



Report to Standards and General Purposes Committee

Date: 14 July 2022

Title: Member Code of Conduct Complaints – Quarterly Review and Benchmarking

Relevant councillor(s):

Author and/or contact officer: Nick Graham, Service Director, Legal and Democratic. Contact officer Glenn Watson, Principal Governance Officer.

Ward(s) affected:

Recommendations:

- (1) to note and comment upon the Quarter 1 (April to June 2022) report into Member Code of Conduct Complaints that were opened and/or closed in that period, as at Annexes 1-2;**
- (2) to note and comment upon the Member Code of Conduct complaints currently open, as at Annex 3;**
- (3) to note and comment upon the comparative review of the Council's arrangements for reviewing Member Code of Conduct complaints, as at Annex 4 and at paragraphs 3.5 to 3.9.**

Reason for decision:

The Committee is responsible for Member Code of Conduct complaints both for this Council and for parish and town councils. As such, the Committee is being kept informed of recent and current complaints activity; and of the effectiveness of the Council's *Arrangements for dealing with complaints against councillors* (the 'Arrangements').

1. Executive summary

1.1 This report provides the Committee with a review of the Member Code of Conduct complaints that were opened and/or closed during Quarter 1 (April to June 2022). It updates the Committee on complaints currently in hand. In both cases, as requested

by the Committee, the updates now include an indication of the source of the complaint (e.g. public, fellow councillor) and of the nature of the alleged behaviour.

- 1.2 The report also informs the Committee of the outcome of a recent benchmarking exercise during which the Council's own *Arrangements* were compared with those adopted by other unitary authorities and the Local Government Association's (LGA) best practice guidance. This indicates that the Council's 'Initial Assessment' stage is lacking a defined timescale, although in practice, the Council normally complies with the 15-day timeframe.

2. Quarter 1 - Review of Complaints

- 2.1 Annexes 1 and 2 set out the Member Code of Conduct Complaints that were either opened or closed within Quarter 1 of this year i.e. between April and June 2022.

- a) Annex 1 relates to Parish and Town Council Complaints
- b) Annex 2 relates to Buckinghamshire Council Complaints

Parish/Town Councils

- 2.2 Four complaints were closed and none opened during April-June 2022. Three related to the same incident. Two complainants were fellow councillors and two were officers of the same council: as such they were internal to the council and not raised by members of the public. The Code principles related mainly to an allegation of disrespect to fellow councillors and the public; one concerned an allegation of bullying. In none of these cases was a breach found and each concluded at Stage 2 of the Council's *Arrangements*.
- 2.3 As you will see from paragraph 2.6, three further complaints about this council/councillor are currently in progress.

Buckinghamshire Council

- 2.4 Two complaints were raised about a Buckinghamshire Councillor during April-June 2022. Both related to the same person and the same incident. In both cases, the complainant was a fellow member of the Council. Both were closed at the Initial Assessment stage as the context suggested that no Code principle was likely to have been breached.

Importance of context

- 2.5 An important factor in the closure of the complaints in Annexes 1 and 2 was that of context. In the case of the parish/town councils, the context of the incidents was considered and, factually, it was found that the circumstances could not have led to a breach of the Code. As regards the Buckinghamshire Council complaints, the

context was clearly one of robust freedom of speech in a political context which is protected by Article 10 under the Human Rights Act. What some members may perceive as a lack of respect may very well come within the Article 10 provisions, which give a latitude to freedom of speech. This is when 'context' in any particular case becomes relevant under the Council's *Arrangements*. It is the Monitoring Officer's intention that future training for councillors will include a clear focus on the nature of the Article 10 provisions to provide greater understanding of the extent and limitations of councillors' freedom of speech.

Current complaints

- 2.6 Annex 3 sets out the complaints which are currently open, for either tier of local government. This shows that there are four complaints currently open. Three relate to the same council and councillor and are at Stage 3 (Investigation). The other is currently at Stage 1, to determine the facts of the case and whether any informal resolution is possible. An 'informal resolution' does not involve finding whether a breach occurred; it seeks to resolve any issues without the need for formal procedures and to restore relationships.
- 2.7 All of the open complaints relate to parish and town councils. Two were submitted by fellow councillors, two by officers. As such, all the complaints arose 'internally'.

Training for parish and town councils

- 2.8 On Monday 4 July 2022, the Deputy Monitoring Officer gave a presentation to the local Association of Parish and Town Councils on the handling of member code of conduct complaints. The purpose was further to acquaint parish and town councillors and their clerks on the nature of the complaints process. This was undertaken as part of the Council's ongoing commitment to raising awareness of Code of Conduct matters among local councils. It was noted by Committee previously that most of the complaints reviewed by this Council related to parish and town councillors.

3. Comparison with other authorities

- 3.1 At the last meeting of the Committee, it was noted that a comparison would be made of the Council's *Arrangements* for dealing with Code complaints. This has been done against the [Local Government Association \(LGA\) guidance](#) on handling complaints; and against the arrangements adopted by other unitary authorities.
- 3.2 It's important to note that principal councils (i.e. not parish/town councils) are legally required to adopt arrangements for dealing with Member Code of Conduct complaints. However the law does not specify the format of such arrangements and it is for each council to determine them. The Buckinghamshire Council Arrangements were adopted in 2020 and are contained in [part H.3, page 189 of the Constitution](#)

- 3.3 Separately, the LGA has published best practice guidance on such arrangements. In short, the Council's *Arrangements* largely align with the LGAs guidance, as indicated below. As there is no required format, each authority's arrangements understandably differ in some respects from each other.

The Council's Arrangements

- 3.4 The Council's arrangements consist of four parts:
- a) Initial Assessment: triaging each complaint to ensure it meets the thresholds for complaint – no timeframe specified but normally achieved within 10 working days.
 - b) Stage 1: an informal stage to verify facts and reach an informal resolution between the parties if possible - target date of 20 working days for completion
 - c) Stage 2: if unresolved at Stage 1, review by Monitoring Officer or Deputy, and consultation with Independent Person, to determine if proportionate to investigate at Stage 3 – target date of 20 working days for completion
 - d) Stage 3: if a formal investigation is needed then this will take place, as will any subsequent hearing by the Member Panel – normally within 6 months of the starting date of the decision to investigate

Analysis

- 3.5 Annex 4 sets out a comparison between this Council's *Arrangements* and those proposed by the LGA and those adopted by ten other unitary councils.
- 3.6 Initial Assessment: the only clear point of difference between this Council's *Arrangements* and the LGA guidance, is that this Council has not adopted a particular timeframe for completing the Initial Assessment (triaging). The LGA suggests 15 working days. Other authorities surveyed show a range between 10-20 working days. In practice, a review of Buckinghamshire Council cases shows that the majority are completed within 10-15 working days in any case.
- 3.7 Stages: five of the 10 unitary authorities and the LGA guidance effectively blend our current Stages 1 (informal resolution) and 2 (determination whether to investigate) together. In separating these out, Buckinghamshire Council is giving transparency to the kinds of considerations involved. However, in practice this does not mean that Buckinghamshire has a lengthier process: those authorities that merge these stages either do so by means of a similar timeframe (40 days) or are open-ended as to the timeframe.

3.8 Timescales and process overall: the Buckinghamshire processes are consistent in timeframe with the best practice guidance of the LGA. Our *Arrangements* include all the aspects that the LGA recommend in practice.

3.9 Conclusion: the Council's *Arrangements* do not have any significant aspects needing change as a result of the comparison and remain fit for purpose. The Council's practice is to issue Initial Assessments within 10-15 working days in any case, which complies with the LGA guidance as part of the Monitoring Officer's current approach.

4. Legal and financial implications

4.1 This report does not contain any financial implications as no expenditure is involved in any of the recommendations.

4.2 The Council is legally required under the Localism Act 2011 Section 28(6) to adopt arrangements for dealing with member code of conduct complaints both for its own councillors and for those of parish and town councils within its area. The Council complied with this requirement by adopting arrangements in 2020. These are now contained within the Constitution at Section H. This report does not raise any additional legal issues. It simply updates the Committee on the recent operation of the adopted *Arrangements*.

5. Corporate implications

5.1 This report is consistent with the Council's commitment to good governance. The conduct of elected members is pivotal to public trust and to sound decision making. Reviewing the operation of the *Arrangements* adopted to deal with such complaints is a means of giving transparency and accountability to such arrangements.

6. Next steps and review

6.1 A further update on member code of conduct complaints will be presented to the Committee at each meeting, to give a quarterly picture of complaints opened, closed, and currently in hand.

7. Background papers

7.1 None. Hyperlinks have been provided within the report where necessary.

8. Your questions

If you have any questions about the matters contained in this report please get in touch with the author of this report. This can be done by telephone 01296 387380.

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