

Audit, Governance and Standards Committee

24 July 2019

Member Code of Conduct Annual Report

Interim Assistant Director of Law & Governance & Monitoring Officer

Purpose

- (1) To report to the Committee a summary of the Code of Conducts complaints received by the Council's Monitoring Officer during 2017 & 2018;
- (2) To recommend the renewal of the appointment of the Independent Persons for a further 5 year term;
- (3) To report to the Committee on the recent Report of the Committee on Standards in Public Life ("CSPL")

Recommendations

To **Resolve** that -

1. the contents of this Report be noted.
2. the existing appointment of the Independent Persons be continued to 1st March 2024: and
3. the recommendations in the report of the Committee on Standards in Public Life be noted

Code of Conduct Complaints

1. Section 27 of the Localism Act 2011 requires that relevant authorities have a statutory duty to promote and maintain high standards of conduct by Members and co-opted Members of the authority.
2. Authorities are required to adopt a Code dealing with the conduct that is expected of Members when they are acting in that capacity. A copy of the Council's current Code of Conduct is set out at **Annex 1**.
3. Section 28 of the Localism Act 2011 requires that Councils in England have in place arrangements under which allegations can be investigated and on which decisions on allegations can be made.
4. The Act requires that such arrangements must include provision for such decisions to be considered by an 'independent person'.
5. A copy of the Council's current Complaints Procedure is set out at Annex 4 to the Code of Conduct attached at Annex 1 to this agenda.

Summary of Complaints

6. **Number of Complaints** - The number of complaints received by the Monitoring Officer has remained largely similar over the last few years, although complaints in 2019 YTD indicate a small increase if extrapolated to the end of the year.

No of Complaints 2017	No of Complaints 2018	No of Complaints 2019 YTD
8	9	11

7. **Complaints by Complainant** - Most complaints are made either by Members against other Members of different groups or by members of the public. Some members of the public have made multiple complaints

	2017	2018	2019 YTD
Complaints by Members against Members of different groups	3	5	4
Complaints by Members against Members of the same group	0	0	0
Complaints by members of the public	4 (3 by the same person)	4	7 (4 by the same person)

8. **Types of Complaint** - Whilst it is not possible to identify particular trends in the nature of the complaints made (and some complaints may include multiple complaints), the following broad types of complaint have been received:

Nature of Complaint	2017	2018	2019 YTD
Public statements including social media / website / internet / email comment	4	5	4

Unacceptable Conduct at Council/Committee	1	2	1
Conflict of interest	0	2	0
Breach of Member-Officer Protocol	0	0	2
Breach of data Protection rules	0	0	1
Other / miscellaneous	3	0	3

9. **Formal investigation of complaints** - Complaints are subject to a 2-stage consideration in accordance with the current procedure. The first stage requires preliminary consideration of the complaint, in consultation with the Independent Person, to decide whether the complaint requires formal investigation.
10. Formal investigation will include the appointment of an Investigating Officer to report to the Monitoring Officer, who will then report to the Standards sub-committee as to whether

	2017	2018	2019 YTD
Complaint rejected at preliminary stage	8	7	5
Complaints requiring formal investigation	0	0	0
Complaints awaiting consideration	0	1	6

11. The Committee will note that one complaint from 2018 is still awaiting consideration. This complaint was stayed was recently reactivated (after rejection of a proposal to reach a mutually agreed informal resolution) and is now under consideration. It is expected that the outstanding complaint will have been considered by the Committee meeting and the Committee will updated on this at the meeting.
12. More generally a number of complaints have suffered delays as a result of change in Monitoring Officers / Interim Monitoring Officers since 2017, and others due to extraneous factors such as external investigations/processes. New procedures have been put into place to improve efficiency in the resolution of complaints, including the appointment of a second Deputy Monitoring Officer at the end of 2018.

13. In addition, the Monitoring Officer is currently conducting a review of the Code of Conducts Procedure with a view to improving the complaints resolution procedure and to provide additional clarity, and a report will be brought to Committee in September

Appointment of Independent Persons

14. Section 28(7) of the Localism Act 2011 provides:
Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person—
(a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and
(b) whose views may be sought—
(i) by the authority in relation to an allegation in circumstances not within paragraph (a),
(ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and
(iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.
15. The Council has appointed two Independent Persons since 2012, being Andy Elmer and Damian Quinn. The Independent Persons are usually appointed for terms of 5 years and their appointment has been renewed on one occasion some years ago.
16. It is recommended that the tenure of the Independent Persons be renewed for a further 5 years from 1st March 2019.

Report to Government and 'best practice' recommendations to local authorities from the Committee on Standards in Public Life report on Local Government Ethical Standards

17. The Committee on Standards in Public Life (CSPL) is an advisory non-departmental public body sponsored by the Cabinet Office. The chair (Lord Evans of Weardale) and members are appointed by the Prime Minister. The Committee was established in 1994 and is responsible for promoting the seven principles of public life. Its Terms of Reference have evolved since its formation. The CSPL is committed to ensuring high standards of conduct in local government in order to protect the integrity of decision-making, maintain public confidence and safeguard local democracy.
18. A copy of the Committee's report on Standards in Public Life, published on 30 January 2019, is set out at **Annex 2**. This Committee is invited to comment on and discuss the recommendations.

19. This report is the 20th to be published by the CSPL since its formation and its primary focus was to review the effectiveness of the current arrangements for standards in local government, particularly in light of the changes made by the Localism Act 2011. The Terms of Reference for this review were:
 - a. Examine the structures, processes and practices in local government in England for:-
 - i. Maintaining codes of conduct for councillors
 - ii. Investigating alleged breaches fairly and with due process
 - iii. Enforcing codes and imposing sanctions for misconduct
 - iv. Declaring interests and managing conflicts of interest
 - v. Whistleblowing
 - b. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
 - c. Make any recommendations for how they can be improved; and
 - d. Note any evidence of intimidation of councillors and make recommendations for any measures that could be put in place to prevent and address such intimidation
20. The report makes 26 separate recommendations, mainly to Government but some to the Local Government Association, local authorities, parish councils and political parties/groups.
21. A number of the report's recommendations would require changes to primary and secondary legislation. All 26 recommendations are important and most will have impact on the Council. Of particular significance, however, are the recommendations for:-
 - a new model code of conduct (Recommendation 1);
 - the proposed repeal of Section 31 of the Localism Act (pecuniary interests) (Recommendation 7);
 - local authorities to have the power to appoint a standards committee with voting independent members (Recommendation 12);
 - the power for Councils to suspend councillors, without allowances, for up to six months (Recommendation 16); and
 - the proposed abolition of the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests (Recommendation 18).
22. The report also makes a number of best practice recommendations for local authorities. It is considered that Kingston's approach to ethical standards is largely compliant with these recommendations, although further work is currently being undertaken with regard to the accessibility of the Code and supporting complaints procedures and guidance on the Council's website.

23. The Committee is invited to discuss the CSPL report recommendations and best practice guidance.

Resource Implications

24. The Council is obliged to make sufficient funds available for the discharge of functions by the Monitoring Officer. The appointment of Independent Persons is an unpaid role.

Legal Implications

25. The legal background is set out at the beginning of this Report. There are no additional legal implications

Equalities Impact Assessment

26. None required

Background Papers -

- None other than those referred to in this report

Author of report -

Marie Rosenthal, Interim Director of Governance & Law