

Committee: Standards and General Purposes Committee

Date: 27 April 2023

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

Recommendations:

- A. To note the number and types of complaint received by the Monitoring Officer in the last six months;
 - B. To consider whether there should be an absolute prohibition on the inclusion of links to external social media accounts in emails sent by councillors; and
 - C. To ask the Monitoring Officer to write to all councillors reminding them of the need to take care when using council resources including council email addresses to ensure they are not being improperly used for party political purposes and to seek advice from the Monitoring Officer or Deputy Monitoring Office if there is any doubt.
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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. As the Committee charged with oversight of the Council's standards regime, it would seem appropriate for it to consider complaints made under that regime at regular intervals. This report provides an update on complaints received since the Committee was last updated in September 2022.

2 DETAILS

2.1. 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.

2.2. 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.

2.3. 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.

2.4. 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.

2.5. Complaints Received.

2.6. Since January 2020, the following complaints have been received:

September 22- April 23	Nature of Complaint	Complainant	Outcome
Complaint A	Content of a tweet allegedly misleading in connection with status of planning application	Member of Public	NFA - tweet did not specifically refer to the planning application, politician allowed a measure of hyperbole
Complaint B	Failure of councillor to explain inconsistencies between two council policies	Member of the public	NFA unhappiness with council policy not a cause to bring a conduct complaint.

Complaint C	Complaint relating to a tweet using insulting language about a fellow councillor	Fellow councillor	Wording used not sufficiently offensive as to amount to a breach, right to freedom of expression taken into account. NFA
Complaint D	Use of council email address to contact political party supporters, not for council business	Fellow councillor	Councillor accepted that the use of the council email was inappropriate and won't be repeated. Informal resolution accepted and NFA.
Complaint E	Complaint about a letter sent to local constituents in connection with the installation of LED lighting, wrongly implying the ward councillor was authorised to act on the part of the Council.	Member of the public	Letter had been cleared by the MO, was routine and was in accordance with the approach agreed by SGP to constituent letters. NFA

2.7. 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 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 although one is

anticipated from complainant B.

2.8. It will be noted that there have been two complaints relating to the use of council resources (complaints D and E). This committee has previously considered the protocol for members wishing to send letters to local residents and that protocol had been followed in relation to complaint E, thus there was no case to answer. In relation to complaint D, as well as this formal complaint, the Monitoring Officer has received informal approaches about the use by councillors of links to personal or party twitter accounts in the email signatures or other allusion to party political activity. This can present something of a dilemma as it is perhaps neither desirable nor realistic to expect councillors to function as though they have no party-political allegiances at all when communicating with residents. After all, they would have been elected to their roles in many if not most cases, largely because of that affiliation. The code of conduct's requirements in this respect also acknowledge that there may be situations where the use of resources for party political purposes is permissible namely where:

“that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which [the member] has been elected or appointed”

2.9. There may be some cases where this is arguable and some where it is hard to see how overtly party-political activity does perform that function. Other situations, such as the simple use of links to social media accounts in email sign offs, are less clear cut. The Committee may wish to take the view that members should err on the side of caution when using council emails and if in doubt should seek advice about any content which they may believe falls the wrong side of the line. In relation to cross references to other social media platforms or external party-political matters, the Committee's views are sought as to whether an absolute ban on these should be imposed.

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

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