

WAVERLEY BOROUGH COUNCIL

STANDARDS COMMITTEE

27 SEPTEMBER 2021

Title:

Monitoring Officer's Report regarding Misconduct Allegations

Head of Service: Robin Taylor, Head of Policy & Governance
(Monitoring Officer)

Key decision: No

Access: Public

1. Purpose and summary

- 1.1 This report is to inform the Committee about complaints received and action taken on allegations of misconduct against Waverley borough and parish councillors during 2020 and 2021 (to date).

2. Recommendation

It is recommended that the Committee notes the cases referred to in Annexe 1, and advises the Monitoring Officer of any areas of concern about which the Committee would like further information and/or further work carried out.

3. Reason for the recommendation

To ensure the Committee is aware of the overall level and type of complaints submitted to the Monitoring Officer relating to allegations of councillor misconduct, and action taken; to consider learning points for the future; and, to seek to promote and maintain high standards of conduct amongst borough and parish councillors.

4. Background

Summary of recent complaints against Waverley Borough and Parish councillors

- 4.1 Complaints under the Member Code of Conduct are submitted to the Monitoring Officer (Head of Policy & Governance). Following consideration of the complaint the Monitoring Officer will decide the appropriate course of action in accordance with the Arrangements for dealing with Code of Conduct complaints.
- 4.2 Attached at Annexe 1 is a summary of the complaints received by the Monitoring Officer against Waverley Borough and Town/Parish councillors since January 2020. The identity of all councillors the subject of a complaint has been anonymised. It is felt that such information should remain confidential unless and until any complaint results in an open hearing before a Hearings Sub-Committee.

Number of allegations. There have been 15 cases during that period, with some cases involving more than one complainant, and/or more than one subject member. Six cases were regarding town/parish councillors, and nine were regarding borough councillors.

Action taken. Most cases have been concluded following an informal investigation by the Monitoring Officer. Where a mutually satisfactory informal resolution has been achieved it has relied upon the willingness of both parties to engage constructively with the process at the informal stage. Two cases have progressed to a formal (external) investigation following consultation with one of the Independent Persons.

Type of complainant. There has been an increase in the number of complaints by a councillor about another councillor's behaviour or conduct.

- 4.3 Complaints largely focus on allegations that the subject member(s) failed to treat others with respect, either through comments made during meetings or by comments made in social media. There are also a number of complaints related to the conduct of councillors in relation to planning matters, and potential conflicts of interests.
- 4.4 Whilst in most cases there has been insufficient evidence to conclude objectively that there has been a breach of the code of conduct, this does not take away from the fact that a complainant may be very angry or upset as a result of the words or actions of a councillor. In most cases the Monitoring Officer will offer words of advice to the subject members to emphasise the need for them to think carefully about how their actions and words are received by others.
- 4.5 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.

Recent developments

- 4.6 In February 2021, the Council adopted the new LGA Model Code of Conduct.
- 4.7 In February 2021 the Standards Committee reviewed the Arrangements for responding to complaints about the conduct of Waverley and Town/Parish councillors. The proposed revisions have been shared with the Independent Persons and Town and Parish Clerks and feedback has been received. The revised Arrangements will be the subject of a separate report at the next meeting of the Committee.
- 4.8 A new database is being developed that will enable more reliable tracking, monitoring and reporting of live standards complaints. This database is close to being tested and should be operational by the end of September.

Next steps

4.9 The Committee is asked to note the matters contained in this report and advise the Monitoring Officer of any areas of concern, or further information or action required.

5. Relationship to the Corporate Strategy and Service Plan

5.1 This report supports the Corporate priority of open, democratic and participative governance.

6. Implications of decision

6.1 Resource (Finance, procurement, staffing, IT)

There are no direct resource implications arising from this report.

6.2 Risk management

The arrangements for investigating complaints against councillors and co-opted members under the Council's code of conduct, is a key mechanism for mitigating against the risk of reputational damage, a lack of good governance and loss of public confidence.

6.3 Legal

The Localism Act gives councils an explicit duty to promote and maintain high standards of Member conduct. It requires the Council to adopt a Code of Conduct setting out the standard of conduct that is expected of Members when acting in their official capacity. 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. The Monitoring Officer continues to discharge his statutory functions in relation to ethical standards by reference to the Code of Conduct and the legislative framework.

6.4 Equality, diversity and inclusion

There is a general obligation in the Code of Conduct in which Members undertake to "not do anything which may cause the Council to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2010)".

6.5 Climate emergency declaration

The vast majority of correspondence related to standards matters is sent, received and stored digitally so, aside from occasional face to face visits requiring local travel, there are limited climate implications.

7. Consultation and engagement

7.1 N/A

8. Other options considered

8.1 N/A

9. Governance journey

9.1 This report is for the Standards Committee to note.

Annexes:

Annexe 1 – Code of Conduct Complaints received 1 January 2020 – 30 June 2021

Background Papers

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

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Agreed and signed off by:
Legal Services: date
Head of Finance: date
Strategic Director: date

Annexe 1 - Code of Conduct Complaints received 1 January 2020 – 30 June 2021

Case	Date complaint received	Complainant(s)	Borough or Town/Parish Councillor(s)	Relevant parts of the Code of Conduct	Comments	Decision	Date of decision/outcome
1.	24.01.20	Member of the public	Town	Failure to treat others with respect; Intimidation/bullying	Complaint regarding comments on social media. Informal investigation by MO.	No evidence of a breach of the code.	25/02/20
2.	26.02.20	Member of the public	Borough (multiple)	Predetermination, bias in decision-making.	Complaint regarding conduct of councillors in planning committee. Informal investigation by MO.	No evidence of a breach of the code	19/11/20
3.	04.03.20, 02.03.20, 24.03.20, 06.04.20, 18.12.20	Members of the public	Town (multiple)	Non-declaration of interests impacting on objectivity of decision-making.	Informal investigation by MO followed by referral to IP (12/08/20). Referred to external investigator for formal investigation (17/12/20). Awaiting final report.		Ongoing
4.	05.05.20	Member of the public	Borough	Non-declaration of interests in relation to a planning application; inappropriate lobbying by councillor; use of planning call-in process.	Informal investigation by MO.	No breach of Code of Conduct identified.	04/11/20

5.	16.06.20, 01.07.20, 02.07.20, 20.07.20	Members of the public	Parish	Potential conflict of interest between role as councillor and use of social media.	Parish councillor resigned before conclusion of informal investigation by MO.	No further action taken.	
6.	23.07.20	Councillor	Borough	Failure to treat others with respect; Intimidation/bullying	Regarding comments made during a council meeting. Informal investigation by MO followed by referral to IP (2/10/20). Referred to external investigator for formal investigation.	No breach of Code of Conduct identified.	10/02/21
7.	23.07.20	Councillor	Borough	Failure to treat others with respect.	Regarding comments made during a council meeting. Informal investigation by MO. No breach of Code advised 29/07/20. Outcome not accepted by complainant. Referred to IP 02/10/20 for 2 nd opinion.	No breach of Code of Conduct identified	06/10/20
8.	26.08.20	Councillor (Town)	Borough	Failure to treat others with respect; lack of integrity.	Regarding comments made on social media. Informal investigation by MO.	No breach of Code of Conduct identified.	05/03/21

9.	10.09.20, 11.09.20, 14.09.20, 05.10.20, 12.10.20, 19.10.20	Members of the public	Town (multiple)	Failure to treat others with respect; lack of integrity; bias and predetermination.	Regarding comments made during a council meeting. Informal investigation by MO.	No breach of Code of Conduct identified.	Closed 27/02/21.
10.	12.10.20, 19.10.20	Members of the public	Town	Non-declaration of interests.	Informal investigation by MO. MO has written to the Councillor regarding his Register of Interests.		Ongoing.
11.	08.03.21	Member of the public	Borough	Making misleading comments, unduly influencing the planning committee, lobbying against the applicant.	Regarding comments made during a council meeting. Informal investigation by MO.	No breach of Code of Conduct identified.	14/05/21
12.	15.03.21	Member of the public	Borough	Lack of integrity.	Regarding comments made on social media. Informal investigation by MO.	Ongoing.	
13.	15.03.21	Member of the public	Parish	Failure to treat others with respect;	Regarding comments made during a council meeting. Informal investigation by MO.	Parish Councillor made a public apology to the complainant.	13/04/21
14.	21.03.21	Councillor	Borough	Failure to treat others with respect; Intimidation/bullying	Regarding comments in an email circulated to parties external to Waverley Informal investigation by MO.	No breach of Code of Conduct identified.	

15.	30.03.21	Councillors	Borough	Failure to treat others with respect; lack of honesty, leadership, objectivity.	Informal investigation by MO.	No breach of Code of Conduct identified.	24/06/21.
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