

Joint Audit and Governance Committee



Report of Patrick Arran, Monitoring Officer
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DATE: 4 July 2023

Annual Report on the Councillors' Code of Conduct Complaints for 2022-23

Recommendation

To note the annual report on the councillors' Code of Conduct for the 2022-23 municipal year.

Purpose of Report

1. This report provides a summary of the complaints determined in the 2022-23 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 recommended 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 has been adopted by all of the district councils and the county council. All the parish councils across both districts were 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 agreed revised arrangements for investigating complaints under the Code of Conduct to replace those in existence since March 2016. The revised arrangements were subsequently agreed by each Council and provide a 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 during the past year. Evidence of this is set out in the schedule attached, which shows a number of submitted complaints dealt with at stage one. The more detailed explanation set out in the revised arrangements reduces the submission of potential complaints which are really reflective of an interpersonal dispute or issues in respect of the decision making process at a parish council. In addition, the Monitoring Officer now rejects complaints in circumstances where it is clear that the subject of the complaint was not acting in an official capacity.

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. Examples of where this has occurred are also set out in the schedule attached.

8. All councillors should be encouraged to play an active role and take responsibility for promoting high standards of conduct. Training on the new Code was provided for district councillors in June 2022, parish clerks in August 2022 and parish councillors in September and October 2022. Prior to the elections in May, on 22 February 2023, the monitoring officer delivered training on local authority publicity and reputation during the pre-election period (formerly known as purdah) primarily for those councillors standing for election. Further Code of Conduct training was

delivered to district councillors as part of their induction training programme on 25 May 2023 and to parish clerks and councillors on 14 June 2023. Decision Making Training was delivered to district councillors on 30 May 2023.

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 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 were appointed by each Council at the annual meetings in May 2021 for terms of office until May 2026. At the annual meetings each Council considered a report on the payment of annual allowance for the independent persons. Each Council agree the recommendation of the Independent Remuneration Panel on the payment of an allowance of £583 per annum in recognition of their role.
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 2022-23 municipal year is included in the appendix to this report. Three complaints resulted in a finding of a potential 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 elections in May 2023 all councillors, both newly elected or re-elected, are required to submit register of interest forms. 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. In 2022/23 the independent persons undertook their role voluntarily. As set out in paragraph 11 of this report, the independent persons are now entitled to an allowance. The monitoring officer has engaged the services of external investigators during 2022-23 to cover the busy election period when he and the deputy monitoring, both acting as deputy returning officers, were responsible with colleagues for the successful delivery of the district and parish elections.

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
2022/2023 MUNICIPAL YEAR				
2022.01/02/03	Parish	Complaint against three councillors alleging actions had brought council into disrepute.	Rejected at stage one.	Complaint related to a decision of the council and therefore a governance issue rather than code of conduct matter.
2022.04	Parish	Complaint alleging bullying.	Potential breach of the code - disrepute.	Not in the public interest to incur expense of an investigation or in the interests of the parish council for the matter to be elongated. Subject of complaint required to issue an apology to complainant, attend training on code of conduct and training on local government law and etiquette.
2022.05	Parish	1. Failed to treat others with respect (fellow councillors) and/or 2. Failed to treat others with respect/respect the role played by representatives of partner organisations working with the Parish Council and/or 3. Bullied fellow councillors and/or 4. Failed to promote equality and not discriminate against any person and/or 5. Compromised the integrity or impartiality of an employee of the Council and/or	Three potential breaches of the code in respect of 1, 2 and 6. Other action.	Complaints resolved informally as not in the public interest to incur the expense of an investigation and facts straightforward. Councillor issued an apology for their actions and undertook training with the deputy monitoring officer on issue of treating others with respect and handling confidential information.

		<p>6. Disclosed confidential information to an employee</p> <p>7. Failed to show due regard for professional advice provided to the Council and/or</p> <p>8. Brought the local authority into disrepute and/or</p> <p>9. Failed to cooperate with a Code of Conduct assessment or investigation</p> <p>Complaint regarding the behaviour of the chair of a parish meeting.</p>		
2022.06	Parish	Complaint regarding behaviour of a councillor	Rejected at stage one	No evidence provided to support the allegations. Element of complaint related to how the council was run – not a code issue.
2022.07	Parish	Allegation of bullying and harassment.	Potential breach of the code. Other action.	Not in the public interest to incur expense of an investigation. Subject of the complaint reminded of the need to be mindful of language used which could show a lack of respect or bring the council into disrepute.
2023.01	Parish	Allegation of inappropriate behaviour.	No action.	Subject of police investigation.
2023.02	Parish	Allegations of various breaches of the Code including acting with integrity and honesty, treating people with respect.	No further action.	Councillor no longer in office and therefore no merit incurring further expense in investigation of the complaint. meeting and taking part

Agenda Item 6

				in the debate and voting.
2023.03	Parish	Allegations of bullying.	No further action.	No evidence the councillor was acting in their official capacity. Suggested the matter be resolved by way of informal resolution – mediation to resolve any misunderstanding .
2023.05	Parish	Allegations of various breaches of the code including bring the council into disrepute, improper use of position, misuse of council resources.	Rejected at stage one.	Complaint related to the decision of the council and not conduct of an individual councillor.

VALE

Case Reference	District or Parish	Nature of Complaint	Decision	Comments
2022/2023 MUNICIPAL YEAR				
V2023/01	Parish	Failed to declare an interest and exhibited bullying behaviour.	No further action	Not acting in official capacity.
V2022/23/01	District	Failure to declare an interest in respect of a planning application and apparent bias in the application.	No further action	No evidence of a breach of the Code of Conduct. Matter did not fall within a disclosable pecuniary interest, other registrable interest or non-registrable interest. No possibility of bias.