

**To:** Standards Committee  
**Date:** 25 February 2019  
**Report of:** Monitoring Officer  
**Title of Report:** Code of Conduct: summary of complaints and individual dispensations – 1 September 2018 until 31 January 2019

<b>Summary and recommendations</b>	
<b>Purpose of report:</b>	<b>To advise the Committee of:</b> <ol style="list-style-type: none"><li><b>1. The number and status of complaints received under the Members' Code of Conduct which have been, or are to be, considered by the Head of Law and Governance (in her statutory capacity as the authority's Monitoring Officer) and the Independent Persons.</b></li><li><b>2. The number of dispensations to an individual member, granted under Section 33 of the 2011 Localism Act, by the Monitoring Officer, following consultation with an Independent Person.</b></li></ol>
<b>Key decision:</b>	No
<b>Recommendation:</b>	<b>That the Standards Committee notes the content of the report.</b>

## **Introduction and background**

1. In compliance with legislation relating to the standards and conduct of elected councillors, the Council has in place complaints handling arrangements to enable an individual to make a formal complaint that an elected or co-opted member of the City Council, or of a Parish Council within the City Council's area, has failed to comply with the authority's Members' Code of Conduct.
2. The Standards Committee is responsible for promoting high standards of ethical behaviour by developing, maintaining and monitoring the Members' Code of Conduct. This report from the Monitoring Officer which identifies any issues or learning points arising from the complaints received contributes to that monitoring process.

3. The key stages of the complaints handling arrangements can be summarised as:

<p><b>Initial tests</b></p>	<p>The Monitoring Officer will apply the following “initial tests” to the complaint:</p> <ul style="list-style-type: none"> <li>• It is a complaint against one or more named councillors of Oxford City Council or a Parish Council within the city boundaries;</li> <li>• The named councillor was in office at the time of the alleged conduct and the Code of Conduct was in force at the time;</li> <li>• The complaint, if proven, would be a breach of the Code under which the councillor was operating at the time of the alleged misconduct.</li> </ul>
<p><b>Assessment</b></p>	<p>The complaint will be assessed and a decision made by the Council’s Monitoring Officer in consultation with an Independent Person as to the next steps. At this stage the options open to the Monitoring Officer are:</p> <ul style="list-style-type: none"> <li>• No further action</li> <li>• Informal resolution brokered by the Monitoring Officer and/or Group Leader</li> <li>• Referred for investigation</li> <li>• Referred to the police or other regulatory agency</li> </ul>
<p><b>Investigation</b></p>	<p>A formal investigation may be conducted by an officer from Oxford City Council, an officer from another local authority or an independent investigator.</p> <p>The investigating officer will review the complaint and supporting evidence and may interview some or all of the people concerned.</p> <p>The investigating officer will then produce a draft report. The complainant and the councillor concerned will normally have an opportunity to comment on the draft report. The investigating officer will then submit the report to the Monitoring Officer.</p>
<p><b>Local Hearing</b></p>	<p>The Monitoring Officer will consider the findings of the investigation and, in consultation with the Independent Person(s), determine what action to take. At this stage the options open to the Monitoring Officer are:</p> <ul style="list-style-type: none"> <li>• Local Hearing – complaint to be determined by the Standards Committee;</li> <li>• Local Resolution - a fair resolution of the complaint which is acceptable to all parties brokered by the Monitoring Officer; or</li> <li>• No action - complaint dismissed</li> </ul>

## Complaints made against members of Oxford City Council or a Parish Council

4. In the period 1 September 2018 up to and including 31 January 2019 the Monitoring Officer dealt with the following complaints:

Ref	Date	City/Parish	Code – alleged breach in behaviour
14523	Aug 2018	Parish	N/A – employment matters
14755	Nov 2018	Parish	Honesty & Integrity Leadership General obligations
14818	Dec 2018	Parish	N/A – operational matters

5. The Monitoring Officer, in consultation with the Independent Person(s), considered the complaints and made the following decisions (a third complaint is currently being reassessed as explained in paragraph 7):

Action		Reference	
		City	Parish
<b>Assessment</b>			
• <b>No action</b>	No further action should be taken in respect of the allegation		14523 14818
• <b>Informal resolution</b>	Referred to the Monitoring Officer and/or Group Leader for informal resolution		
• <b>Investigation</b>	Referred for formal external investigation		
• <b>Referral</b>	Referred to the police or other regulatory agency		
<b>Local Hearing</b>			
• <b>Local Resolution</b>	A fair resolution of the complaint which is acceptable to all parties		
• <b>No action</b>	Complaint dismissed as no breach of the Code of Conduct		

6. The complaint (ref:14523) against members of a parish council, which was under consideration at the time of the previous report to the Standards Committee in September 2018, concerned an employment matter rather than an alleged breach of the Code of Conduct and so no further action was taken. Separate to the complaints process the Monitoring Officer did provide some mediation support to the parish council concerned.
7. Subsequently, a further two complaints were submitted by members of that same parish council. The first of these (ref: 14755) was assessed by the Monitoring Officer in consultation with an Independent Person and the decision was taken to refer the matter for investigation. However, subsequent developments within the parish council mean that the public interest in pursuing an investigation into this complaint may have changed. The Monitoring Officer is reassessing this complaint in light of recent changes.

8. The second complaint (ref: 14818) which related to operational matters within the parish council and did not identify any alleged breach of the Code of Conduct was not accepted by the Monitoring Officer.
9. No broader learning points have, as yet, been identified in relation to these complaints.

### **Dispensations granted to an individual Member**

10. The Localism Act 2011 prevents Members from participating in any business of the Council where they have a Disclosable Pecuniary Interest (DPI) unless they have sought a dispensation under Section 33 of the Act. Applications must be made in writing and dispensations may be sought for a period of up to four years.
11. On 1 October 2018 Council granted a general dispensation, to remain in force for a period of 4 years (ending on 30 September 2022), to all Oxford City Council Members and co-opted Members, to speak and vote where they would otherwise have a DPI in the following matters:

- **Determining an allowance** (including special responsibility allowances), travelling expense, payment or indemnity given to Members
- **Housing:** where the Member (or spouse or partner) holds a tenancy or lease with the Council as long as the matter does not relate to the particular tenancy or lease of the Member (their spouse or partner);
- **Housing Benefit:** where the Councillor (or spouse or partner) receives housing benefit;
- Any **Ceremonial Honours** given to Members;
- Setting the **Council Tax** or a precept under the Local Government and Finance Act 1992 (or any subsequent legislation); and
- Setting a **Local Council Tax Reduction Scheme** or Local scheme for the payment of business rates (including eligibility for rebates and reductions) for the purposes of the Local Government Finance Act 2012 (or any subsequent legislation)

12. In October 2018 Council also delegated the granting of dispensations to an individual member under Section 33 of the Localism Act 2011 to the Monitoring Officer, following consultation with an Independent Person.
13. In the period covered by this report there have been no requests for an individual dispensation under Section 33 of the Localism Act 2011.

### **Legal implications**

14. The Localism Act 2011 requires the Council to have a Code of Conduct which sets out the standards expected of Members whenever they act in their official capacity. The Code must also have in place a suitable procedure at a local level to investigate and determine allegations against elected Members and

co-opted Members. The Council is also responsible for having arrangements in place to investigate and determine allegations against Parish Councillors.

### **Financial implications**

15. There is a cost to the authority when a complaint is referred for external investigation this is determined by market factors in terms of the availability of investigators identified through complaint procurement processes.

### **Risk management**

16. If the Council fails to adopt and maintain a Code of Conduct and process for the investigation of complaints which is fit for purpose, robust and transparent then there are risks to the Council's reputation and also to the integrity of its corporate governance and decision-making processes as it will not be compliant with legislation. Formal consideration of requests for dispensation minimises the risk of the Council not following lawful procedures in respect of members' interests.

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