

## **Committee: Standards and General Purposes Committee**

**Date: 13 October 2022**

Wards: All

### **Subject: Member Complaints**

Lead officer: Louise Round, Monitoring Officer

Lead member: Councillor Mike Brunt Chair of the Standards and General Purposes Committee

Contact officer: Louise Round, Monitoring Officer

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### **Recommendations:**

- A. To note the number and types of complaint received by the Monitoring Officer over the past two years.

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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. At its meeting on 7 July 2021, Council agreed a new code of conduct for members based closely on the model code produced by the Local Government Association, together with a revised process for dealing with complaints that members had breached the code of conduct. The new code and the complaints process are attached as appendix A and B of this report,
- 1.2. The Monitoring Officer has reported regularly on a verbal basis to the Committee on complaints made to her about Councillors but there has not been a written report in recent times setting out the number and type of complaints which have been received and the outcome of those complaints. This report summarises the complaints received by the current Monitoring Officer since being appointed in January 2020.

## **2 DETAILS**

- 2.1.1 The complaints process requires that, following receipt of a complaint, the Monitoring Officer will carry out an initial review to decide whether or not the actions leading to the complaint were carried out by the councillor in their official capacity, as the Code only applies if that is the case. If she concludes that it does, then she will further consider whether that behaviour is capable of amounting to a breach of the Code. If so, a further decision is required as to whether the matter should be referred for an investigation.
- 2.1.2 In reaching that decision, the Monitoring Officer will consider the criteria set out in the complaints procedure which include factors such as the seriousness of the complaint, the age of the complaint and the extent to which the complaint may be considered to be "tit for tat" or motivated by political considerations. If on the balance of those factors and the public

interest, she forms the view that even though on the face of the complaint there may have been a breach of the Code, the public interest does not require an investigation, she will inform the complainant accordingly. The Monitoring Officer may consult one of the Council's two independent persons at any stage in this process, although this is not mandatory.

2.1.3 In all but the most exceptional cases, the councillor complained of will be told of the existence of the complaint and in order to inform the initial filter process it is common for the Monitoring Officer to have an exploratory discussion with both parties and to ask for further documentary evidence if it is available.

2.1.4 If the matter is referred for investigation and the conclusion of the investigating officer is that there has been a breach then, on receipt of a report concluding that there has been a breach, the matter will proceed straight to a hearing by a sub-committee of the Standards and General Purposes Committee. Before reaching a decision, the Sub Committee is obliged at that point to consult the Independent Person.

### **Complaints Received.**

2.1.5 Since January 2020, the following complaints have been received:

<b>20/21</b>	<b>Nature of Complaint</b>	<b>Complainant</b>	<b>Outcome</b>
Complaint A	Member instigating neighbour dispute	Member of Public	Withdrawn
Complaint B	Rude comment addressed to complainant on Facebook	Member of the public	Not covered by the Code as in private capacity but apology given anyway.
Complaint C	Complaint against 4 councillors about the content of their representations to the Boundary Commission	Constituent	Unlikely to be a breach and not in public interest to investigate. NFA
Complaint D	Distribution of a leaflet	Member of the	No breach of Nolan

	encouraging residents to support a planning application. Allegation that this breached the Nolan Principles of Standards in Public Life.	public	principles and not in the public interest to investigate.
Complaint E	Complaint that a councillor had blocked the complainant on a local community WhatsApp group	Member of the public	Code not engaged as councillor not acting in their capacity as an elected member.
Complaint F	Complaint about contents of a twitter post breaching GDPR as identified an individual's place of residence	Member of public	No breach as councillor agreed to remove post.
<b>2021/22</b>			
Complaint F	Complaint that Councillor had abused their position by seeking to influence officers to introduce parking controls and CCTV in the area of their business	Local Business Owner	Actions carried out by councillor in capacity as a neighbouring business, not as an elected member and therefore code not engaged.
Complaint G	Complaint about comments made in an election leaflet.	Member of the public.	Actions carried out as part of election campaign, code not

			engaged.
Complaint F	Misuse of Council resources	Member of the public	On balance probably not a breach and not in public interest to investigate. Led to a wider review of the approach to council headed paper.
Complaint G	Councillor used position to influence service of stop notice	Recipient of Notice	Informal resolution achieved by head of service, no need for further action
Complaint H	Allegation of unlawful surveillance and breach of GDPR	Member of public (not Merton resident)	Complainant requested to supply evidence in support of wide ranging allegations (also made against councillors in neighbouring borough). Not forthcoming, Complaint closed by MO.
Complaint I	Complaint that a councillor had been condescending, spoke over the complainant and accused the complainant of swearing when they said they had not.	Merton resident	Actions carried out by councillor in capacity as a resident, not as an elected member and therefore code not engaged

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2.1.6 It will be noted that none of the complaints received have been referred for formal investigation although in some case other action was taken. There is a no formal right of appeal against the Monitoring Officer's decision not to refer a complaint for investigation but complainants are informed that if they are dissatisfied with the outcome of their complaint, they may refer the matter to the Local Government and Social Care Ombudsman. No such referrals have been made.

2.1.7 In addition to the formal complaints listed above, the Monitoring Officer from time to time receives informal approaches from the members about the behaviour of other members, most usually relating to comments made on social media. The Monitoring Officer's approach is to seek to resolve these through dialogue, either directly with the members concerned or through the Group Leaders. This has been a successful approach and in this context it is worth noting that one of the factors to consider in deciding whether to refer complaints for investigation is whether the complaint is of a kind which could be more appropriately addressed through political group processes, political party complaints procedures or informal mediation.

2.1.8 The Monitoring Officer considers that the absence of any significant complaints requiring investigation reflects well on the ethical health of the organisation. The code of conduct is published on the Council's website as is the procedure for making a complainant. Training on the new code was offered last year and was taken up by the majority of members at that time, There was also good attendance at the session on the code which was run as part of the member induction process following the May 2022 elections.

### **3 ALTERNATIVE OPTIONS**

3.1. Not applicable.

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

4.1. Not applicable

### **5 TIMETABLE**

5.1. Not applicable

### **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

6.1. There are no financial implications arising from this report.

### **7 LEGAL AND STATUTORY IMPLICATIONS**

7.1. The statutory framework governing member conduct is set out in the Localism Act 2011.

**8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

8.1. None

**9 CRIME AND DISORDER IMPLICATIONS**

9.1. None

**10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

None

**11. APPENDICES**

**Appendix A – Code of Conduct for Members**

**Appendix B - Complaints process**