

To: Standards Committee
Date: 2 March 2020
Report of: Monitoring Officer
Title of Report: Code of Conduct: summary of complaints and individual dispensations – 30 September 2019 to 31 January 2020

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 Localism Act 2011, by the Monitoring Officer, following consultation with an Independent Person.
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:

<p>Initial tests</p>	<p>The Monitoring Officer will apply the following “initial tests” to the complaint:</p> <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.
<p>Assessment</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"> • 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
<p>Investigation</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 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.</p>
<p>Local Hearing</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"> • 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. The Monitoring Officer received no complaints against members of the City Council or a Parish Council in the period 30 September 2019 to 31 January 2020.

Dispensations granted to an individual Member

5. 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.
6. 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)

7. 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.
8. In the period covered by this report there has been one request for an individual dispensation under Section 33 of the Localism Act 2011.
9. This was a request from the Lord Mayor in respect of the Council meeting held on 27 January 2020.
10. The background to this request for a dispensation is recorded in the Minutes of the Council meeting held on 27 January 2020:

The Monitoring Officer gave the following advice about whether members of Council who are landlords or tenants in the private rented sector could

participate in the debate and vote on Motion 2: Licensing Private Rented Sector Homes:

Members' property interests will be included in their Register of Interests, which is a matter of public record (with the exception of any sensitive interests).

The Members' Code of Conduct states that where any matter disclosed in a councillor's Register of Interests is being considered at a meeting, "the councillor must declare that he or she has an interest...If the councillor has a disclosable pecuniary interest, after having declared it at the meeting he or she must not participate in discussion or voting on the item and must withdraw from the meeting whilst the matter is discussed". (Constitution 22.5(d))

The matter to be considered is whether the Council should in principle continue to seek government agreement to bring forward plans for a city-wide licensing scheme covering the whole private rented sector. This motion is not considering any individual properties and therefore I take the view that it is premature for members to be required to declare an interest and leave the meeting.

If and when members are asked to consider and decide upon the details of a specific scheme, this would bring into play members' property interests in the private rented sector and each affected property owned by a member would at that stage be a disclosable pecuniary interest.

The Lord Mayor noted the advice provided but said that, as he was a landlord in the city and in the interests of transparency, he had requested and received a dispensation from the Monitoring Officer to allow him to chair the debate but abstain from the vote.

11. This request for a dispensation raises a number of interesting "learning" points. The Lord Mayor first raised his concerns and sought a dispensation during the briefing meeting held immediately before the Full Council meeting. Given those time constraints the Monitoring Officer was unable to consult with one of the Council's Independent Persons before deciding whether or not to grant the dispensation. In summary the Monitoring Officer advised that she did not need to grant a dispensation as there was no interest to declare.
12. However, the Lord Mayor chose not to accept the Monitoring Officer's advice and repeated his request for a dispensation on the basis that he would be presiding at the meeting.
13. It should be noted that other members, known to be landlords in the city, chose to accept the advice given by the Monitoring Officer to the Council meeting.
14. Following the Council meeting the Monitoring Officer consulted with an Independent Person who confirmed the agreement with the steps the Monitoring Officer had taken.

Legal implications

15. 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 and arrangements to deal with requests for dispensations. The Council is also responsible for having arrangements in place to investigate and determine allegations against Parish Councillors.

Financial implications

16. 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

17. 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.

Report author	Catherine Phythian
Job title	Committee and Members Services Officer
Service area or department	Law and Governance
Telephone	01865 252402
e-mail	cphythian@oxford.gov.uk

This page is intentionally left blank