

Standards Committee

5 December 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 Members of the Standards Committee with an update on complaints received by Durham County Council under the Code of Conduct for Members since the Committee's last meeting on 2 September 2022.

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.

Recommendation

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

Background

- 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 co-opted members and to adopt a Code of Conduct that is consistent with the Nolan Principles addressing the conduct that is expected of members when they are acting in their official capacity as a councillor and/or representative of the Council.
- 5 The Council 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 the town and parish councils for which the Council is the principal authority.
- 6 Expected standards of behaviour should also be embedded through effective member induction and ongoing training.
- 7 Members' failure to comply with the Code can be an issue of concern to local communities and result in a perception of poor governance. This could affect the reputation of the Council. The Council therefore maintains an open and transparent process for making complaints against members. Information and guidance on the process for making such complaints is clearly signposted and accessible on the Council's website.
- 8 These arrangements include provision for the Monitoring Officer to provide local solutions to resolve complaints without formal investigations.
- 9 The responsibility for standards activity, including the monitoring of the operation of the Code, falls within the jurisdiction of the Standards Committee. Regular oversight of complaints received enables the Standards Committee to identify particular trends or issues which might need further consideration by the Committee and/or wider training needs.
- 10 Details of complaints activity during the period between 2 September 2022 and 24 November 2022 is set out in Appendix 2. An analysis of those matters is set out below.

Complaints received since 2 September 2022

How many complaints were received?

- 11 There have been 10 formal complaints received between 2 September 2022 and 24 November 2022, of which:
- 2 were rejected as being outside of the scope of the Code;
 - 6 are the subject of final Decision Notices; and
 - 2 are ongoing matters.

Who were the Complaints from?

- 12 Of the 10 formal complaints received during the last period:
- 4 were from members of the public;
 - 2 were from officers concerning members; and
 - 2 were from a member against another member.

Who were the Complaints about?

- 13 Of the 10 formal complaints received during the last period:
- 5 were about Town or Parish Councillors; and
 - 5 were about County Councillors.

Which provisions of the Members' Code of Conduct were alleged to have been breached?

- 14 Of the 10 formal complaints received during the last period, the principal provisions of the Members' Code of Conduct engaged were:
- Respect: 5
 - Disclosure of Interests: 3
 - Fairness/Impartiality: 1

What were the outcomes?

- 15 Of the 6 formal complaints received during the last period which have been subject of a final Decision Notice:
- No further action was taken in relation to 5 matters; and
 - 1 matter was deemed appropriate for local resolution. Additional training relating to the disclosure of interests was recommended.

- 16 In respect of ongoing complaints, it would not be appropriate to comment on matters that are currently being assessed or investigated but Decision Notices will be available for inspection once the decision has been communicated to the relevant Subject Member and Complainant.

B. Complaints received prior to 2 September 2022

- 17 During the last period, there has also been ongoing activity relating to a further 21 complaints, which were received prior to 2 September 2022 but remained ongoing at that date. Details of these also appear in Appendix 2. An analysis of those matters is set out below.
- 18 Of the 21 complaints which remained active at the date of the last meeting of the Standards Committee on 2 September 2022:
- 16 are now the subject of final Decision Notices; and
 - 5 remain ongoing.

Who were the Complaints from?

- 19 Of the 21 complaints which remained active at the date of the last meeting of the Standards Committee on 2 September 2022:
- 9 were from members of the public;
 - 4 were from officers concerning members; and
 - 8 were from a member against another member.

Who were the Complaints about?

- 20 Of the 21 complaints which remained active at the date of the last meeting of the Standards Committee on 2 September 2022:
- 20 were about Town or Parish Councillors (; and
 - 3 were about County Councillors (2 of whom are also Town/Parish Councillors).

Which provisions of the Members' Code of Conduct were alleged to have been breached?

- 21 The principal provisions of the Members' Code of Conduct engaged were:
- Respect: 18
 - Disclosure of Interests: 1
 - Failure to act in accordance with law (data protection): 1

- 22 Members will note that the large majority of complaints which remained outstanding as of 2 September 2022 concerned allegations of a lack, or perceived lack, of respect shown toward members of the public, officers and, in some cases, other members.

What were the outcomes?

- 23 Of the 16 complaints received prior to 2 September 2022, which have been subject of a final Decision Notice during the last period:

- No further action was taken in relation to 10 matters; and
- 6 matters were deemed appropriate for local resolution.

Local resolutions included advice, particularly around the tone that members adopt with officers, recommendations for additional training and the introduction of a Member/Officer Protocol.

Why have some complaints taken longer to resolve?

- 24 Some complaints have taken longer to resolve where it has been necessary to refer them for external independent investigation. Some have been due to complexity, for example where there are multiple complaints or complainants, or complaints involving multiple councillors. In a small number of cases, delay has been occasioned by extraneous circumstances such as illness of one of the parties to the complaint.
- 25 Staff vacancies, including the post of Governance Lawyer, have also contributed to delay in a small number of cases. Vacancies within the Governance Team are actively being recruited to and locum cover is in place in the interim.

Conclusion

- 26 This report provides a summary of the Code of Conduct Complaints handled over the last 3 months and 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

- Code of Conduct for Councillors.
- Local Assessment Procedure.
- Decision Notices.

Authors:

Jayne La Grua

Tel: 03000 261314

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 Code of Conduct for Members by the Council's own members and by members of parish/town councils for which the Council is the principal authority.

Finance

There are no financial implications.

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 arising out of this report other than those mentioned in paragraph 26 above.

Accommodation

There are no accommodation implications.

Risk

Risks	Uncontrolled Risk	Controls	Controlled Risk
Poor governance and decision-making outcomes.	High – legal challenges and/or a complaint of maladministration could be made.	Low – Members and key staff are appropriately trained and have a good understanding of the Code	Adherence with the Code, Constitution, and Procedures. Staff and Member training.

Reputational damage.	The Council could be ordered to pay compensation and/or suffer reputational damage.	requirements. This is a continuous requirement.	
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Procurement

There are no procurement implications.