying arising from requests for information, questioning of decisions and ignoring advice and information.	Rejected at stage one.	Complaint was of an interpersonal nature revolving around reactions to a difference of opinion/approach relating to a matter that would more properly be dealt with in the first instance by referring the matter to the Chair of the parish council for informal resolution. Offered to provide assistance to the parish clerk.
202122.02	Parish	Complaint alleging a parish councillor had shown bias/failed to declare a disclosable pecuniary interest in consideration of a neighbourhood planning matter and a planning application.	No further action	In respect of the neighbourhood planning matter the parish councillor concerned had declared an interest, following advice provided by the district council's monitoring officer. In respect of the planning application, the parish councillor was not acting in their official capacity when objection to the planning application.
202122.03	N/A	Complaint regarding the behaviour of the	Rejected at stage one	Code of conduct does not apply to parish meetings.

		chair of a parish meeting.		
202122.04	Parish	Complaint regarding behaviour of a councillor	Rejected at stage one	Not acting in official capacity therefore not a code of conduct matter.
202122.05	District	Allegation of a failure to treat others with respect and bullying.	Evidence of a breach of the Code of Conduct but decision not to commence a formal investigation.	No further complaints received once the matter brought to the attention of the councillor. Having regard to treating Code matters on a preventative rather than punitive basis considered that further action required.
202122.06	District	Allegation of predetermination of a planning application and misuse of position at a meeting of the Planning Committee.	No breach. Other action.	No evidence of predetermination. Democratic Services to review conduct of Planning Committee meetings. Effective chairing of meetings training to be provided.
202122.07	District	Allegations of various breaches of the Code including non-disclosure of an interest and failure to declare an interest at a meeting.	Breach of the Code due to a conflict of interest.	Councillor was in breach of the Code of Conduct in relation to the principles of: <ul style="list-style-type: none"> • Selflessness (Paragraph 3) • Objectivity (Paragraph 4) • Openness (Paragraph 6) for failing to declare an interest at a Council meeting and taking part in the debate and voting.

VALE

Case Reference	District or Parish	Nature of Complaint	Decision	Comments
2021/2022 MUNICIPAL YEAR				
V202122/01	Parish	Misuse of planning process.	No further action	<p>Aspects of the complaint related to parish council procedure or should be addressed by other organisation's processes. Complaint reflected friction between members of the public and the parish council</p> <p>Matter not significant enough to justify public money/time on an investigation.</p>
V202122	Parish	Abuse of power in respect of decision making.	No further action	<p>No evidence of a breach of the Code of Conduct.</p> <p>Matter not significant enough to justify public money/time on an investigation.</p> <p>In addition, complaints regarding Freedom of Information requests are a matter for the Information Commissioner and allegations of planning breaches are matters for the local planning authority.</p>