

Joint Audit and Governance Committee



Report of Patrick Arran, Monitoring Officer
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Annual Report on the Councillors' Code of Conduct Complaints for 2020-21

Recommendation

To note the annual report on the councillors' Code of Conduct for the 2020-21 municipal year and provide comments to officers.

Purpose of Report

1. This report provides a summary of the complaints received and determined in the 2020-21 municipal year which were made against district and parish councillors for alleged breaches of the Code of Conduct.

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. In 2012, 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. In response to a recommendation from the Committee for Standards in Public Life

(January 2019), the Local Government Association published a model code in December 2020. The Monitoring Officer will prepare a report for committee to ascertain whether there is any appetite to adopt the model 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. Although the councils have the responsibility for maintaining these standards, there are currently very limited 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, the Monitoring Officer will seek to resolve complaints informally where possible and appropriate. 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.

7. Administering the complaints process is a high resource activity and therefore every effort should be made 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

8. The district councils have responsibility to put in place arrangements under which allegations can be investigated, and under which decisions on allegations can be made. The current arrangements were last ratified by the Joint Audit and Governance Committee in March 2016. A revised procedure is set out in a separate report to this committee with a recommendation that it be approved for adoption by the councils. The arrangements are intended to set out a clear process for the consideration of allegations of a breach of the code, but also to manage expectations for the public and councillors in respect of how complaints will be dealt with.

9. 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.
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” was created by the Localism Act 2011. The independent persons both provide overview of the process and are available to advise the subject councillor and to consult with the Monitoring Officer. The terms of office of the current independent persons are due to expire on 31 May 2022. Each Council will receive a report on the appointments prior to the expiry of their term of office.
11. Complaints submitted formally are recorded and where possible, officers require complainants to ensure that they use the pro-forma provided for that purpose.
12. A short summary of the formal complaints considered in the 2020-21 municipal year is included in the appendix to this report. No complaints resulted in a finding of a breach of the code of conduct.

Register of Interests

13. 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. 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.
14. 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

15. Code of conduct work and the administration of code of conduct complaints is met from existing budgets. The Independent Persons undertake their role voluntarily although occasional expenses and training costs are met. No external investigators were engaged during 2020-21.

Legal Implications

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

Risks

17. 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.
18. 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

19. None.

Conclusion

20. 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
2020/2021 MUNICIPAL YEAR				
S2021/1	District & Parish	Complaint about use of position to influence the outcome of a matter at an external tribunal.	No further action	Not acting in official capacity therefore not a code of conduct matter in respect of majority of complaints. Legal issue subject of another body/Secretary of State. Incident happened in distant past and not significant enough to justify public money/time on an investigation.
S2021/2/3/4/5/6/7/8/9/10/11/12	Parish	Failed to meet several tests of the code regarding a planning application.	No further action	Not acting in official capacity therefore not a code of conduct matter in respect of majority of complaints. Issues raised are not matters for the code of conduct. Some complaints related to council procedures. Matters not significant enough to justify public money/time on an investigation. Complaints appeared to be part of a wider

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				campaign against the subject councillor.
S2021/13	Parish	Inappropriate comments in emails.	No further action	<p>Whilst language used, reflecting personal view, would not be expected from a councillor acting in an official capacity, not significant enough to justify public money/time on an investigation.</p> <p>Councillor contacted regarding use of words.</p>
S2021/14	Parish	Failure to declare a disclosable pecuniary interest.	No further action	<p>Not a disclosable pecuniary interest.</p> <p>Potential issue of bias and predetermination not in itself a code of conduct matter.</p> <p>Matter not significant enough to justify public money/time on an investigation.</p>
S2021/15	Parish	Complaint about a conflict of interest in a planning application/use of position to influence a decision.	No further action	<p>No disclosable pecuniary interest. Councillor did not take part in debate or decision on matter.</p> <p>Not acting in official capacity therefore not a code of conduct matter in respect of a number of the complaints.</p> <p>Planning process not a code of conduct matter.</p>

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				Matter not significant enough to justify public money/time on an investigation.
S2021/16	Parish	Failure to declare a disclosable pecuniary interest.	No further action	<p>Not a disclosable pecuniary interest.</p> <p>Potential issue of bias and predetermination not in itself a code of conduct matter.</p> <p>Matter not significant enough to justify public money/time on an investigation.</p>
S2021/17	Parish	Accusations via email alleging subject councillor had used their position to obtain a pecuniary advantage.	No further action	<p>A 'high bar' applies to dealing with complaints between councillors.</p> <p>The main subject of the complaint related to allegations of defamatory comments which are not a matter for the code of conduct. Any such allegations are private matters subject to private legal advice.</p> <p>Matter not significant enough to justify public money/time on an investigation.</p>
S2021/18	Parish	Misuse of position, rude and aggressive.	No further action	<p>Not clear acting in official capacity therefore not a code of conduct matter.</p> <p>Councillor encouraged to report similar issues to the police rather than</p>

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				<p>seeking to resolve matters themselves.</p> <p>Matter not significant enough to justify public money/time on an investigation.</p>
S2021/19	Parish	Failure to declare a disclosable pecuniary interest.	No further action	<p>Not a disclosable pecuniary interest.</p> <p>Potential issue of bias and predetermination not in itself a code of conduct matter.</p> <p>Matter not significant enough to justify public money/time on an investigation.</p>
S2021/20	District	False statements on social media.		<p>Not clear acting in official capacity therefore not a code of conduct matter.</p> <p>Electoral issues not a code of conduct matter.</p> <p>Apology submitted at time of the incident and since.</p> <p>Matter not significant enough to justify public money/time on an investigation.</p>
S2020/21/22/23	Parish	Complaints about process for preparation of neighbourhood development order, failure to register an interest.	No further action	<p>Process followed in preparation of the plan or the merits of a plan is not a code of conduct matter.</p> <p>Register of interests completed.</p>

VALE

Case Reference	District or Parish	Nature of Complaint	Decision	Comments
2020/2021 MUNICIPAL YEAR				
V2021/01	Parish	Misuse of planning process.	No further action	<p>Councillor concerned entitled to submit parish council views on a planning application. Planning process is not a code of conduct matter.</p> <p>Matter not significant enough to justify public money/time on an investigation.</p>
V202021/02	Parish	Inappropriate, disrespectful and unacceptable treatment of council employee.	No further action	<p>In light of the fact that the council employee had left the council an investigation was not merited or in the public interest to investigate the behaviour against someone who is no longer an employee.</p> <p>The parish council should have procedures in place to address behaviour against council employees prior to engaging the code of conduct complaints process.</p> <p>A 'high bar' applies to dealing with complaints between councillors. Matter not significant enough to justify public</p>

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				<p>money/time on an investigation.</p> <p>Suggested mediation to improve working relationships between councillors.</p>
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