

WAVERLEY BOROUGH COUNCIL

STANDARDS COMMITTEE

21 JANUARY 2019

Title:

MONITORING OFFICER'S REPORT

[Wards Affected: All]

Summary and purpose:

The Standards Panel last received a report of complaints submitted to the Monitoring Officer under the Member Code of Conduct in January 2018. This report summarises the complaints received since the last report, and also updates the Committee on a number of matters that fall within its remit.

How this report relates to the Council's Corporate Priorities:

Good governance and high standards of conduct support the delivery of all of the Council's corporate priorities.

Equality and Diversity Implications:

There are no Equality and Diversity implications.

Financial Implications:

There are no financial implications.

Legal Implications:

The ethical standards regime has been governed by the Localism Act 2011 for a number of years now, and the Council's Code of Conduct under the 2011 Act is well established, and has been reviewed by the Council since first being adopted in July 2012. The Monitoring Officer continues to discharge his statutory functions in relation to ethical standards by reference to the Code of Conduct.

Introduction

1. The Localism Act gave councils an explicit duty to promote and maintain high standards of Member conduct. It obliged the Council to adopt a Code dealing with the high standard of conduct that is expected of Members when acting in their official capacity.

2. Waverley Borough Council adopted its code of conduct in July 2012 and first revised it in July 2013. The Standards Panel, with input from the Council's designated Independent Persons and co-opted Town and Parish representatives, reviewed the code again in October 2016 alongside the Council's 'Arrangements for dealing with Standards Allegations' and 'Councillors Planning Code of Good Practice' and put forward a number of changes which were subsequently agreed by Council. The current code is attached as Annexe 1.
3. Each Town or Parish Council in the borough has its own code of conduct but these use the Waverley code as a template so are either identical or similar.
4. There is a separate report on this agenda that highlights matters that the Committee may wish to include in a revised Code of Conduct.

Review of complaints January 2018 to January 2019

Complaints submitted since January 2018

5. Nine complaints have been submitted to the Monitoring Officer since January 2018. Of those:
 - 2 complaints related to Town and Parish Councillors; and
 - 7 complaints related to Borough Councillors.

Complaints about Town and Parish Councillors

6. Of the two complaints submitted to the Monitoring Officer about Town and Parish Councillors since January 2018:
 - 1 was withdrawn by the complainant; and
 - 1 is a live complaint currently being informally investigated by the Monitoring Officer.

Complaints about Waverley Borough Councillors

7. Of the seven complaints submitted to the Monitoring Officer about Waverley Borough Councillors since January 2018:
 - 2 were with withdrawn by the complainants;
 - 4 were informally investigated by the Monitoring Officer and subsequently resolved informally; and
 - 1 is a live complaint currently being informally investigated by the Monitoring Officer.

Consultation with the Independent Person (IP)

8. Waverley Borough Council has appointed three Independent Persons. These are members of the Community who have applied for the post following advertisement of a vacancy for the post and have been appointed by a positive vote from a majority of

all the members of Council. The arrangements for dealing with Standards Allegations against Councillors set out more detail about these arrangements.

9. I am required as Monitoring Officer to formally consult and consider the view of the Independent Person before deciding to commence a formal investigation. I have not been required to do so during the past 12 months as all new complaints have been withdrawn, resolved informally or are still live at the informal stage.

Common themes, features and learning points

10. No one complaint is exactly like another but common themes, features and learning points may be identified without compromising confidentiality. These are as follows:
 - i. Alleged breaches of the first general obligation of the code, namely to always treat others with respect, continued to be the most common feature of complaints made to the Monitoring Officer. Complaints by members of the public regarding alleged disrespect towards them did feature but more common were complaints from members and officers regarding alleged disrespect by members.
 - ii. As is indicated by the statistics above, it was possible to resolve the majority of complaints informally. Wherever there is scope to appropriately resolve a complaint informally so that the complainant is satisfied with the outcome and the subject member has the opportunity to reflect on any learn to be learnt from the situation, it is always preferable to do so. Where informal resolution was achieved it relied upon the willingness of those members alleged to have breached their code to constructively engage with the process at the informal stage.
 - iii. A number of complaints related in one way or another to section 6 of the code – disclosure of interests and participation. In particular, a number of complaints related to interests which are non-pecuniary but which nonetheless are of a nature which undermine the members' ability to make an open-minded and objective decision and are therefore a reason for the member to withdraw from debate and decision-making. As noted, in paragraph 2.3, the revision of the code to recognise this type of interest has been very helpful. All members need to ensure they are aware of this type of interest and act accordingly.
 - iv. Things written by elected members in emails or posted online have featured heavily in complaints. Electronic communications can be created, widely transmitted, read and infinitely shared with an audience the original author may not have intended in just a few moments. This, combined with the absence of tone of voice and context, makes electronic communications far more likely to lead to allegations of code breaches than any other form, especially when sent in haste.

Other matters

11. The statistics above do not include cases where individuals have consulted the Monitoring Officer about complaining but decided not to complain as has happened on a number of occasions. They also do not include cases where advice has been

given by the Monitoring Officer to elected members, members of staff, Town and Parish clerks and councillors, and residents, but where no complaint has been made.

12. A meeting of the Standards Panel will take place on 1 February 2019 to consider the independent investigation report into two complaints against a Waverley Borough Councillor submitted in April 2017. In line with the Council's arrangements for dealing with Standards Allegations against Councillors and co-opted Members under the Localism Act 2011, agenda papers will not be published in advance of the meeting and the usual rules in respect of exempt information (as defined by Section 100I of Section 100A(4) of the Local Government Act 1972 will apply.

Borough and Town and Parish elections– May 2019

12. Elections for the Borough council and for Waverley Town and Parish councils will take place on 2 May 2019. In signing their Acceptance of Office, councillors give an undertaking to observe the Code and the conduct that is expected of them in the performance of their role as a borough councillor. We will therefore ensure that all newly elected Borough councillors are provided with a copy of the Code of Conduct to read before signing their declaration, and recommend that Town and Parish Clerks do the same.
13. An Induction programme will be delivered to all new and returning Borough councillors. This will include dedicated sessions on Standards and the Code of Conduct, Member-Officer relationships, and Operating Safely as a Councillor, as well as sessions on councillors' roles in relation to Planning matters.
14. The Monitoring Officer Team will be offering similar training to Town and Parish Councillors.

Town and Parish representatives

15. The end of the previous Standards for England regime in 2012 removed the requirement for Council to have a Standards Committee. However, the Council did need to have arrangements in place to undertake hearings on complaints against a Member as part of a formal investigation. Waverley replaced its Standards Committee, including independent members and co-opted Town and Parish representatives, with the Standards Panel to provide a mechanism for establishing a hearing panel if one was required.
16. In recognition of the council's Monitoring Officer's role in investigating complaints against Town and Parish councillors, the Standards Panel membership included two co-opted Town and Parish councillors, at least one of whom would be on a hearing panel to consider a complaint against a Town or Parish councillor.
17. Following the May 2015 town and parish elections, two parish councillors were appointed to the Standards Panel following an invitation to all Town & Parish Councillors for nominations:
 - Joan Holroyd, Elstead Parish Council
 - Richard Jameson, Bramley Parish Council

18. Mr Jameson has since resigned from Bramley Parish Council. Following the May 2019 parish elections, nominations will be invited from the Town and Parish councils for two parish representatives. In the event of there being more than two nominations, a ballot is held with each parish council having up to two votes.

Gifts & Hospitality

19. As a result of a routine Internal Audit in 2018 of registrations of gifts and hospitality, it was recommended that action be taken to raise awareness among staff of the need to register any gifts or hospitality offered to them or received that exceeded £25 in value.
20. There is an on-line form available via the Staff Intranet, and the link to this has been made more obvious on the Intranet home page. In addition, all staff have been emailed to remind them of the need to register gifts or hospitality that exceed £25 in value.
21. In 2017/18, 30 registrations were made, mostly in relation to small gifts received that were less than £25 in value. In 2018/19 to date, there have been 14 registrations and these also have been mostly low value gifts of biscuits and chocolates that have been usually been shared among staff or offered to the Mayor's Christmas tombola.

Recommendation

That the Standards Committee receives the report and makes any observations on it to the Monitoring Officer.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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