

To: Standards Committee
Date: 10 July 2023
Report of: Head of Law and Governance
Title of Report: Code of Conduct: summary of complaints and individual dispensations – 1 February 2023 until 30 June 2023

| Summary and recommendations | |
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| 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 one of the Council's 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 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:

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| <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 2023 up to and including 30 June 2023 the Monitoring Officer dealt with the following four complaints concerning three city councillors and one parish councillor.
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: |
| 0019150 | Feb 2023 | City | <ul style="list-style-type: none"> • Objectivity • Honesty and Integrity • Bullying • Confidential Information | Assessment | Dismissal |
| 0019314 | May 2023 | Parish | <ul style="list-style-type: none"> • Objectivity • Leadership | Assessment | Informal resolution |
| 0019318 | May 2023 | City (2) | <ul style="list-style-type: none"> • Objectivity • Accountability • Honesty and Integrity • Selflessness • Respect for others • Impartiality • Knowledge | Assessment | Dismissal |

Summary of complaints and learning points

6. Complaint #0019150 concerned the allegation that a city councillor had made a tweet that had referenced a private communication, sent to them in error, which had resulted in the subject reference being forced into making a humiliating public apology via the press. The Interim Monitoring Officer considered the case, in consultation with the Independent Person, and found that whilst the content of the email was offensive in nature, and the subject councillor's actions to 'call out' that behaviour was not unreasonable, it would not be appropriate for political debate to be censured. Therefore, the Interim Monitoring Officer dismissed the complaint, with no further action to be taken.
7. Complaint 0019314 concerned an allegation that a parish councillor had published a post on social media, calling for members of the public to commit crime, specifically damaging or destroying ANPR camera used to enforce Low-Traffic Neighbourhoods (LTN's). The case was assessed by the Interim Monitoring Officer, in consultation with the Independent Person, and considered that, whilst mindful of the content of the post, when taken out of context and in its entirety, could not be considered as inciting an illegal act. On receiving clarification of the post, from the Subject Councillor, the Monitoring Officer resolved the complaint through agreement with the Subject Councillor who had clarified the position via social media. This had since been actioned.

8. Complaint #0019318 concerned an allegation that two city councillors had engaged in the obstruction of the highway outside a city school by placing cones across the road in an attempt to alert approaching motorists that the ANPR cameras installed at the location had gone live. The Interim Monitoring Officer considered the case, in consultation with the Independent Person and found that the actions had been undertaken when they reasonably believed that the volunteers' use of cones to highlight a road closure was practically beneficial and that such actions were not illegal. The Interim Monitoring Officer noted that the actions had ceased when it came to light that it was an illegal act, and therefore dismissed the complaint.

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 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)

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.

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