

To: Standards Committee
Date: 2 March 2022
Report of: Head of Law and Governance
Title of Report: Code of Conduct: summary of complaints and individual dispensations – 1 November 2021 until 31 January 2022

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) and 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.	

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 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. In the period 1 November 2021 up to and including 31 January 2022 the Monitoring Officer dealt with the following three complaints concerning a total of seven city councillors. A complaint received in August 2021 concerning a parish councillor, which was referenced in a report to the previous meeting of the Standards Committee, remains at the investigation stage.

Ref	Received	City/Parish	Code – alleged breach in behaviour
0017417	Sept 2021	City	<ul style="list-style-type: none"> • Accountability • Respect for others • Professional advice
0017655	Nov 2021	City	<ul style="list-style-type: none"> • Accountability • Honesty and Integrity • Respect for others
0017848	Dec 2021	City	<ul style="list-style-type: none"> • Accountability • Openness • Honesty and integrity • Respect for others • Confidential information

5. The Monitoring Officer, in consultation with the Independent Person(s), considered the complaints and made the following decisions:

Action		Reference	
Assessment		City	Parish
• No action	No further action should be taken in respect of the allegation	2	
• Informal resolution	Referred to the Monitoring Officer and/or Group Leader for informal resolution	1	
• 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		

Summary of complaints and learning points

6. Complaint #0017417 concerned the alleged failure of two councillors to respond to correspondence regarding noise nuisance. The Monitoring Officer took into account a number of factors including known ICT issues affecting some councillors' email accounts, the fact it was over the holiday period, and a misunderstanding about whether officers were dealing with the matter. The Monitoring Officer concluded that the conduct complained of was not sufficiently

serious for any action to be taken but proposed that the subject councillors make contact with the complainant to see whether there were any other outstanding ward matters that they could assist the complainant with.

7. Complaint #0017655 concerned the alleged failure of a councillor to respond to correspondence relating to a planning application. The planning application was not in the subject councillor's ward but was a matter in which the Council had some responsibilities and the Monitoring Officer considered that there was a nexus between the correspondence and the subject councillor's role as an elected member of the Council. The subject councillor advised that they had not received the emails at the time but had since found them. The Monitoring Officer took into account the fact that the subject councillor had been in the practice of relying on auto forwarding of councillor emails to a personal email account. This practice is contrary to Council advice and indeed the Council has recently made changes to its procedures around auto forwarding which may or may not have affected the receipt of these emails. The Monitoring Officer concluded that the matter could be resolved by requiring the subject councillor to apologise, respond to the outstanding correspondence, and receive advice and support from the Council's data protection officer and ICT officers concerning the management of Council emails. The key learning point is the need for all councillors to have suitable arrangements in place for accessing their "councillor" email accounts. A second learning point is that councillors will be expected to respond to correspondence relating to any matter in which the Council has some responsibilities, not just matters that affect a councillor's local ward, committees, or any special responsibilities.
8. Complaint #0017848 alleged that four councillors failed to respond to correspondence. The Monitoring Officer took into account that she had personally advised some councillors not to respond to further correspondence from the complainant and that she had written to the complainant asking them to desist from contacting councillors further about non Council related matters. The Monitoring Officer concluded that in one case the subject councillor was not acting in capacity since the emails were sent to their personal email account, did not relate to Council business and nor had any nexus with the subject councillor's role as a councillor. In the three other cases the Monitoring Officer concluded that the complaints could be considered to be trivial and were probably vexatious.

Dispensations granted to an individual Member

9. 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.
10. 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)

11. 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.
12. 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

13. 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

14. 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

15. 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	Andrew Brown
Job title	Committee and Members Services Manager
Service area or department	Law and Governance
Telephone	01865 252230
e-mail	abrown2@oxford.gov.uk