

STANDARDS COMMITTEE REPORT

REPORT TO:	Standards Committee		
DATE:	4 December 2023		
MEETING DATE	18 December 2023		
TITLE:	Summary of 22-23 Code of Conduct Complaints		
REPORT AUTHOR:	Monitoring Officer		
OPEN/EXEMPT		WILL BE SUBJECT TO A FUTURE CABINET REPORT:	No

REPORT SUMMARY

PURPOSE OF REPORT/SUMMARY:
<p>To place before Members a summary and analysis of the Code of Conduct complaints received and/or determined in the period 1 April 2022 to 31 March 2023 in relation to both Borough Councillors and Parish Councillors from the 101 Parishes within West Norfolk.</p>
KEY ISSUES:
<p>Members are directed to Appendix A for the breakdown of the complaints made and to note the trends within the numbers.</p> <p>Complaints centred around disrespectful conduct by Councillors are the most prominent.</p> <p>Almost all complaints received in relation to Parish Councillors were made by a fellow Parish Councillor.</p> <p>No complaints received during this period passed the threshold for a formal investigation.</p> <p>Social media based complaints are not significantly featuring within the formal complaints made.</p>
RECOMMENDATIONS:
<ol style="list-style-type: none">1. To note the contents of this report, and in particular the contents of Appendix A.
REASONS FOR RECOMMENDATIONS:
<p>To fulfil the Standard Committee's functions to monitor the implementation and operation of the Councillor Code of Conduct.</p>

REPORT DETAIL

1. Background

The Borough Council is responsible for assessing Code of Conduct complaints in relation to its own Borough Councillors but also the Code of Conduct complaints made against any Parish Councillor from a Parish Council within the Borough.

The following sections are taken from the Borough Council's "Guidance on Member Code of Conduct Complaints Handling", approved by the Standards Committee on 3 February 2023, and available at:

https://www.west-norfolk.gov.uk/downloads/download/37/complaints_against_councillors_documents :

2.8 Assessment

The assessment of a complaint is normally a two-step process, described as the 'can/should' stages – the first stage being 'can we deal with this complaint?' and the second being 'should we deal with this complaint?'.

2.8.1 First-step criteria

The first step is a jurisdictional test and would assess whether the complaint is:

- *against one or more named councillors of the authority or of a parish or town that the council is responsible for;*
- *the named councillor was in office at the time of the alleged conduct;*
- *the complaint relates to matters where the subject member was acting as a councillor or representative of the authority and it is not a private matter (i.e. the subject member was acting in their official capacity);*
- *the complaint, if proven, could be a breach of the Code under which the subject member was operating.*

In relation to the final bullet point above, the Monitoring Officer will not only consider any parts of the Code of Conduct identified by you, but will consider the whole of the relevant Code of Conduct to ascertain which parts the Monitoring Officer believes are engaged.

If the complaint fails one or more of the tests above, it cannot be investigated as a breach of the Code, and you will be informed that no further action will be taken in respect of the complaint. If there is any doubt, however, the allegation should proceed to the second stage. For example, if it is unclear whether the councillor was acting 'in capacity' or not then the second stage of assessment criteria should be used.

2.8.2 Second-step criteria

We will then assess your complaints against the following criteria by the Monitoring Officer:

- a) Does the complaint contain sufficient evidence to demonstrate a potential breach of the Code, even where further information is sought from the complainant?*
- b) Is the matter serious enough and sufficiently in the public interest to warrant the public resource and expense of an investigation?*
- c) Are there alternative, more appropriate, remedies that should be explored first?*
- d) Does the complaint, in the view of the Monitoring Officer, appear malicious, politically motivated, or 'tit for tat'?*

- e) Whether, even if proven, the complaint would not be serious enough to warrant any sanction (see section 5.1 on sanctions);
- f) Whether a substantially similar complaint has previously been considered and no new material evidence has been submitted within the current administration;
- g) Whether a substantially similar complaint has been submitted and accepted;
- h) Does the complaint relate to conduct in the distant past? This would include consideration or any reason why there had been a delay in making the complaint;
- i) Has the behaviour that is the subject of the complaint already dealt with? For example, through an apology at the relevant meeting;
- j) Does the complaint actually relate to dissatisfaction with a local authority decision rather than the specific conduct of an individual?
- k) Is it about someone who is no longer a councillor or who is seriously ill, thus impeding their ability to engage in the complaint process?
- l) Had the subject member acted on the advice of an officer or the Independent Person in relation to the conduct complained of?
- m) Did the conduct arise from lack of experience or training?
- n) Is the subject matter of the complaint being dealt with through any other complaints, legal or regulatory process.

The above criteria is intended to be indicative rather than prescriptive, and the underlying public interest will always be considered when deciding on whether to take action on a complaint.

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2.9 Decision

2.9.1 Initial assessment decisions

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One of the three following decisions will be reached on an allegation:

- no further action should be taken on the allegation;
- the matter should be dealt with through a process of informal resolution in the first instance (see section on informal resolution) or;
- the matter should be referred for a formal investigation (see section on investigations).

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3.3 Examples of informal resolution

- An apology;
- Training by the subject member;
- Policy/protocol change or adoption by the Council;
- Provision of advice from the Monitoring Officer to the Subject Member; or
- Mediation

2. Summary of Parish and Borough Councillor Complaints 2022-2023

Thirty complaints were received and/or determined during the period 2022-2023, of which seventeen were made against Parish Councillors and thirteen were against Borough Councillors.

Members are directed to Appendix A for a breakdown of the complaints.

The complaint categories relate to the **allegations** made. None of the complaints made during this period passed the threshold for a formal investigation.

For Members' reference, by comparison, in the first seven months of the current year, thirty-seven complaints have been received. Thirty-two of these are complaints relating to Parish Councillors.

Borough Councillor complaints

Thirteen Borough Councillor complaints were received. Of these, two were duplicates of two other complaints on the same facts. A further three complaints were brought by the same individual with the same basis, namely councillor responsiveness.

Consequently there were eleven incidents which led to formal complaints against Borough Councillors being received during 2022-2023. These related to seven separate Borough Councillors.

Parish Councillor complaints

Six of these complaints arose in relation to a single Parish Councillor (one made by the Parish Councillor, five against), and the five made against the Councillor were all broadly focussed on the same conduct. Two separate sets of two complaints both concerned the same incident. As a result, ten Parish Councillors had complaints against them in relation to twelve separate incidents.

3. Complaints against Borough Councillors

Nature of Alleged Breach

The subject nature of the complaints do not indicate a pattern save that four complaints related to a failure to declare interests, however two of these complaints were duplicates, therefore in reality there were three separate instances of complaints relating to a failure to declare interests concerning two Borough Councillors.

Councillor-on-Councillor complaints

Three of the thirteen complaints were made by Councillors.

Vexatious/malicious/political motive of complainant

In one of the complaints, weight was attributed to the complaint having been brought on a malicious/vexatious and political basis.

4. Complaints against Parish Councillors

In respect of the six complaints linked to a single Councillor, five were made by other Councillors. The Monitoring Officer explored with the parties whether these would be better addressed via a combined mediation, but agreement to this was not reached. Prior to the election in May 2023, the central Councillor resigned and therefore those complaints could no longer proceed.

In respect of the Parish Councillor complaints that proceeded, relevant information is below.

Nature of Alleged Breach

Many of the complaints concern allegations of disrespect.

In six cases the Monitoring Officer considered it appropriate to advise the Councillor to consider moderating his/her language.

In the cases where no further action was taken, the noticeable themes were either (i) the behaviour did not in fact appear disrespectful or was within the bounds of freedom of political speech, (ii) the motivation of the complaint was questioned (see below).

Investigation

None of the complaints resulted in investigation, but as above, the Monitoring Officer considered it appropriate to advise Councillors to consider moderating his/her language in a six cases.

Councillor-on-Councillor complaints

Of the seventeen Parish Councillor complaints, only one of these was made by a member of the public and the remaining sixteen were made by another Councillor in the same Parish Council. There were five complaints involving a single Councillor which were ultimately discontinued as a result of resignation. There were eleven other complaints between Councillors. Of these, based on the information available to the Monitoring Officer, only one appeared to be “politically” rather than objectively motivated.

Vexatious/Other motivation

Three of the decided complaints were identified potentially vexatious. Two of these was made by a councillor. The other arose from a planning matter and appeared to potentially arise from grievance over that issue.

5. Other Observations

During 2022-2023, complaints handling was mainly outsourced to North Norfolk District Council via their in-house legal team, eastlaw. Since taking the process back in-house in March 2023, the Council has instituted a rigorous system of managing cases to ensure they are dealt with on a timely basis.

6. Financial Implications

There are no specific financial implications arising out of this report.

7. Any other Implications/Risks

An effective standards regime forms part of the Council's Code of Corporate Governance. The Department for Levelling Up, House and Communities has recognised the ‘Culture’ of a local authority as one of the seven themes of good practice for running an authority that meets and delivers best value. The culture of a local authority is determined by its shared values, ethics and beliefs, how decisions are made, as well as how elected members and officers behave, interact and carry out their roles. The standards regime supports the process of monitoring the culture of the Borough Council and its Parishes, enabling all respective authorities to take action to address any relevant Councillor behaviour and thereby improve the culture of the organisation.

8. Equal Opportunity Considerations

None arising out of this report.

9. Environmental Considerations

None arising out of this report.

9. Consultation

None – briefing paper to Members of 22-23 complaints.

10. Conclusion

Members are updated with a summary and analysis of the Code of Conduct complaints received and/or determined in the period 1 April 2022 to 31 March 2023 in relation to both Borough Councillors and Parish Councillors from the 101 Parishes within West Norfolk.

11. Background Papers

None