

Report subject	<b>Non-compliance with Standards Complaints Process - Determination</b>
Meeting date	7 November 2023
Status	Public Report
Executive summary	This report is for information and provides the Council with details of those complaints where members have failed to comply with a determination requesting that an apology be made following the informal resolution stage of the complaints process.
<b>Recommendations</b>	<b>This report is for information only</b>
Reason for recommendations	This report has been prepared following a decision made by Standards Committee on the 3 October 2023 to report member non-compliance in relation to the three Code of Conduct complaints detailed in the body of this report.
Portfolio Holder(s):	Not applicable
Corporate Director	Graham Farrant
Report Authors	Ingrid Brown (Head of Legal Services)
Wards	Not applicable
Classification	For Information

## Background

1. The Council has a statutory duty in the Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the authority as well as those of parish and town councils within the boundary of BCP Council.
2. The Monitoring Officer is responsible for dealing with allegations that councillors have failed to comply with the members' code of conduct in accordance with the arrangements adopted by the Council. These arrangements are published in the Constitution, Part 6 (Codes and Protocols).

3. In summary, these arrangements establish a tiered approach for the consideration of complaints as follows:-
  - a. the Monitoring Officer to undertake an initial assessment, and where appropriate resolve the complaint by way of rejection, dismissal, or seek to secure informal resolution.
  - b. referral of the complaint to the Chair of the Standards Committee to consider in consultation with the standards committee members, independent persons and the Monitoring Officer. The Chair may dismiss the complaint, conclude that a potential breach of the Code has occurred and seek an informal resolution or refer the complaint for independent investigation.

### **Code of Conduct Complaint 97**

4. Code of Conduct complaint 97 is a complaint made by a member of staff at the Council about Councillor Bagwell's conduct towards staff working in the reception area.
5. In accordance with the procedure this complaint was initially assessed by the Monitoring Officer. The subject Councillor, Councillor Bagwell, was written to on 15 September 2022 and asked to respond to the complaint. A further email was sent to Councillor Bagwell on 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 16 January 2023. No response was received from Councillor Bagwell and at an informal consultation meeting on 16 January 2023 it was determined that an apology in writing to the complainant would be an appropriate remedy. The complainant and the Councillor Bagwell were made aware of this determination in writing on 27 January 2023.
6. On 20 February 2023 an email was sent to Councillor Bagwell asking whether she intended to apologise in accordance with the determination made by the Chair in consultation.
7. On 27 February 2023 Councillor Bagwell responded indicating that she had just had sight of the Chair's letter of determination sent on 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.
8. In view of the fresh evidence provided this complaint was considered again by the Chair in consultation at a further informal consultation meeting on 28 March 2023. The complaint was again upheld, and Councillor Bagwell was advised of this in a letter from the Chair on 3 April 2023. In that letter she was asked to confirm that she would now comply with the sanction proposed and make the necessary apology to the complainant.
9. On 6 June 2023 a further email was sent to Councillor Bagwell 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.
10. On 10 August 2023 the Chair of the Standards Committee wrote again to Councillor Bagwell setting out the above and inviting her to comply with the sanction imposed. She stressed the importance of compliance with the Standards regime. Councillor Bagwell has still not responded nor has she indicated that she intends to comply. Correspondence has been received from another member of Councillor Bagwell's party indicating that she does

not agree with the determination but no further correspondence has been received from Councillor Bagwell.

#### **Code of Conduct Complaint 141**

11. This complaint is a complaint made by a Councillor about Councillor Dove's conduct. The complaint was determined by the Chair in Consultation at an informal consultation meeting on 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 Councillor Dove should attend training in respect of bullying and the use of social media. Councillor Dove was informed of the outcome of the Chair's determination in a letter dated and sent by email on 25 July 2023. She was asked to provide her letter of apology within 14 days.
12. On 21 September 2023 a further email was sent to Councillor Dove 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 25 July 2023 were sent.
13. On 21 and 25 September 2023 a further email was sent to Councillor Dove 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**

14. This complaint is a complaint made by a complainant who was a Councillor at the time of the complaint. The complaint was made against Councillor Dove's conduct. It was initially determined by the Chair of Standards in consultation at an informal consultation meeting on 20 June 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 to be sent to the complainant within 14 days. Councillor Dove was informed of the outcome of the Chair's determination in a letter dated and sent by email on 22 June 2023.
15. Councillor Dove responded to the Chair's outcome letter on the same day, 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 18 July 2023. Having considered the further evidence presented by Councillor Dove, 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 25 July 2023.
16. On 21 September 2023 a further email was sent to Councillor Dove 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 25 September 2023 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.

### **Summary of financial implications**

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

### **Summary of legal implications**

18. 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 and these are set out in part 6 of the Constitution. Paragraph 8.2 of Part 6 requires a Councillor to cooperate with any Code of Conduct investigation and/or determination.

### **Summary of human resources implications**

19. There are no direct manpower implications arising from this report, however, it is worth noting that the handling and processing of complaints is resource intensive. A high volume of complaints could require the need for additional resources.

### **Summary of sustainability impact**

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

### **Summary of public health implications**

21. There are no public health implications arising from this report.

### **Summary of equality implications**

22. This report is for information only reporting on the outcome of councillor non-compliance following a determination of a potential breach of the Code of Conduct. As a consequence, there are no direct equalities implications arising from this report. The Code of Conduct includes a duty upon all councillors to promote equalities and not to discriminate unlawfully against any person. Equality implications are considered as an integral part of the complaints process.

### **Summary of risk assessment**

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

### **Background papers**

None

### **Appendices**

There are no appendices to this report.