

To: Standards Committee
Date: 23 November 2022
Report of: Head of Law and Governance
Title of Report: Code of Conduct: summary of complaints and individual dispensations – 1 June 2022 until 31 October 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 June 2022 up to and including 31 October 2022 the Monitoring Officer dealt with the following three complaints concerning three city councillors and two parish councillors. This includes the conclusion of a complaint received in August 2021 concerning a parish councillor, which was referenced in a report to the previous meeting of the Standards Committee, and was subject to a Local Hearing Panel as reported below.

Ref	Received	City/Parish	Code – alleged breach in behaviour
0017352	August 2021	Parish	<ul style="list-style-type: none"> • Respect for others • Bullying
0018243	June 2022	City (2)	<ul style="list-style-type: none"> • Objectivity • Accountability • Honesty and Integrity • Leadership • Respect for others • Impartiality • Knowledge • Council resources
0018644	October 2022	Parish	<ul style="list-style-type: none"> • Accountability • Honesty and Integrity • Respect for others • Bullying • Confidential information • Knowledge

5. The status of a separate complaint (#0018058) made in March 2022 concerning a parish councillor was reported to the Standards Committee in July 2022; this complaint was referred for investigation, which found the need for a Local Hearing Panel to be convened. An update on the status of the complaint will be reported to a future meeting of the Standards Committee. In addition, two complaints concerning two parish councillors (#018387 and #018576) were received in July and September 2022 which are at the assessment stage; an update on their status will be reported to a future meeting of the Standards Committee.
6. The Monitoring Officer, in consultation with the Independent Person(s), considered the complaints contained in the table above and made the following decisions:

Action		Reference	
Assessment		City	Parish
• No action	No further action should be taken in respect of the allegation	1	
• Informal resolution	Referred to the Monitoring Officer for informal resolution	1	
• Investigation	Referred for investigation		

• Referral	Referred to the police or other regulatory agency		
Local Hearing			
• Sanction Imposed	Complaint upheld as a breach of the Code of Conduct	1	
• No action	Complaint dismissed as no breach of the Code of Conduct		

Summary of complaints and learning points

7. Complaint #0017352 concerned the allegation that a Parish Councillor had breached the Member and Officer Protocol para 3.2.d which states that officers can expect from councillors respect, dignity and courtesy. The case was assessed by the Monitoring Officer and Independent Person and referred for further investigation. Following completion of the investigation report, a Local Hearing Panel of the Standards Sub-Committee was convened. The Panel upheld the complaint as a breach of the Code of Conduct and the decision notice was published on the Oxford City Council website.
8. Complaint #0018243 concerned complaints from five Complainants that two City Councillors had posted comments on the social media platform, Twitter, on 28 May 2022, relating to Low Traffic Neighbourhoods (LTNs) that amounted to the condoning of vandalism to highways furniture. The Monitoring Officer was of the view that although the Tweets demonstrated a lack of judgement, concluded that there was not a breach of the Code of Conduct as it does not prevent Councillors from expressing their views in an appropriate manner. Both Tweets had been removed as soon as the Councillors were aware that they had been misinterpreted and no further action taken.
9. Complaint #0018644 concerned an allegation that a Parish Councillor had made a false claim on a social media site which included the use of demeaning and disparaging language. The Monitoring Officer considered that the complaints were minor allegations of which had been resolved between the Councillors via the social media site, and there would not be sufficient public interest to justify the time and costs involved in an investigation into this matter. The Monitoring Officer concluded that the appropriate outcome would be a private apology made through the Monitoring Officer within an appropriate timescale and a recommendation that both Councillors attend social media training.

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/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)

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.
14. The general dispensation expired on 30 September 2022, therefore a recommendation to Council to grant a further general dispensation and delegation of the granting of dispensations to an individual member under Section 33 of the Localism Act 2011 to the Monitoring Officer will be sought from the Standards Committee.

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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