

STANDARDS COMMITTEE



Report subject	Code of Conduct Complaints - Review
Meeting date	3 rd October 2023
Status	Public Report
Executive summary	<p>This report provides Members with an update on complaints regarding alleged breaches of the Code of Conduct against councillors received or concluded since the last report to the Committee in June 2023. There continued to be a high number of complaints but this report demonstrates that the efforts in place to address these has had an impact on the numbers that are now resolved.</p> <p>The Committee is responsible for maintaining high standards of conduct by Members of BCP Council and the Town and Parish Councils, monitoring the operation of the Code of Conduct, and considering the outcome of commissioned independent investigations.</p>
Recommendations	<p>It is RECOMMENDED that:</p> <p>a) the outcome of concluded complaints and the progress of those still outstanding be noted.</p> <p>b) the Committee determine which of the options, referred to in this report, should be pursued in relation to the unresolved complaints identified in paragraphs 13-24 of this report</p>
Reason for recommendations	<p>This is an opportunity for Members of the Committee to be appraised of details of completed complaints and any outstanding complaints of alleged breaches against the Code of Conduct. This is in accordance with the functions of the Committee and its duty to discharge functions in relation to the promotion and maintenance of high standards of conduct within the Council and amongst Town and Parish Councils within the area.</p>
Portfolio Holder(s):	Not applicable
Corporate Director	Ian O'Donnell
Report Authors	Ingrid Brown (Head of Legal Services)

	Richard Jones (Head of Democratic Services)
Wards	Not applicable
Classification	For Decision

Background

1. The purpose of this report is to provide a summary and update of completed and ongoing complaints received regarding alleged breaches of the Code of Conduct under the Localism Act 2011 against Councillors for the Bournemouth, Christchurch and Poole area, including parish and town councils.
2. A similar report has been presented to previous meetings of the committee and now forms a regular item at committee meetings.

Analysis

3. Details of allegations/complaints in relation to the Code of Conduct are outlined in the table set out in paragraph 9 to this report. Cases which were shown as closed in the previous report have been removed from this report.
4. The adopted arrangements for dealing with allegations of breach of the code of conduct for councillors now provides for an initial assessment by the Monitoring Officer, who may, if appropriate:
 - (a) reject the complaint on the grounds that it falls outside the scope of a valid Code of Conduct complaint;
 - (b) determine that there is no breach of the Code and no further action should be taken; or
 - (c) where considered appropriate, enter into an early preliminary and informal dialogue with the complainant and the Councillor complained of, and agree a speedy informal resolution of the complaint
 - (d) refer the complaint to the Chair of Standards Committee for consideration...
5. Where complaints proceed to the Chair of the Standards Committee (in consultation with councillors of the Standards Committee, the Independent Persons and the Monitoring Officer (or their Deputy)), the Chair may decide whether:-

There is no breach of the Code and no further action should be taken; or

There is a potential breach of the Code and informal resolution is appropriate, to include for example mediation, training, apology, advice; or

There is a potential breach of the Code and the Monitoring Officer should undertake or commission an investigation into the complaint with a view to a report then being considered by the Standards Committee.
6. The table contained in this report provides information about of the nature of the complaint, the assessment of the Monitoring Officer (where appropriate), the decision of the Chair (following consultation), any informal resolutions determined by Chair (where applicable), and the status of the complaint at the date of the report.

7. Certain specific detailed information regarding pending complaints has not been provided as this may be prejudicial to the conduct of the ongoing complaints process. Personal details have also not been included to protect both the identity of the subject councillors and the complainant, unless specific direction to the contrary has been expressed.
8. There has been some reduction in the number of complaints received in recent months. Measures that were previously put in place to ensure that complaints continue to be resolved in a timely manner have had positive results.
9. Table 1

Reference	Nature of allegation	Outcome / Decision	Status
BCP-097	<ul style="list-style-type: none"> Failing to treat others with respect Bringing the office of Councillor or the Council into disrepute while acting in an official capacity Using or attempting to use the position as a Councillor improperly to confer on or secure an advantage or disadvantage for him or herself or anyone else 	<p>The complaint was initially assessed by the Monitoring Officer and was then to be referred to the Chair for consideration in consultation.</p> <p>Complainant advised. Subject Councillor to apologise in writing. Subject Councillor requested a review of the outcome. Review upheld the complaint and the subject Councillor was advised and asked if that the remedy by way of an apology now be complied with.</p>	Subject Councillor has not complied with sanction and report being presented to committee to consider reference to Full Council.
BCP-119	<ul style="list-style-type: none"> Bringing the office of Councillor or the Council into disrepute while acting in an official capacity 	<p>The complaint was assessed by the Monitoring Officer and will be referred to the Chair for consideration in consultation on. Complaint not upheld by the Chair. Complainant and Subject Councillor advised.</p> <p>Complainant sought a review.</p>	Closed.

Reference	Nature of allegation	Outcome / Decision	Status
		Complaint dismissed at initial stage and following a review.	
BCP-121	<ul style="list-style-type: none"> • Act with integrity • Treat all persons fairly and with respect • Breach of Nolan principles. 	<p>Referred to monitoring officer for initial assessment. Subject councillor's response to complaint sought and obtained.</p> <p>Complaint determined by the Chair in consultation. Determined. Upheld – failure to treat with respect. Other aspects of complaint not upheld</p>	Closed
BCP 139	<ul style="list-style-type: none"> • Compromising impartiality. • Bringing the Council into disrepute • Using the office of Councillor improperly to confer advantage 	<p>Complaint referred to monitoring officer and considered by the Chair in consultation. Subject Councillor asked for a response</p> <p>Complaint dismissed.</p>	Closed
BCP 140	<ul style="list-style-type: none"> • Using the position of councillor to confer advantage; In respect of a prejudicial interest, failing to withdraw from the room or chamber; exercising executive functions; or seeking to improperly influence a decision 	<p>Complaint referred to monitoring officer and considered by the Chair in consultation</p> <p>Complaint dismissed.</p>	Closed
BCP 141	<ul style="list-style-type: none"> • Failing to treat others with respect, • Bullying, intimidating or attempting to intimidate; • Unlawfully disclosing confidential 	<p>Complaint referred to monitoring officer and considered by the Chair in consultation.</p> <p>Complaint upheld in relation to failing to</p>	Report to be considered by committee proposing a reference to Full Council.

Reference	Nature of allegation	Outcome / Decision	Status
	<p>information or information believed to be of a confidential nature, bringing into disrepute,</p> <ul style="list-style-type: none"> Using or attempting to use the position as a Councillor improperly to confer on or secure an advantage or disadvantage for him or herself or anyone else 	<p>treat with respect, bullying, intimidating and bringing the office of Councillor or the Council into disrepute. Councillor advised but not acknowledged Chair's letter or complied with sanction.</p>	
BCP 142	<ul style="list-style-type: none"> failing to treat others residents with respect intimidating of attempting to intimidate bringing the office of Councillor or the Council into disrepute 	<p>Complaint referred to monitoring officer and considered by the Chair in consultation.</p> <p>Complaint partly upheld- in relation to failure to treat with respect. Subject councillor advised and complied with sanction.</p>	Closed
BCP 144	<ul style="list-style-type: none"> Failing to treat others with respect Intimidating or attempting to intimidate Bringing the office of Councillor into disrespect while acting as an official capacity 	<p>Complaint referred to monitoring officer and considered by the Chair in consultation. Complaint not upheld.</p>	Closed
BCP 146	<ul style="list-style-type: none"> Failing to treat others with respect Bullying Intimidating or attempting to intimidate Using or attempting to use the position as a Councillor improperly to confer advantage 	<p>Complaint referred to monitoring officer and considered by the Chair in consultation. Complaint upheld in relation to failure to treat with respect, bullying and intimidating or attempting to intimidate.</p>	Subject Councillor has not complied with sanction and report being presented to committee to consider reference to Full Council

Reference	Nature of allegation	Outcome / Decision	Status
BCP 147	<ul style="list-style-type: none"> Failing to treat others with respect Bullying Intimidating or attempting to intimidate 	Complaint considered by the Chair in consultation. Complaint not upheld.	Closed
BCP 151	<ul style="list-style-type: none"> Failure to respond to emails 	Complaint referred to monitoring officer for initial assessment. Complaint not a Code of Conduct complaint but email addresses provided to complainant.	Closed
BCP 152	<ul style="list-style-type: none"> Further evidence and clarification sought from complainant 	Referred to Monitoring Officer for initial assessment. Referred back to complainant seeking further evidence and clarification	Pending
BCP 153	<ul style="list-style-type: none"> Further evidence and clarification sought from complainant 	Referred to Monitoring Officer for initial assessment. Referred back to complainant seeking further evidence and clarification. Complainant confirms matter is resolved and withdraws complaint.	Closed
BCP 154	<ul style="list-style-type: none"> Failure to treat with respect Breach of equalities Intimidating or attempting to intimidate Unlawfully disclosing confidential information Bringing office of Councillor or the Council into disrepute 	Referred to Monitoring Officer for initial assessment. Referred back to complainant seeking further evidence and clarification	Pending

Reference	Nature of allegation	Outcome / Decision	Status
	<ul style="list-style-type: none"> Using Council resources not in accordance with Council's requirements Failure to declare an interest Failure to withdraw from room or seeking to influence a decision 		
BCP 155	<ul style="list-style-type: none"> Bringing office of Councillor or the Council into disrepute Using council resources not in accordance with Council's requirements 	Referred to Monitoring officer for initial assessment. After enquiries MO concludes that the complain is not upheld. Complainant advised.	Closed
BCP 156	<ul style="list-style-type: none"> Unclear- further evidence and clarification sought from complainant. 	Referred to Monitoring Officer for initial assessment. Referred back to complainant seeking further evidence and clarification. Complainant does not provide this.	Closed
TPC 008	<ul style="list-style-type: none"> Failure to treat others with respect Bullying Intimidating or attempting to intimidate Bringing the office of Councillor of the Council into disrepute. 	Complaint considered by the Chair in consultation. Complaint partially upheld – disrespect and bringing the office of Council into disrepute. Councillor invited to apologise and to attend training. Councillor accepts sanction and complies with the same.	Closed
TPC 009	<ul style="list-style-type: none"> Failure to treat with respect Bringing the office of Councillor or the Council into disrepute 	Complaint considered by the Chair in consultation. Councillor invited to apologise and to attend training. Councillor accepts sanction and	Closed

Reference	Nature of allegation	Outcome / Decision	Status
		complies with the same.	
TPC 010	<ul style="list-style-type: none"> • Failure to treat with respect • Bringing the office of Councillor or the Council into disrepute 	Complaint considered by the Chair in consultation. Councillor invited to apologise and to attend training. Councillor accepts sanction and complies with the same.	Closed

Non-Compliance with the request to provide an apology following informal resolution:

10. The Committee will note that there are three complaints referenced in the table above, complaints 97, 141 and 146 where the subject Councillors have not complied with the determination made by the Chair of standards following informal resolution.
11. In compliance with the Localism Act 2011, a procedure set out in its Constitution at Part 6, which is the process by which Code of Conduct must be considered.
12. The stages of the process provide as follows:
 - Complaint received by Monitoring Officer.
 - Upon receipt of a complaint under the Code of Conduct the Monitoring Officer (or their nominee) should undertake an initial assessment and may:-
 - (a) reject the complaint on the grounds that it falls outside the scope of a valid Code of Conduct complaint;
 - (b) determine that there is no breach of the Code and no further action should be taken; or
 - (c) where considered appropriate, enter into an early preliminary and informal dialogue with the complainant and the Councillor complained of, and agree a speedy informal resolution of the complaint
 - (d) refer the complaint to the Chair of Standards Committee for consideration in accordance with the procedure set out below. • If mediation is unsuccessful, the Monitoring Officer will provide details of the complaint formally to the Councillor and

seek an initial response. The Councillor will be advised of the right to speak to the Independent Person (IP).

- The Councillor, within five working days or longer at the discretion of the Monitoring Officer, should then provide an initial response to the complaint.

- The Chair of the Standards Committee in consultation with Councillors of the Standards Committee and the Monitoring Officer will then decide whether:

- (a) There is no breach of the Code and no further action should be taken; or

- (b) There is a potential breach of the Code and informal resolution is appropriate, to include for example mediation, training, apology, advice; or

- (c) There is a potential breach of the Code and the Monitoring Officer should undertake or commission an investigation into the complaint with a view to a report then being considered by the Standards Committee.

Outstanding Complaints

Code of Conduct Complaint 97

13. In accordance with the procedure this complaint was initially assessed by the Monitoring Officer. The subject Councillor was written to on the 15 September and asked to respond to the complaint. A further email was sent to the subject Councillor on the 12 January 2023 asking that she respond to the complaint and advising her that the Chair of Standards would be considering this complaint in consultation at a meeting on the 16 January 2023. No response was received from the subject Councillor and at an informal consultation meeting on the 16 January 2023 it was determined that an apology in writing to the complainant would be an appropriate remedy. The complainant and the subject Councillor were made aware of this determination in writing on the 27 January 2023.
14. On the 20 February 2023 an email was sent to the subject Councillor asking whether she intended to apologise in accordance with the determination made by the Chair in consultation.
15. On the 27 February 2023 the subject Councillor responded indicating that she had just had sight of the Chair's letter of determination sent on the 27 January. She referred to receiving a very high volume of emails. She indicated that she did not agree either with the determination or the detail of the complaint and she provided fresh evidence for consideration.
16. In view of the fresh evidence provided this complaint was considered again by the Chair in consultation at a further informal consultation meeting on the 28 March 2023. The complaint was again upheld and the subject Councillor was advised of this in a letter from the Chair on the 3 April 2023. In that letter the subject Councillor was asked to confirm that she would now make comply with the sanction proposed and make the necessary apology to the complainant.

17. On the 6 June 2023 a further email was sent to the subject Councillor asking that she respond to the outcome letter. A phone call was also made to the subject Councillor and a message sent by Teams asking that she indicate her intentions in relation to compliance with the sanction imposed.
18. On the 10 August 2023 the Chair of the Standards Committee wrote again to the subject Councillor setting out the above and inviting her to comply with the above. She stressed the importance of compliance with the Standards regime.

Code of Conduct Complaint 141

19. This complaint was determined by the Chair in Consultation at an informal consultation meeting on the 18 July 2023. The complaint was upheld in relation to a number of potential breaches of the Code. The appropriate remedy was deemed to be a letter of apology and that the subject Councillor attend training in respect of bullying and the use of social media. The subject Councillor was informed of the outcome of the Chair's determination in a letter dated and sent by email on the 25 July. She was asked to provide her letter of apology within 14 days.
20. On the 21 September 2023 a further email was sent to the subject Councillor inviting her to comply with the remedies imposed in relation to this complaint. She was advised that if she did not comply a report would be presented to Standards requesting that a decision be made agreeing that a report should be presented to Full Council in relation to non-compliance. A further copy of the email and outcome letter dated the 25 July 2023 were sent.
21. On the 21 and 25 September 2023 a further email was sent to the subject Councillor inviting her to indicate her intentions in respect of this complaint and compliance with the sanction imposed. At the time of writing this report no such confirmation has been received.

Code of Conduct Complaint 146

22. This complaint was initially determined by the Chair of Standards in consultation at an informal consultation meeting on the 20 June 2023. The complaint was upheld in relation to a number of potential reaches of the Code. The appropriate remedy was deemed to be a letter of apology to be sent to the complainant within 14 days. The subject Councillor was informed of the outcome of the Chair's determination in a letter dated and sent by email on the 22 June 2023.
23. The subject Councillor responded to the Chair's outcome letter on the same day, the 22 June stating that further evidence should have been considered. In view of the evidence provided the complaint was reviewed at a further informal consultation meeting on the 18 July 2023. Having considered the further evidence presented by

the subject Councillor, the Chair in consultation concluded once again that the complaint be upheld. The subject Councillor was informed of this in a letter from the Chair of Standards sent by email on the 25 July 2023.

24. On the 21 September a further email was sent to the subject Councillor inviting her to indicate her intentions in respect of this complaint and compliance with the sanction imposed. She was advised that if she did not comply a report would be presented to the next meeting of Standards Committee requesting that a decision be made agreeing that a report should be presented to Full Council in relation to non-compliance. The subject Councillor sent an email on the 25 September indicating that she had immediately apologised to the complainant for her actions. The subject Councillor was asked to confirm that she sent a letter of apology following receipt of the Chair's determination and to send a copy of the same to the Deputy Monitoring Officer. The subject Councillor stated that she had not sent such a letter of apology but indicated that she apologised to the complainant immediately after the alleged breach, a factor that the complainant acknowledged in her initial complaint and something that the Chair was also aware of before reaching her determination.

Options appraisal

25. The Committee may decide to do nothing in relation to the above complaints where the sanctions that have not complied with. It may decide it needs more information before making a decision to refer any one of the above complaints to Full Council. Alternatively, it may decide to refer all of the above to Council on the basis that it has enough information to make this decision. This option is the preferred option and would have the advantage of sending a clear message about compliance with the Code of Conduct complaints process. It will also have the advantage of concluding these matters, one of which (97) has been ongoing for over a year.

Summary of financial implications

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

Summary of legal implications

27. The Council has a legal duty to respond to complaints made against councillors of allegations of a breach of the Code of Conduct. The Council has adopted procedures for handling complaints.

Summary of human resources implications

28. There are no direct manpower implications arising from this report, however, the Committee will be aware that the handling and processing of complaints is resource intensive. A high volume of complaints could require the need for additional resources. It is therefore critical that the committee continuously seeks to promote and maintain high standards of conduct by all councillors to help limit the number of complaints.

Summary of sustainability impact

29. There are no sustainability implications arising from this report.

Summary of public health implications

30. There are no public health and wellbeing implications arising from this report.

Summary of equality implications

31. This report is reporting on the outcome of complaints made against councillors for alleged breaches of the Councillor's Code of Conduct and consequently there are no direct equalities implications arising from this report. The Code of Conduct includes a duty upon all councillors to promote equalities and to not discriminate unlawfully against any person. Equality implications are considered as an integral part of the complaints process.

Summary of risk assessment

32. There are no direct risks associated with this report.

Background papers

There are no background papers.

Appendices

There are no appendices to this report.