

## **Standards Committee**

**17 March 2023**

## **Code of Conduct Update**



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### **Report of Helen Lynch, Head of Legal & Democratic Services and Monitoring Officer of the Council**

#### **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 5 December 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 30 November 2022 and 6 March 2023 is set out in Appendix 2. An analysis of those matters is set out below.

## **Complaints received since 30 November 2022**

### **How many complaints were received?**

- 11 There have been 21 formal complaints received between 30 November 2022 and 6 March 2023, of which:
- 7 were rejected as being outside of the scope of the Code;
  - 4 are the subject of final Decision Notices;
  - 10 are ongoing matters; and
  - 7 of the 10 ongoing matters relate to the same issue and will be dealt with under a collective Decision Notice.
- 12 One Member has referred themselves to the Standards process. The Monitoring Officer has invited the relevant officer to submit a complaint so that the matter can be considered in accordance with the Local Assessment Procedure.

### **Who were the complaints from?**

- 13 Of the 21 formal complaints received during the last period:
- 12 were from members of the public;
  - 1 was from an officer; and
  - 8 were from Councillors.

### **Who were the complaints about?**

- 14 Of the 21 formal complaints received during the last period:
- 12 were about Town or Parish Councillors; and
  - 9 were about County Councillors.

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

- 15 Of the 21 formal complaints received during the last period, the principal provisions of the Members' Code of Conduct engaged were:
- Respect: 4
  - Disclosure of Interests: 1

- Seeking to confer an advantage: 1
- Disclosing confidential information: 2
- Behaving in accordance with legal obligations: 1
- All aspects of the code engaged: 8
- No code engaged: 4

### **What were the outcomes?**

- 16 Of the 4 formal complaints received during the last period which have been subject of a final Decision Notice:
- No further action was taken in relation all matters.
- 17 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.

### **Complaints received prior to 30 November 2022**

- 18 During the last period, there has also been ongoing activity relating to a further 5 complaints, which were received prior to 30 November 2022 but remained ongoing at the date of the last Committee meeting on 5 December 2022. Details of these also appear in Appendix 2. An analysis of those matters is set out below.
- 19 Of the 5 complaints which remained active at the date of the last meeting of the Standards Committee on 5 December 2022.
- All are now the subject of final Decision Notices
- 20 There has been no change in relation to 2 cases which were received prior to 30 November 2022 as these matters have been referred for investigation. These are not included in the breakdown of complaints.

### **Who were the complaints from?**

- 21 Of the 5 number complaints which remained active at the date of the last meeting of the Standards Committee on 5 December 2022:
- 2 were from members of the public;
  - 3 were from officers; and
  - No complaints were from Councillors.

### **Who were the Complaints about?**

- 22 Of the 5 complaints which remained active at the date of the last meeting of the Standards Committee on 5 December 2022:
- 4 were about Town or Parish Councillors and
  - 1 was about a County Councillor.

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

- 23 The principal provisions of the Members' Code of Conduct engaged were:
- Failure to work constructively with employees: 2
  - Failure to act in accordance with legal obligations: 3

**What were the outcomes?**

- 24 Of the 5 complaints received prior to 30 November 2022, which have been subject of a final Decision Notice during the last period:
- No further action was taken in relation to 2 matters; and
  - 2 matters were deemed appropriate for local resolution; and
  - Within 1 Complaint, no further action was taken in relation to 3 subject members, and 1 subject member was subject to Local resolution.

Local resolutions included advice, professional mediation recommendations for additional training.

**Why have some complaints taken longer to resolve?**

- 25 Some complaints have taken longer to resolve where it has been necessary to refer them for external independent investigation. Since the last meeting, there has been a short period where an Independent Person has not been available. To address this, the Monitoring Officer (in consultation with the Chair of the Standards Committee) has made arrangements for an interim Independent Person to be appointed to provide resilience pending a recruitment exercise. The absence of an Independent Person has delayed the progression of some complaints where the subject member requested to consult the Independent Person prior to submitting their response to the complaints.
- 26 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.

27 Staff vacancies, including the post of Governance Officer, 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**

28 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.

### **Author(s)**

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## Appendix 1: Implications

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### 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

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 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.  Reputational damage.	High – legal challenges and/or a complaint of maladministration could be made.  The Council could be ordered	Low – Members and key staff are appropriately trained and have a good understanding of the Code requirements.	Adherence with the Code, Constitution, and Procedures.  Staff and Member training.

	to pay compensation and/or suffer reputational damage.	This is a continuous requirement.	
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**Procurement**

There are no procurement implications.



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## **Appendix 2: Code of Conduct Complaints Activity**

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