

To: Standards Committee
Date: 21 October 2019
Report of: Monitoring Officer
Title of Report: Code of Conduct: summary of complaints and individual dispensations – 31 May 2019 until 30 September 2019

Summary and recommendations	
Purpose of report:	To advise the Committee of: <ol style="list-style-type: none">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) in consultation with the Independent Persons.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.
Key decision:	No
Recommendation: That the Standards Committee notes the content of the report and the learning point identified.	

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:

Initial tests	The Monitoring Officer will apply the following “initial tests” to the complaint: <ul style="list-style-type: none"> • It is a complaint against one or more named councillors of Oxford City Council or a Parish Council within the city boundaries; • The named councillor was in office at the time of the alleged conduct and the Code of Conduct was in force at the time; • The complaint, if proven, would be a breach of the Code under which the councillor was operating at the time of the alleged misconduct.
Assessment	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: <ul style="list-style-type: none"> • No further action • Informal resolution brokered by the Monitoring Officer and/or Group Leader • Referred for investigation • Referred to the police or other regulatory agency
Investigation	A formal investigation may be conducted by an officer from Oxford City Council, an officer from another local authority or an independent investigator. The investigating officer will review the complaint and supporting evidence and may interview some or all of the people concerned. The investigating officer will then produce a draft report. The complainant and the subject 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.
Local Hearing	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: <ul style="list-style-type: none"> • Local Hearing – complaint to be determined by the Standards Committee; • Local Resolution - a fair resolution of the complaint which is acceptable to all parties brokered by the Monitoring Officer; or • No action - complaint dismissed

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

4. In the period 31 May 2019 up to and including 30 September 2019 the Monitoring Officer dealt with the following complaint:

Ref	Date	City/Parish	Code – alleged breach in behaviour
15202	May 2019	Oxford City	Objectivity Respect for Others Impartiality

5. The Monitoring Officer, in consultation with the Independent Person(s), considered the complaints and made the following decision in relation to Complaint (ref: 15202):

Action		Reference	
Assessment		City	Parish
• No action	No further action should be taken in respect of the allegation		
• Informal resolution	Referred to the Monitoring Officer and/or Group Leader for informal resolution	15202	
• Investigation	Referred for formal external investigation		
• Referral	Referred to the police or other regulatory agency		
Local Hearing			
• Local Resolution	A fair resolution of the complaint which is acceptable to all parties		
• No action	Complaint dismissed as no breach of the Code of Conduct		

6. The Complaint (ref: 15202) was made by a member of the public against a member of the city council concerning alleged behaviours when canvassing for the local elections in March 2019. Those local elections did not relate to Oxford City Council. The Complainant alleged that the Subject Councillor had behaved in a hostile and aggressive manner and made offensive remarks.
7. The Subject Councillor confirmed the general subject matter but their recollection of the detailed content of the conversation differed significantly from that of the Complainant.
8. The complaint was considered by the Monitoring Officer, in consultation with an Independent Person, and the Monitoring Officer was satisfied that the Subject Councillor was in office at the time of the alleged conduct, that the Code of Conduct was in force at the time and that the complaint, if proven, would be a breach of the Code under which the Subject Councillor was operating at the time of the alleged misconduct.

9. However, there was no public interest in taking the matter further as the incident was confined to the conversation between the Complainant and the Subject Councillor and the Complainant had indicated that an apology would be an acceptable outcome.
10. On that basis the Monitoring Officer decided to seek informal resolution and the Subject Councillor although not admitting the words and sentiments attributed to them agreed to provide a letter of apology which has been sent to the Complainant along with a copy of the Monitoring Officer's Decision Notice.
11. The Monitoring Officer's Decision Notice has been placed on the case file and also sent to the Subject Councillor.
12. A broader learning point identified in relation to this complaint was that when a Councillor is undertaking canvassing on behalf of a political party and refer to themselves as a Councillor it is probable that they will have engaged the Code of Conduct.

Dispensations granted to an individual Member

13. 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.
14. 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/Universal Credit**: 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)

15. 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.
16. 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

17. 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

18. 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

19. 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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