



Standards Committee

Date **Friday 2 September 2022**

Time **9.30 am**

Venue **Committee Room 1A , County Hall, Durham**

Business

Part A

Items which are open to the Public and Press

1. Apologies for Absence
2. Declarations of Interest, if any
3. Minutes of the Meeting held on 10 June 2022 (Pages 3 - 8)
4. Annual Report of the Standards Committee 2021/2022 (Pages 9 - 18)
5. National Picture (Pages 19 - 24)
6. Code of Conduct Update (Pages 25 - 34)
7. Such other business as in the opinion of the Chairman of the Meeting is of sufficient urgency to warrant consideration.

Helen Lynch

Head of Legal and Democratic Services

County Hall
Durham
24 August 2022

To: The Members of the Standards Committee

Councillors M Abley, J Atkinson, L Maddison, L Mavin, J Nicholson,
A Savory, Smith, T Smith, T Stubbs, F Tinsley and C Varty

Parish and Town Council Co-opted Representatives

Councillors T Batson and R Harrison

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DURHAM COUNTY COUNCIL

STANDARDS COMMITTEE

At a Meeting of **Standards Committee** held in Committee Room 1A , County Hall, Durham on **Friday 10 June 2022 at 9.30 am**

Present:

Councillor J Nicholson (Chair)

Members of the Committee:

Councillors J Atkinson, L Maddison (Vice-Chair), A Savory, T Smith, T Stubbs and C Varty

Co-opted Members:

Town Councillor T Batson

1 Apologies for Absence

Apologies for absence were received from Councillors M Abley, L Mavin, G Smith and Parish Councillor R Harrison.

2 Declarations of Interest

There were no declarations of interest.

3 Minutes

The Minutes of the meeting held on 11 March 2022 were agreed as a correct record and signed by the Chair.

4 Committee Work Programme

The Committee considered a report of the Head of Legal and Democratic Services and Monitoring Officer which asked Members to consider progress against the Work Programme for 2021/2022 and sought agreement to the proposed Work Programme for 2022/2023 (for copy see file of Minutes).

The Governance Lawyer was in attendance to present the report and advised Members that there was no requirement for the Committee to have a work

programme but it was considered to be good practice to demonstrate the work done by the Committee in promoting and maintaining high standards of ethical conduct throughout the year.

A copy of the Work Programme for 2021/22 was circulated. In addition to the meetings reported there had been an informal meeting of the Standards Committee on 15 February 2022 for Members of the Committee to consider the arrangements for the appointment of the Co-opted Members of the Standards Committee.

The Standards Committee undertook a review of the local assessment procedure and process to allow the introduction of a do it online form available through the Council website, that was now operational.

A copy of the Work Programme for 2022/23 had been circulated with the report. It was proposed that there was a review of the local determination procedure to ensure that it remained fit for purpose, legally compliant and consistent with best practice.

Town Councillor T Batson commented on the arrangements for the appointment of the Co-opted Members. The Head of Legal and Democratic Services and Monitoring Officer advised that the matter had been discussed at the previous meeting where the process was documented for CDALC to invite expressions of interest for town/parish council representatives to sit on the Standards Committee.

Resolved:

- (i) That progress against the Work Programme for 2021/2022 be noted.
- (ii) That the proposed Work Programme for 2022/2023 as attached at Appendix 3 of the report, be agreed.

5 National Picture

The Committee considered a report of the Head of Legal and Democratic Services and Monitoring Officer which informed Members of the national picture on standards issues affecting Local Government (for copy, see file of minutes).

The Head of Legal and Democratic Services and Monitoring Officer was in attendance to present the report and referred to the costs of the investigation for Handforth Town Council which was considered to be disproportionate when considered alongside the potential sanctions. The Principal Authority had a statutory obligation to investigate and was unable to recover costs of investigations.

The Head of Legal and Democratic Services and Monitoring Officer then referred to the case study from Wrexham County Borough, which operated under the Welsh standards regime which was different to the regime in England. In Wales, there was the power to suspend Councillors and there was a right of appeal. It was helpful for the Committee to have an awareness of issues arising in other jurisdictions and this may help inform any future consultation exercise in relation to the standards regime in England.

On 18 March 2022 the Government provided its response to the Committee for Standards in Public Life (CSPL) report into local government ethical standards. A copy of the Government's full response to all the recommendations had been circulated with the report. The Government was not minded to amend the legislation to require all Councils to adopt a model code but noted that the Local Government Association (LGA) had produced a model code, but it was for individual Councils to determine whether or not to adopt it.

The Standards Committee had previously considered the model code and decided not to adopt the model but ensure that the Council's code reflected all of the CSPL best practice recommendations.

The Head of Legal and Democratic Services and Monitoring Officer outlined the Government response to the CSPL review of local government ethical standards, in particular the recommendations on sanctions.

Members were advised that the LGA welcomed the response, however the CSPL were disappointed with the response.

Town Councillor T Batson indicated that all councillors were elected and there should be no difference between parish councils and principal authorities, and he had written to his local MP in this regard. He asked for views on the differences between parish and principal authorities' available sanctions.

The Head of Legal and Democratic Services and Monitoring Officer responded that the codes differed slightly, but the standards regime applied equally to principal authorities and town and parish councils. The application of sanctions within principal councils was potentially more effective because of the party political group structure which did not necessarily exist at town and parish councils. Principal councils may also have more positions of special responsibility than that of town and parish councils, and could therefore have the ability to make recommendations that such roles of special responsibility be removed. The Standards Committee could only make recommendations, there was no power to compel compliance with recommendations. This applied equally at principal and town and parish council levels. At principal council level it was rare for seats not to be challenged but at local parish council level often members were co-opted or unopposed so that there was no accountability at the ballot box. Principal and parish councils in England were subject to the same regime. However, the differences between principal and parish councils meant that the efficacy/outcomes of the standards process may differ.

In response to a further question from Town Councillor T Batson he was advised that 103 of the 104 Parish Councils were affiliated to the County Durham Association of Local Councils (CDALC). The standards regime applied regardless of affiliation. However, where councils were members of CDALC, the Monitoring Officer could call on CDALC to assist in the implementation of recommendations, particularly around procedural issues and training.

Councillor Atkinson spoke on the Handforth Town Council case and commented that he did not want to end up in that situation. He indicated that prevention was better than cure and standing orders were a protection system.

Councillor Varty asked if the details of the Northumberland case could be presented in a future report to the Standards Committee.

The Head of Legal and Democratic Services and Monitoring Officer responded that the Northumberland case related to ethical standards and governance arrangements within the organisation, there were no specific member code issues at the present stage, but there could be in the future. She would review the issues that had come out this week in relation to the S114 notice and the governance review, and would review the documents and determine whether there was relevance in the Standards Committee's terms of reference to bring a report back to the next meeting.

Town Councillor T Batson referred to standing orders and indicated that the Chairs of town and parish councils had no powers nor did Councillors, only the town or parish councils.

The Head of Legal and Democratic Services and Monitoring Officer responded that most standing orders would contain a provision that the Chair of the meeting would determine procedural issues as they arose during meetings. In Durham County Council meetings, she would advise the Chair of the Council on matters, but the Chair could go against that advice. The Clerk at parish and town council level performed a similar role and once a Chair had ruled on a matter, the meeting should move on and the issue not revisited. The Monitoring Officer and CDALC worked with parish councils where they thought the issues arising around conduct stemmed from a lack of understanding of procedures or a lack of procedures being in place. Rather than spend money on an investigation it was often proportionate to work with the councils to provide training and build relationships.

Members discussed the Handforth Town Council case, in particular the costs involved and how parish councils would have the ability to pay if principal councils were able to re-charge town and parish councils for their costs of standards investigations.

The Committee may wish to consider whether to make representations as part of any future consultation that principal councils be able to re-charge town and parish councils for costs incurred in respect of standards issues. At present there was no power and principal authorities had a statutory duty to deal with the complaints and the vast majority were dealt with by formal resolution but when an investigation was required, they cost between £3,000 and £10,000 which the Council could not recover.

In response to a question from Councillor Atkinson, the Head of Legal and Democratic Services and Monitoring Officer indicated that she would be happy to deliver training to parish councils on how a debate should work and motions.

Councillor Smith commented that she would welcome more scrutiny on town and parish councils and that minutes of the meetings were not always shown on the parish web site.

Resolved: That the report be noted, and Officers monitor the progress of the matters referred to and keep the Committee updated.

6 Code of Conduct Update

The Committee considered a report of the Head of Legal and Democratic Services and Monitoring Officer which provided an update on the activity since the last meeting in respect of complaints received by Durham County Council against Councillors (for copy of report, see file of Minutes).

The Governance Lawyer presented the report and advised Members that 16 formal complaints had been received between 28 February 2022 and 31 May 2022. Of those complaints one was rejected on the basis that it was outside of the jurisdiction of the Monitoring Officer for complaints to be considered, namely a Parish Meeting. There had been 11 decision notices issued in the last period, details of which were set out at appendix 2 of the report.

Members were also advised that the online complaints form had successfully been implemented and they would provide feedback on the form at a future meeting. The paper format of the complaints form had also been made available in a larger font.

Members were then advised that training had been delivered to newly elected members of the Council and to a member following a recommendation of informal resolution in respect of a code of conduct complaint.

Resolved: That the contents of the report be noted.

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Standards Committee

2 September 2022

Annual Report of the Standards Committee 2021/22



Report of Helen Lynch, Head of Legal and Democratic Services and Monitoring Officer

Electoral division(s) affected:

None

Purpose of the Report

1. To provide an overview of the work of the Standards Committee during 2021/22 and to set out the future direction which the Committee intends to take during 2022/23.

Executive summary

2. The Standards Committee has continued to promote the principles and values of good governance within the Council and across the County. The Members of the Standards Committee are committed and dedicated to ensuring that high standards of conduct are maintained by all local elected Members.
3. This report sets out the progress made by the Standards Committee in 2021/22 in respect of code of conduct issues for the elected Members within County Durham.
4. This report also sets out the training provided to Members as well as the work programme of the Standards Committee to achieve the objective of promoting and maintaining high standards.

Recommendations

5. It is recommended that:
 - a. the Standards Committee note the report; and
 - b. the report be presented to the Council on 21 September 2022.

Background

6. Although there is no legislative requirement for Standards Committees to produce an Annual Report, doing so is recognised as good practice. Not only does the report publicise the work of the Committee to the general public, it is also a means for the Authority itself to monitor the Committee's work.
7. References to Articles in the Council's Constitution in this report are to those that existed during 2021/22.

Membership of the Standards Committee 2021/22

8. The Standards Committee is comprised of 11 County Council Members and 2 Parish/Town Council Members as follows:

County Council Membership

Councillor J Nicholson - Chair

Councillor F Tinsley - Vice Chair

County Councillors - Councillor Jim Atkinson, Councillor Anita Savory, Councillor David Stoker, Councillor Mark Abley, Councillor Liz Maddison, Councillor Tracie Smith, Councillor Tony Stubbs, Councillor Chris Varty and Councillor Lesley Mavin

Parish and Town Council Representatives

Councillor Terry Batson is a consultant Arborist and a former Local Government Officer. Councillor Batson is also a Member of Tow Law Town Council.

Councillor Ralph Harrison is a former Member of Chester le Street District Council who continues to serve his local community as a Member of Sacriston Parish Council.

Independent Persons

9. Under the Localism Act 2011, the Council is required to appoint one or more Independent Persons to assist in the Standards process.
10. The Independent Persons :
 - a. must be consulted by the Authority before it makes a finding as to whether a Member has failed to comply with the Code of Conduct or decide on action to be taken in respect of that Member.

- b. may be consulted by the Authority in respect of a Standards complaint at any other stage and they may be consulted by a Member or a co-opted member.
11. The term of office of the two Independent Persons, John Dixon Dawson and Peter William Jackson came to an end on 21 September 2021. A recruitment exercise for their successors took place between 1 February 2021 and 21 April 2021, and the Council on 14 July 2021 approved the appointment of Alan Fletcher and Kayleigh Louise Wilkinson as the Independent Persons from 22 September 2021 with a term of office of two years with the option to extend once.
 12. The Committee during 2021/22 gave thanks to the outgoing Independent Persons and welcomed the two new Independent Persons. The Monitoring Officer and Governance Lawyer delivered training to the Independent Persons as part of their Induction to the Standards Committee.

Role of the Standards Committee

13. The Terms of Reference for the Committee are set out in the Council's Constitution as follows:
 - a. promoting and maintaining high standards of conduct by Members and Co-opted Members of the Council and Parish and Town Council Members;
 - b. assisting Members and Co-opted Members of the Council and Parish and Town Council Members to observe the Members' Code of Conduct and where appropriate, the Planning Code of Practice;
 - c. advising the Council on the adoption or revision of the Members' Code of Conduct and the Planning Code of Practice;
 - d. monitoring the operation of the Members' Code of Conduct and the Planning Code of Practice;
 - e. advising, training or arranging to train Members and Co-opted Members of the Council and Parish and Town Council Members on matters relating to the Members' Code of Conduct and Planning Code of Practice;
 - f. granting dispensations to Members and Co-opted Members of the Council from requirements relating to interests set out in the Members' Code of Conduct and Planning Code of Practice in

circumstances where this function has not been delegated to the Monitoring Officer;

- g. the assessment and/or referral for investigation of allegations of misconduct on the part of Members and Co-opted Members of the Council and Parish and Town Council Members, if requested to undertake this function by the Monitoring Officer;
- h. the determination of allegations of misconduct on the part of Members and Co-opted Members of the Council and Parish and Town Council Members;
- i. dealing with any alleged breach by a Member of a Council Protocol, in accordance with procedures approved by the Committee;
- j. overview of the Officers' Code of Conduct;
- k. overview of the Protocol on Member/Officer Relations.

14. Each year the Standards Committee agrees a work programme, which reflects the Terms of Reference set out above.

Code of Conduct Complaints

15. In 2012, following the implementation of the Localism Act 2011 and associated changes to the Standards regime, the Monitoring Officer was appointed as the 'Proper Officer' to receive complaints of failure to comply with the Code of Conduct.
16. The Monitoring Officer has delegated authority, after consultation with the Independent Person, if appropriate, to determine whether a complaint merits formal investigation. Wherever practicable, the Monitoring Officer seeks resolution of complaints without formal investigation and she has discretion to refer decisions to a Standards Hearing where she feels that it is inappropriate for her to make the decision. The Standards Committee receives a quarterly report on the discharge of this function.
17. During 2021/22 the number and breakdown of complaints regarding breaches of the Code of Conduct was as follows:

Year	1 April 2020 to 31 March 2021	1 April 2021 to 31 March 2022
Total no. of complaints received	48	49

Source of Complaints	Councillors	22	Councillors	23
	Public	21	Public	20
	Parish/Town Council employee	0	Parish/Town Council employee	5
	Anonymous	0	Anonymous	0
			Other – MP	1
Complaints against including withdrawn and rejected	County Councillors	15	County Councillors	12
	Parish Councillors	13	Parish Councillors	29
	Town Councillors	36	Town Councillors	16
	Dual-hatted	0	Dual-hatted	2
Independent Persons Involved	The Independent Person was consulted in 8 complaints.		The Independent Person was consulted in 5 complaints.	
	The Independent Person also attended the Standards Hearing Panel on 14 December 2020.		The Independent Person also attended the Standards Hearing Panel on 23 November 2021.	
Outcomes	No Further Action	19	No Further Action	22
	Local Resolution	16	Local Resolution	20
	Investigation	5	Investigation	3
	Standards Committee		Standards Committee	
	Hearing Panel	1	Hearing Panel	3
	Withdrawn/Rejected	4	Withdrawn/Rejected	2

18. In 2021/22 the number of complaints remain consistent with the previous years. There was an increase in the number of complaints where local resolution was recommended on the previous year and a similar trend was observed in respect of the complaints where the recommendation was no further action.

19. A Hearing Panel of the Standards Committee was convened on 23 November 2021 to consider the complaints against County Councillor. The Panel upheld the Investigating Officers finding of a breach of the Member Code of Conduct and made recommendations in respect of the complaints raised.

Work of the Standards Committee during 2021/22

20. During 2021/22 the Standards Committee met on four occasions and considered the items contained within the work programme shown at Appendix 2.
21. In addition to the items proposed to be considered on the work programme, the Standards Committee conducted a review of the arrangements for submitting complaints against Members. The Committee agreed to introduce an online form, which was launched in April 2022.
22. The Committee has continued to receive regular reports in relation to standards and governance issues nationally. This has included an update on the Government's response to the Committee in Standards in Public Life's report and recommendations in relation to ethical standards in local government. The Government has indicated that they will consult further in respect of some of the issues raised.
23. Following the completion of the Member Induction programme, the Committee reviewed the Member's Social Media Toolkit and subject to a minor clarification, considered the Toolkit to remain fit for purpose.
24. The Monitoring Officer and Governance Lawyer delivered training as part of the induction programme to new and returning Councillors at both County Council and Town/Parish Council level. Training was also delivered on behalf of the Monitoring Officer in conjunction with CDALC to Town and Parish Councillors in respect of interests.

Future work plan

25. The Standards Committee agreed its work programme for 2022/23 which is shown at Appendix 3. The work programme covers standing agenda items and allows flexibility to add additional agenda items which may arise during the course of the year.
26. The Standards Committee will continue to monitor any Government activity arising out of its response to the CSPL report referred to above. It will aim to participate in any consultation exercises on this or other relevant topics as well as monitor any changes in legislation arising from this.

Background Papers

None

Further Information

- None

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Appendix 1: Implications

Legal Implications

The Council has a duty under section 27 of the Localism Act 2011 to promote and maintain high standards of conduct by its members and to adopt a code of conduct that is consistent with the Nolan Principles and to have in place arrangements under which allegations can be investigated and decisions made. The publication of an Annual Report aids the public understanding and awareness of the committee's work and demonstrates how the Council discharges its section 27 duty.

Finance

There are no financial implications arising out of the report.

Consultation

There are no consultation implications arising out of the report.

Equality and Diversity / Public Sector Equality Duty

There are no equality and diversity implications arising out of the report.

Climate Change

There are no climate change implications arising out of the report.

Human Rights

There are no Human Rights implications arising out of the report.

Crime and Disorder

There are no Crime and Disorder implications arising out of the report.

Staffing

There are no staffing implications.

Accommodation

There are no accommodation implications.

Risk

There are no risk implications arising out of the report.

Procurement

There are no procurement implications.

Appendix 2: Work Programme 2021/22

25 June 2021	<ul style="list-style-type: none"> • Confirmation of appointment of Independent Persons. • Annual Report 2021/22 • Work Programme 2021/22 • Review of national standards picture. • Complaints update.
3 September 2021	<ul style="list-style-type: none"> • Review of national standards picture. • Complaints update. • Review of Code of Conduct complaints procedure. • Co-opted membership on the Standards Committee (<i>reported at meeting on 11 March 2022</i>)
2 December 2021	<ul style="list-style-type: none"> • Review of national standards picture. • Complaints update. • Member Training and Development. (<i>deferred to 2022/23</i>)
11 March 2022	<ul style="list-style-type: none"> • Review of national standards picture. • Complaints update. • Review of Local Assessment Procedure – Digital Form • Social Media Guidance review. • Review of Work Programme 2021/22 and work Programme 2022/23. (<i>deferred to first meeting of 2022/23</i>)

Appendix 3: Draft Work Programme 2022/23

10 June 2022	<ul style="list-style-type: none">• Work Programme 2022/23• Review of national standards picture.• Complaints update.
2 September 2022	<ul style="list-style-type: none">• Review of national standards picture.• Complaints update.• Annual Report.
5 December 2022	<ul style="list-style-type: none">• Review of national standards picture.• Complaints update.• Member Training and Development.• Review of Local Determination Procedure.
17 March 2023	<ul style="list-style-type: none">• Review of national standards picture.• Complaints update.• Review of work programme 2022/23 and future work programme



Report of Helen Lynch, Head of Legal and Democratic Services and Monitoring Officer

Electoral division(s) affected:

None.

Purpose of the Report

1. To inform Members of the national picture on standards issues affecting Local Government.

Executive summary

2. This report is for information to update the Committee on national developments and cases which relate to the work of the Committee since the last meeting on 10 June 2022.

Recommendation(s)

3. The Standards Committee is recommended to:
 - a. note the report and request that Officers monitor the progress of the matters referred to and keep the Committee updated; and
 - b. consider any recommendations it wishes to make arising out of the content of the report.

Background

5. As agreed by the Committee on 10 June 2022, as part of the Annual Work Programme, this is a standing agenda item with a quarterly update to the Committee.

Code of Complaints Reports

6. Since the abolition of the Standards Board for England, national statistics and case reports are no longer collated. Any cases reported are taken from news reports and general research where Councils publish details of their conduct hearings in public.

Councillor A Khan - Coventry City Council (8 July 2022)

7. The Ethics Committee for Coventry City Council on 8 July 2022 considered four complaints submitted by three complainants in respect of Councillor Khan (the Subject Member). The allegations were as follows:
 - i. When the Police were called to the properties regarding the boundary dispute on 3 April 2021, that the Subject Member said that he knew the Superintendent/Sergeant, and he would not be arrested and no action would be taken;
 - ii. The Subject Member sought to exert influence over officers in the Council with a view to receiving preferential treatment; and
 - iii. The Subject Member used his position to seek to persuade the neighbours to sell him land, on the basis that the Subject Member could secure planning permission for them in the event that they agreed to his proposal. Alternatively that he would 'make life hell' for them in relation to planning if they did not.
8. At Stage 1 of the review process, it was decided that an investigation should take place and an Independent Investigator was appointed.
9. The Independent Investigator determined in respect of one of the complaints that the Code of Conduct had not been engaged and was thus excluded from their investigation. This left the remaining three allegations to be investigated.
10. With regards to the second allegation, on the balance of probabilities, the Investigating Officer concluded that the Subject Member had breached the Council's Code of Conduct for Elected and Co-opted Members by 'seeking to exert influence over officers in the Council with a view to receiving preferential treatment'. Allegations one and three were not upheld by the Investigating Officer.

11. The Independent Person for Coventry City Council concurred with the Investigating Officer after having sight of the report, but they were unable to be present at the Ethics Committee hearing.
12. The Investigating Officers report was presented to the Ethics Committee and listed the various reasons as to why the Investigating Officer had come to their conclusion, including that the Councillor had sent an email relating to the boundary dispute to various people from senior planning officers to the Leader of the Council. The email was sent from their Council email address and had used the phrase "Dear Colleagues". The Investigating Officer deemed that the email was intended as an instruction from the Councillor to those whom it was sent to.
13. The Committee did not agree with the conclusion of the Investigating Officer and decided that all three complaints should not be upheld. The Committee believed the email did not amount to an instruction 'but a request for clarification from a position of frustration where there had been a perceived injustice'.
14. At the Ethics Committee hearing the Subject Member was afforded the opportunity to present their case and it was noted by the Committee that this had given some context into the circumstances. It was also noted that at Coventry City Council where an issue is high profile it was standard to inform the Leader of the Council and the Chief Executive of the Council.
15. After considering the matters, the Committee stated that there was a need for guidance and clarity for Elected Members when dealing with matters that relate to their own personal interests. The Committee went on to recommend that this was to be addressed by the Officer/Member Protocol as part of the Ethics Committee Work Programme.

Councillor X - Hastings Borough Council (30 June 2022)

16. On 30 June 2022 the Monitoring Officer for Hasting Borough Council presented an update on a Standards complaint which was considered in private on 23 February 2022. Councillor X was subject to five complaints which concerned their behaviour towards Councillor Y. The hearing was held in private due to safeguarding concerns but it was the impact of the actions and statements from Councillor X towards Councillor Y and the public views and sentiment in which the Standards Committee focused on.
17. The complaints were presented in a report by the Monitoring Officer and the Committee were shown video and press articles relating to the complaint. They were then asked to consider whether five potential breaches of the Code of Conduct had taken place and to decide on the next steps.

18. The Committee decided that the Councillor was in breach of the Code of Conduct with regards to three out of the five complaints, the complaints along with the Committees reasons are listed below::

3 (1) You must treat others with respect.

Reasons for Decision: The Standards Committee stated that Councillor Y was not treated with respect by Councillor X and that Councillor X undermined Councillor Y's respect and standing in the community.

3 (2) You must not: (b) bully any person.

Reasons for Decision: The Standards Committee stated that Councillor X's behaviour through their actions and statements towards Councillor Y amounted to bullying.

6 (a) You must not use your position as a councillor or co-opted member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

Reasons for Decision: The Standards Committee decided that whilst Councillor X was acting in his capacity of a Councillor, they 'intended to confer a disadvantage on Councillor Y in relation to Councillor Y's standing and respect in the community'.

19. In light of the breaches, the Committee recommended that the Councillor should undertake social media and Code of Conduct training on a one-to-one basis. The Committee also considered mediation as a sanction but concluded that it was not appropriate for this case.

Northumberland County Council – s.114 Notice for unlawful expenditure and corporate governance review.

20. At its Council meeting on 8 June 2022, Northumberland County Council considered a notice issued under section 114 of the Local Government Finance Act 1988 for unlawful expenditure. The notice, which was issued by the Council's interim Executive Director for Finance and section 151 Officer, highlighted two areas of unlawful expenditure: the authority's participation in the Northumbria International Alliance (NIA) and an international allowance paid to the Chief Executive since 2017.
21. NIA traded commercially from at least 2018 to 2021 and did so otherwise than through a company with all of the related income and expenditure being recorded in the Council's accounts. This is contrary to section 4(2) Localism Act 2017.
22. The NIA was established in 2018 as an unincorporated partnership with Northumbria Healthcare NHS Foundation Trust to provide international healthcare consultancy services for commercial purposes.

23. The Chief Executive received a £40,000 allowance in connection with NIA activity, which was not properly authorised and was contrary to the Council’s pay policy statements.
24. At the same meeting, the Council also considered the outcome of an independent governance review, led by Max Caller CBE. The report highlighted that the Council needs to “undergo a fundamental re-set of its philosophy, processes and relationships, starting with a clear understanding of what the Council is about, respective roles of members and officers, how decisions are formulated, taken and recorded and challenged in a robust and appropriate way.”
25. The review noted that the number of Freedom of Information Requests, grievances, complaints, standards and conduct issues between Officers and Members reflected an absence of effective communication in upper levels of the organisation.
26. The review team made a number of recommendations which include the introduction of a corporate plan, which reflects the people, place and direction of travel of the elected administration and a re-draft of the Constitution to reflect a more appropriate system of delegation and proper member oversight of companies and partnership bodies.

Background papers

None

Other useful documents

- <https://www.coventry.gov.uk/meetings-1/committees/4>
- <https://hastings.moderngov.co.uk/documents/g4758/Public%20reports%20pack%2030th-Jun-2022%2018.00%20Standards%20Committee.pdf?T=10>
- [02.2 NCC Governance Review finalwatermarkcopy.pdf \(moderngov.co.uk\)](#)
- [03.1 S114 Report Final 23 05 2022.pdf \(moderngov.co.uk\)](#)

Author (s)

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Appendix 1: Implications

Legal Implications

The Council has a duty under section 27 of the Localism Act 2011 to promote and maintain high standards of conduct by its members and to adopt a code of conduct that is consistent with the Nolan Principles. Ensuring that the Standards Committee is kept up to date with national Standards issues is expected to facilitate compliance with this duty.

Finance

Not applicable.

Consultation

Not applicable.

Equality and Diversity / Public Sector Equality Duty

Not applicable.

Climate Change

Not applicable.

Human Rights

Not applicable.

Crime and Disorder

Not applicable.

Staffing

Not applicable.

Accommodation

Not applicable.

Risk

Not applicable.

Procurement

Not applicable.

Standards Committee

2 September 2022

Code of Conduct Update



Report of Helen Lynch, Head of Legal and Democratic Services and Monitoring Officer

Electoral division(s) affected:

None

Purpose of the Report

- 1 To provide the Committee with an update on activity since the last meeting in respect of complaints received by Durham County Council against Councillors.

Executive summary

- 2 The report provides an update on the complaints of alleged breaches of the Code of Conduct currently being assessed and those which have been completed. Complaints are considered in accordance with the council's Local Assessment Procedure dated May 2021.

Recommendation

- 3 The Standards Committee is recommended to note the contents of the report.

Complaints

- 4 The council has a duty under section 27 of the Localism Act 2011 to promote and maintain high standards of conduct by its members and to adopt a Code of Conduct that is consistent with the Nolan Principles. It must also have in place arrangements to consider allegations about breaches of the Codes of Conduct for Members, by the council's own members and of members of parish/town councils for which the council is the principal authority.
- 5 There have been 13 formal complaints received between 1 June 2022 and 19 August 2022. In this period no complaints were rejected or withdrawn.
- 6 There have been 12 final decision notices issued in the last period the outcome of each complaint shown at Appendix 2.
- 7 In respect of the ongoing complaints it would not be appropriate to comment on those complaints that are currently being assessed investigated but Decision Notices will be available for inspection once the decision has been communicated to the Member subject to the Complaint.

Training

- 8 The Deputy Monitoring Officer has delivered training to a small number of Councillors on the Member officer protocol in conjunction with CDALC on 27 July 2022.

Conclusion

- 9 The report is intended to provide an overview of complaints handling to assist the Standards Committee to fulfil their role in promoting and maintaining high standards of conduct.

Background papers

- Local Assessment Procedure dated May 2021.
- Decision Notices.

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Appendix 1: Implications

Legal Implications

The council has a duty under s. 27 of the Localism Act 2011 to promote and maintain high standards of conduct by its members and to adopt a Code of Conduct that is consistent with the Nolan Principles. It must also have in place arrangements to consider allegations about breaches of the Codes of Conduct for Members, by the council's own members and of members of parish/town councils for which the council is the principal authority.

Finance

There are no financial implications arising out of the report.

Consultation

None.

Equality and Diversity / Public Sector Equality Duty

There are no equality and diversity implications arising out of the report.

Climate Change

There are no climate change implications arising out of the report.

Human Rights

None

Crime and Disorder

There are no Crime and Disorder implications arising out of the report.

Staffing

There are no staffing implications.

Accommodation

There are no accommodation implications.

Risk

None.

Procurement

There are no procurement implications.

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Appendix 2: Code of Conduct Complaints Activity

Ref	Council	Date	Allegations	Breach type	Decision Notice	Outcome/Status
COM 373	Town	19.10.21	<p>The Member was not selected as a signatory for the Council's bank account. It is a legal requirement from the bank that Councillors who are no longer signatories have to sign a document provided by the bank to take their names off as a signatory. Requests to remove as a signatory made by an officer of the Council have been ignored.</p> <p>The Member was required to sign a set of minutes but did not action the request.</p>	<ul style="list-style-type: none"> Behave in accordance with all legal obligations and policies Respect 	28.06.22	<p>No further action</p> <p>The complaint was withdrawn in respect of the banking mandate. The Member was provided with clarification on the minutes to be signed and upon this being provided the Member signed and returned the minutes.</p>
COM 386	Parish	April and May 2022	<p>The Member is said to have been aggressive in the tone of his emails to a fellow councillor and this is considered to be bullying</p> <p>It is also alleged that the Member has discriminated the complainant.</p>	<ul style="list-style-type: none"> Respect Bullying Behave in accordance with all legal obligations and policies. 	01.08.22	<p>Local Resolution</p> <p>The Council have been recommended to action the recommendations from earlier decision notices within three months and an update to be provided to the Monitoring Officer each month on the progress.</p> <p>An additional recommendation for the Chair to undergo specialist training on the role of the Chair to support in the delivery of his role.</p>
COM 393 and COM 397	Town	05.04.22 and 19.04.22	<p>It is alleged that the member has at meetings, in emails and on social media behaved in a manner which</p>	<ul style="list-style-type: none"> Respect Bullying 	31.05.22	<p>Referred for investigation.</p>

			is contrary to the code towards officer and Councillors	<ul style="list-style-type: none"> Failed to follow procedure/policy (member officer protocol) 		
COM 395	Parish	03.04.22	It is alleged that the Council has failed to act with transparency in the production and availability of the minutes and financial reports. The Complainant considers that the Council has failed to achieve best value for the public funds including the salary awards.	<ul style="list-style-type: none"> Behave in accordance with all legal obligations, and policies. 		Ongoing
COM 398	County	28.04.22	It is alleged that the Member has revealed confidential information about the complainant and therefore breached data protection. The complainant also raises concerns with the Members involvement in providing support to the Ukraine relief and also raises concerns about the actions of the member in respect of the housing complaints raised by the complainant.	<ul style="list-style-type: none"> Deal with representations fairly, appropriately and impartially; Behave in accordance with all legal obligations, and policies. , 	10.06.22	No further action. The member did not share confidential information but instead directed the organisations to a public Facebook page where issues were being raised regarding the development. In relation the trip to the Ukraine, this was made by the member in their private capacity and therefore is outside the scope of complaints which can be considered by the Monitoring Officer.
FS-Case-419742951	County	04.05.22	The complainant launched an appeal on social media for Ukraine. It is alleged that the Member did not follow the procedures in place for the collection and donation of items. It is also alleged that the Member has made posts on social media which are misleading and inaccurate. Further information was presented regarding the register of interest declaration..	<ul style="list-style-type: none"> Respect Behave in accordance with all legal obligations and policies. 	05.07.22	No further action/informal resolution In respect of the social media posts these were made in a private capacity and therefore the code is not engaged. In respect of the interests, this was an oversight by the Member, she stopped this work upon becoming a Councillor however later took on a few clients not for profit and did not think that she needed to register the

						interest. Upon learning of the need to register, the Member completed this immediately. The Monitoring Officer was satisfied that the Member upon taking advice and remedying this constitutes a proportionate outcome.
FS-Case-418894813 / 418876382	Parish	29.04.22	<p>The Member did not declare an interest in an item of business which it is said she had an interest in.</p> <p>It is also alleged that a Member allowed two Councillors to be personally verbally attacked at a meeting.</p>	<ul style="list-style-type: none"> • Not allow other pressures to influence. • Behave in accordance with all legal obligations and policies. • Listen to the interests of all parties. • Behave in accordance with all legal obligations and policies. • Respect 		In progress – complainant has requested confidentiality.
COM 399	County	16.05.22	It is alleged the Member made comments in an email sent to all Members, the comments made are alleged to be contrary to the code of conduct	<ul style="list-style-type: none"> • Respect 	06.06.22	Local Resolution Member was requested to undertake training with the Monitoring Officer on the code of conduct.
COM 400	Town	23.05.22	The Member sent an email to an officer of the Council which contained inflammatory, discriminatory and threatening language toward Councillors.	<ul style="list-style-type: none"> • Respect • Bullying • Disrepute 	24.08.22	Local Resolution The Member was asked to consider the tone and content of future emails sent to officer to ensure that this does not give rise to allegations of a breach of the Member Code of Conduct.

FS-Case-424679156 / 426608825/ 426993517/ 425508825	Parish	June 2022	It is alleged that the conduct of two members have been contrary to the member Code of Conduct.	<ul style="list-style-type: none"> • Respect • Bullying 		In progress
FS-Case-427541066	County	06.06.22	It is alleged that the Member left the Council Chamber during the Annual meeting on 25 May 2022, having passed the voting handset to one of the Councillors sat next to the Member. It is alleged that one of those Councillors fraudulently voted for the Member whilst out of the room.	<ul style="list-style-type: none"> • Behave in accordance with procedure. • Not to bring the Council into disrepute. 	22.07.22	No further action for two councillors who were not involved in the voting on behalf of the member. Local resolution in respect of the member who said to have voted outside of the council chamber. Training on the member code of conduct and council procedure rules to be undertaken by 21 September.
FS-Case-427632169	Parish	06.06.22	The Member made a direct comment calling a fellow Councillor "Key Board Warrior" in front of both Council staff and Councillors at the meeting held on 12th May 2022.	<ul style="list-style-type: none"> • Respect 	28.06.22	No further action The comment was made when the member was not acting in her official capacity and therefore outside the scope of complaints which can be considered by the Monitoring Officer. The Member confirmed that she did not understand the meaning of the phrase, she had thought that it meant someone who uses social media. Upon learning the meaning of the phrase the Member confirmed that she did not consider the complainant to be a keyboard warrior.
COM 401	County		The Member is said to have failed to declare an interest in an item considered by the Planning Committee and that the Member demonstrated predetermination as an article had been written	Not to allow other pressure to influence good governance and decision making.	03.08.22	No further action The member was not considered to have an interest to declare. Matters of bias and pre determination are for the Court to determine. The Member denied that he considered this matter

			indicating the objection to the planning application	To act in accordance with all legal obligations and policies.		with a closed mind. The localism allows members to participate in decisions where they have legitimate predetermination including items they have previously campaigned on or spoken about publicly.
COM 402	Parish	20.06.22	The Complainant (a county Councillor) received a letter from the Parish Council relating to a post on social media post he made in his private capacity. The Parish Council discussed the matter informally before issuing the letter. The letter was also sent to two Councillors which is considered to be a data breach.	Respect Harassment	18.08.2022	Local Resolution It was recommended that the Parish Council introduce a policy on the use of social media. It is also recommended that the Parish Council reviews its arrangements for dealing with items of business which is exempt under Schedule 12A of the Local Government Act 1972. These recommendations are to be completed within three months of the decision notice with confirmation to be provided to the Monitoring Officer in the same timescale. The Monitoring Officer will not determine matters relating to data breaches this is for the PC and ICO to determine.
FS - case-434752338	Council	05.07.22	The Member at a planning committee is said to have censured the complainant and referred to his professional occupation which the complainant considers to have been personal information.	<ul style="list-style-type: none"> Respect 	10.08.2022	No further action The censure by the Member was consistent with the guidance of the Local Government Association to minimise perception of influence of members of the Committee.
FS-Case-436376580	Council and Parish	12.07.2022	It is alleged that the member verbally attacked the complainant in public and is abusive towards the complainant. (this complainant has previously complained of this member with no further action)	<ul style="list-style-type: none"> Respect 		Ongoing

FS-Case-441122824	Council	01.08.22	A local resident was copied into an email which they were not the intended recipient, the resident raised this issue with the member who made representations to the organisation on their behalf. The Member copied into the email other professional organisations which the organisation believes was intended to cause maximum reputational damage not only to the Organisation but also to the Area Manager. The email shared by the Member is considered to be a breach of data protection and has been reported to the ICO.	<ul style="list-style-type: none"> • Deal with all representations fairly • Respect • Behave in accordance with all legal obligations and procedures. 	23.08.2022	No further action The conduct complained of did not amount to a breach of the Code of Conduct. The Member made representations to the Complainant on behalf of a resident as he is obliged to do so.
COM 403	Town	28.07.22	The Member is said to have behaved in a way which is contrary to the code by making demands of an officer in emails. It is also alleged that the Member has behaved contrary to the Code in their conduct to an officer of the Council following a Council, meeting.	<ul style="list-style-type: none"> • Respect • Not to bully or intimidate. • Not to improperly confer an advantage or disadvantage on any person. 		Ongoing
COM 404 (linked to COM 403)	Town	28.07.2022	It is said that the Member has had a campaign of bullying and harassment towards the officer which is now subject to investigation. In relation to the other Member complained of it is said that this member has supported this campaign of harassment.	<ul style="list-style-type: none"> • Respect. • Not to bully or intimidate. • not seek to improperly confer an advantage or disadvantage on any person. • 		Ongoing