

To: Standards Committee
Date: 11 July 2022
Report of: Head of Law and Governance
Title of Report: Code of Conduct: summary of complaints and individual dispensations – 1 February 2022 until 31 May 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) in consultation with the Independent Person.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 February 2022 up to and including 31 May 2022 the Monitoring Officer dealt with the following five complaints concerning twenty city councillors and one parish councillor. A complaint received in August 2021 concerning a parish councillor, which was referenced in a report to the previous meeting of the Standards Committee, is subject to a Local Hearing Panel to be held following this Standards Committee meeting.

Ref	Received	City/Parish	Code – alleged breach in behaviour
0017982	March 2022	City	<ul style="list-style-type: none"> • Accountability • Respect for others • Confidential Information
0018058	March 2022	Parish	<ul style="list-style-type: none"> • Respect for others • Bullying
0018156	May 2022	City	<ul style="list-style-type: none"> • Selflessness • Objectivity • Accountability • Openness • Honesty and Integrity • Leadership • Respect for others • Bullying • Impartiality • Confidential Information • Knowledge • Professional advice • Council resources • Registering and declaring interests
0018166	May 2022	City	<ul style="list-style-type: none"> • Selflessness • Objectivity • Accountability • Openness • Honesty and Integrity • Respect for others • Impartiality • Knowledge
018244	May 2022	City	<ul style="list-style-type: none"> • Selflessness • Objectivity • Accountability • Openness • Honesty and Integrity • Leadership • Respect for others • Bullying • Impartiality • Confidential Information

			<ul style="list-style-type: none"> • Knowledge • Professional advice • Council resources • Registering and declaring interests
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5. The Monitoring Officer, in consultation with the Independent Person(s), considered the complaints and made the following decisions:

Action		Reference	
		City	Parish
Assessment			
• No action	No further action should be taken in respect of the allegation	2	
• Informal resolution	Referred to the Monitoring Officer for informal resolution	1	
• Investigation	Referred for investigation		1
• Referral	Referred to the police or other regulatory agency	1	
Local Hearing			
• Local Resolution	Complaint upheld as a breach of the Code of Conduct		
• No action	Complaint dismissed as no breach of the Code of Conduct		

Summary of complaints and learning points

6. Complaint #0017982 concerned the alleged use of confidential information from a non-open register. The Monitoring Officer took into account a number of factors including that the information was imparted during a debate via a community page on Facebook, and that this information was readily available for all those who contributed. The Monitoring Officer concluded that the complaint was not sufficiently serious for any action to be taken other than a private apology to the Complainant and dismissal of the complaint.
7. Complaint #0018058 concerned the alleged use of aggressive and threatening behaviour during telephone and emailed conversations with a Council, which was in breach of the Parish Council's Code of Conduct (para 9) and it's Member and Officer Protocol (para 3.2.d) which states that officers can expect from councillors respect, dignity and courtesy. The Monitoring Officer took into account the evidence presented, which if proven would likely amount to a breach. The Monitoring Officer also considered if an informal resolution by way of an apology would be an appropriate action in circumstances where a Subject Councillor accepted that there had been wrongdoing on their part. It was noted that the Subject Councillor did not appear to accept any wrongdoing on their part and had stated the complaint was racially motivated and therefore deemed appropriate that this be followed up further in an investigation. Therefore, the Monitoring Officer concluded that the time and cost involved in an investigation would be justified in these circumstances.

8. Complaint #0018156 concerned the alleged unlawful use of undercover intelligence surveillance, participation of secret court proceedings and refusal to answer questions. The Monitoring Officer took into account the limited information provided by the Complainant, and that several code of conduct complaints had been received over recent months, none of which had been proven or upheld, which pointed to a pattern of behaviour that the complaint may be vexatious, malicious, or trivial. The Monitoring Officer concluded that this complaint alleging that the Subject Councillors have breached the Code of Conduct was probably vexatious i.e. a groundless complaint made with an adverse primary intent to cause distress, detriment or harassment to the subject members; or alternatively it may be that the complaint was brought maliciously in the knowledge that there is no merit to it, or at the very least, it could be considered to be trivial, and therefore was dismissed and no further action taken.
9. Complaint #0018166 concerned alleged fabricated evidence to persuade the electorate to vote against the complainant. The Monitoring Officer took into account that adequate information had been provided, however noted that the complainant alleged that either the Subject Member or the political group were responsible for the tweet referenced in the complaint. The Monitoring Officer also noted that election campaigning does not relate to Council business, and therefore considered that the Subject Member was not acting in their capacity as a Councillor, that the code of conduct was not engaged at the relevant time and that the Council had no jurisdiction to consider the complaint. The Monitoring Officer concluded that the complaint be referred to Thames Valley Police for consideration and that no further action taken by the Council under the code of conduct as the Subject Member was not acting in capacity as a Councillor at the relevant time and therefore the Council had no jurisdiction.
10. Complaint #0018244 concerned the allegation that a false PREVENT report had been filed and that Councillors had engaged in a multi-year campaign to have the Complainant assassinated, shared data with foreign agents, unlawfully hacked personal devices and had been monitored/followed in collusion with Thames Valley Police. The Monitoring Officer took into account that there was no evidence to suggest that the Subject Councillors were acting in their capacity as councillors at the relevant time and that the Council had no jurisdiction as the Code of Conduct was not engaged, no evidence had been provided to substantiate the alleged claims and that the complaint had been made to be vexatious i.e. a groundless complaint made with an adverse primary intent to cause distress, detriment or harassment to the subject members; or alternatively that the complaint was brought maliciously in the knowledge that there is no merit to it, or at the very least, it could be considered to be trivial. The Monitoring Officer concluded that there was a suggestion of potential criminal activity within the complaint and advised the Complainant to go through the correct channels (i.e. Thames Valley Police) should the Complainant wish to pursue the matter and that the complaint be dismissed.

Dispensations granted to an individual Member

11. 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.
12. 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)

13. 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.
14. 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

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. 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.

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