

**To:** Standards Committee  
**Date:** 22 March 2023  
**Report of:** Head of Law and Governance  
**Title of Report:** Code of Conduct: summary of complaints and individual dispensations – 1 November 2022 until 31 January 2023

| <b>Summary and recommendations</b>                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| <b>Purpose of report:</b>                                                            | To advise the Committee of: <ol style="list-style-type: none"><li>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 one of the Council's Independent Persons.</li><li>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.</li></ol> |
| <b>Key decision:</b>                                                                 | No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Recommendation: That the Standards Committee notes the content of the report.</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

## 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 Council, or of a parish council within the 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><b>Initial tests</b></p> | <p>The Monitoring Officer will apply the following “initial tests” to the complaint:</p> <ul style="list-style-type: none"> <li>• It is a complaint against one or more named councillors of Oxford City Council or a parish council within the city boundaries;</li> <li>• The named councillor was in office at the time of the alleged conduct and the Code of Conduct was in force at the time;</li> <li>• The complaint, if proven, would be a breach of the Code under which the councillor was operating at the time of the alleged misconduct.</li> </ul>           |
| <p><b>Assessment</b></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"> <li>• No further action</li> <li>• Informal resolution brokered by the Monitoring Officer and/or Group Leader</li> <li>• Referred for investigation</li> <li>• Referred to the police or other regulatory agency</li> </ul>                                                                                 |
| <p><b>Investigation</b></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><b>Local Hearing</b></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"> <li>• Local Hearing – complaint to be determined by the Standards Committee;</li> <li>• Local Resolution - a fair resolution of the complaint which is acceptable to all parties brokered by the Monitoring Officer; or</li> <li>• No action - complaint dismissed</li> </ul>                            |

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

4. In the period 1 November 2022 up to and including 31 January 2023 the Monitoring Officer dealt with the following seven complaints concerning three city councillors and two parish councillors. This includes the conclusion of a complaint received in March 2022 (#18058) 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.
5. The Monitoring Officer, in consultation with the Independent Person(s), considered the complaints contained in the table above and made the following decisions:

| Ref     | Received      | City/Parish | Code – alleged breach in behaviour                                                                                                                                                                                                                                                                     | Action taken        |                     |
|---------|---------------|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------|
|         |               |             |                                                                                                                                                                                                                                                                                                        | Complaint heard at: | Outcome:            |
| 0018058 | March 2022    | Parish      | <ul style="list-style-type: none"> <li>• Respect for others</li> <li>• Bullying</li> </ul>                                                                                                                                                                                                             | Local Hearing       | Sanctions imposed   |
| 0018387 | July 2022     | Parish (2)  | <ul style="list-style-type: none"> <li>• Objectivity</li> <li>• Honesty and Integrity</li> <li>• Leadership</li> <li>• Respect for others</li> <li>• Bullying</li> </ul>                                                                                                                               | Assessment          | Informal resolution |
| 0018576 | Sept 2022     | Parish      | <ul style="list-style-type: none"> <li>• Bullying</li> </ul>                                                                                                                                                                                                                                           | Assessment          | Informal resolution |
| 0018780 | Nov 2022      | City (2)    | <ul style="list-style-type: none"> <li>• Selflessness</li> <li>• Objectivity</li> <li>• Accountability</li> <li>• Openness</li> <li>• Honesty and Integrity</li> <li>• Leadership</li> <li>• Respect for others</li> <li>• Impartiality</li> <li>• Knowledge</li> <li>• Professional advice</li> </ul> | Assessment          | No further action   |
| 0018782 | November 2022 | City        | <ul style="list-style-type: none"> <li>• Accountability</li> <li>• Respect for others</li> <li>• Bullying</li> <li>• Impartiality</li> <li>• Professional advice</li> </ul>                                                                                                                            | Assessment          | No further action   |

### Summary of complaints and learning points

6. Complaint #0018058 concerned the allegation that a parish councillor had breached the Member Code of Conduct and the local Member and Officer Protocol para 3.2.d for the parish council 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. At this stage, there has been no response from the Parish Council that any of the sanctions imposed have been carried out.

7. Complaint #0018387 concerned two complaints from one Complainant that two parish councillors had posted comments on social media platforms, both relating to Low Traffic Neighbourhoods (LTNs). The first on Facebook, that was aggressive and bullying in nature, and the second on Twitter that was not acceptable for a local representative. The Monitoring Officer was of the view that the posts demonstrated disrespect and poor taste, and concluded that there was a breach of the Code of Conduct and both councillors would benefit from social media training, be asked to remove the posts and should make a formal apology to the Complainant via the same social media platform. In the case of the first complaint, as far as the Monitoring Officer is aware, no such remedies have been carried out, and the second complaint was subsequently dismissed as the parish councillor had resigned.
8. Complaint #0018576 concerned an allegation that a parish councillor had made incorrect public statements about the Complainant, and that the Complainant had reported the parish councillor to the police in April 2022 for Treating during the local election campaign. The Monitoring Officer, in consultation with the Independent Person considered that the statements, made on such a public platform, were in poor taste and inappropriate conduct for a parish councillor. The Monitoring Officer also advised that no evidence had been provided by the parish councillor to support the allegations that had been made on Twitter. The Monitoring Officer concluded that the appropriate outcome would be a public apology (through the same social media platform) copying in the Monitoring Officer within 14 days, and a recommendation that the parish councillor attend social media training. At this date, no confirmation that this had been carried out has been received by the Monitoring Officer.
9. Complaint #0018780 concerned two complaints from one Complainant that two councillors had ignored the Complainant at a public meeting. The Complainant also alleged that one councillor had knowingly parked her bike outside a Polling Station on election day displaying campaign materials. The Monitoring Officer, whilst finding it regrettable that the Complainant had felt both councillors' actions to be disrespectful and humiliating, dismissed the complaints. However, the Monitoring Officer requested both councillors to make voluntary contact with the Complainant to see if there were any constituency matters they could assist with. At this date, the Monitoring Officer can confirm that this has been carried out. The Monitoring Officer also concluded that in the councillor who had knowingly parked her bike outside a Polling Station, was not acting in her capacity as a councillor at the time of the incident, and that the action had been acted on by the Presiding Officer of that Polling Station at the time, therefore no further action was required.
10. Complaint #0018782 concerned an allegation that a councillor had acted unlawfully when blocking a public highway in the city on 14 November 2022, evidenced via a public recording of the incident on Facebook. The Monitoring Officer considered the nature of the complaint to be of a serious nature, however the evidence provided did not corroborate the allegation made. The Monitoring Officer also noted that the Complainant was not involved in the

alleged incident, and the recorder of the alleged incident was unknown, and therefore the Councillor would be unable to make any sort of apology, if found to be warranted. The Monitoring Officer therefore dismissed the complaint, with no further action to be taken.

### **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 2022 Council granted a general dispensation, to remain in force for a period of 4 years (ending on 30 September 2026), 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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