

Standards Committee

4 December 2023

Code of Conduct Update



Report of Helen Bradley, 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 8 September 2023.

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 Procedure for Member Code of Conduct Complaints.

Recommendation

- 3 The Standards Committee is asked to:
 - a) 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 1 September 2023 and 23 November 2023 is set out in Appendix 2. An analysis of those matters is set out below.

Complaints received since 1 September 2023

How many complaints were received?

- 11 There have been 11 formal complaints received between 1 September 2023 and 23 November 2023, of which:

- 2 are subject of a final Decision Notice;
- 7 are ongoing matters;
- 1 has not progressed; and
- 1 has been rejected.

Who were the Complaints from?

- 12 Of the 11 formal complaints received during the last period:
- 7 were from members of the public;
 - 2 were from a member against another member; and
 - 2 were from officers of the Council.

Who were the Complaints about?

- 13 Of the 11 formal complaints received during the last period:
- 7 were about Town or Parish Councillors;
 - 3 were about County Councillors; and
 - 1 related to a Member of another authority.

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

- 14 Of the 11 formal complaints received during the last period which had sufficient information, the principal provisions of the Members' Code of Conduct engaged were:
- Respect: 7
 - Behaving in accordance with policy or legal obligations: 1
 - Disrepute: 1

What were the outcomes?

- 15 Of the 2 formal complaints received during the last period which have been subject to final Decision Notices:
- No Further action was taken in relation to one matter and Local Resolution recommending Member Code of Conduct training was taken in relation the other.
- 16 Of the two complaints that have not progressed or have been rejected:

- One complainant failed to provide further information which was requested, and the other complaint related to a Member of a different local authority.

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 8 September 2023

18 During the last period, there has been ongoing activity relating to a further 32 complaints, which were received prior to 8 September 2023 but remained ongoing at that date. Details of these also appear in Appendix 2. An analysis of those matters is set out below.

19 Of the 32 complaints which remained active at the date of the last meeting of the Standards Committee on 8 September 2023:

- 20 are now the subject of final Decision Notices; and
- 7 remain ongoing; and
- 1 has been withdrawn; and
- 4 have been the subject of a Standards Hearing.

Who were the Complaints from?

20 Of the 32 complaints which remained active at the date of the last meeting of the Standards Committee on 8 June 2023:

- 10 were from members of the public;
- 6 were from officers concerning members; and
- 16 were from a member against another member.

Who were the Complaints about?

21 Of the 32 complaints which remained active at the date of the last meeting of the Standards Committee on 8 September 2023:

- 22 were about Town or Parish Councillors; and
- 10 were about County Councillors.

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

- 22 The principal provisions of the Members' Code of Conduct engaged were:
- All aspects of the Code engaged: 13
 - Respect: 10
 - Behave in accordance with all legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures, including the use of the Council's resources: 5
 - Disclosing Confidential Information: 1
 - Bullying: 2
- 23 Members will note that the large majority of complaints which remained outstanding as of 8 September 2023 concerned all aspects of the Code of Conduct.

What were the outcomes?

- 24 Of the 21 complaints received prior to 8 September 2023, which have been subject of a final Decision Notice during the last period:
- No further action was taken in relation to 8 matters;
 - Local resolution was deemed appropriate for 1 matter;
 - 11 matters have been referred for an investigation; and
 - 1 matter has not progressed.
- Local resolution included mediation between the Member and Officers of the Town Council.
- 25 Of the 4 complaints received prior to 8 September 2023, in which two Members have been subjected to a Standards Hearing:
- Censure of both Members was recommended in relation to 4 complaints;
 - Training was deemed appropriate for both Members in relation to 4 complaints; and
 - A written apology was recommended for Member in relation to 1 complaint.
- 25 Following those recommendations, two letters of censure have been issued in relation to four of the complaints. Training has been arranged

in relation to three out of four of the complaints, training for the fourth remains outstanding. In relation to the complaint for which an apology was recommended, this has not yet been provided. The outstanding training and apology relate to the same Member.

Why have some complaints taken longer to resolve?

- 26 Complaints have taken longer to resolve due to the complexity, for example where there are multiple complaints or complainants, or complaints involving multiple councillors.

Code of Conduct Complaints 2022/ 2023 Comparison

- 27 At the last Standards Committee on 5 September, Members requested a comparison of the Code of Conduct Complaints from the previous year. The Annual Report considered by the Committee on 8 June and presented to Council on 19 July included a comparison of complaints for the periods 2021/22 and 2022/23. A part year comparison is set out below:

Year	1 April 2022 to 31 March 2023	1 April 2022 to 23 November 2022	1 April 2023 to 23 November 2023
Total no. of complaints received	71	44	39
Source of Complaints	Councillors 30 Public 34 Parish/Town Council Employee 6 Anonymous 1	Councillors 19 Public 21 Parish/Town Council Employee 4 Anonymous 0	Councillors 10 Public 22 Parish/Town Council Employee 3 DCC Employee 4 Anonymous 0

Complaints against including withdrawn and rejected	County Councillors 20	County Councillors 13	County Councillors 8
	Parish/ Town Councillors 48	Parish/ Town Councillors 30	Parish/ Town Councillors 21
	Dual-hatted 3	Dual-hatted 1	Dual-hatted 9
			County Councillor of another authority 1
Independent Persons Involved	The Independent Person was consulted in 11 complaints by the Subject Members and consulted once by the Monitoring Officer.	The Independent Person was consulted in 8 complaints by the Subject Members and was not consulted by the Monitoring Officer.	The Independent Person was consulted once by the Subject Members and consulted in 8 complaints by the Monitoring Officer.
Outcomes	No Further Action 30	No Further Action 25	No Further Action 9
	Local Resolution 15	Local Resolution 14	Local Resolution 3
	Investigation 7	Investigation 0	Investigation 5
	Standards Committee Hearing Panel 2	Standards Committee Hearing Panel 2	Standards Committee Hearing Panel 2
	Withdrawn/ Rejected 16	Withdrawn/ Rejected 8	Withdrawn/ Rejected 7
	Ongoing 1	Ongoing 0	Ongoing 13

Cost of Code of Conduct Complaints

28 At its last meeting, the Committee also requested a breakdown of costs of the Code of Conduct complaints. An estimate of the costs to the Council in dealing with Member Code of Conduct matters for the periods 2022/ 2023 is shown below along with a part year comparison

and a comparison of the same period in 2022/23. It is important to note that members of the legal team record time spent on matters, but Officers within Democratic Services and the Independent Persons do not. Therefore, the costs provided do not necessarily reflect the total cost to the complaints. All costs incurred in relation to the conduct of investigations are captured.

Year	1 April 2022 to 31 March 2023	1 April 2022 to 23 November 2022	1 April 2023 to 23 November 2023
Total No. of hours spent on complaints relating to:	County Councillors: 155.03 Parish/ Town Councillors: 404.54	County Councillors: 48.98 Parish/ Town Councillors: 126.60	County Councillors: 90.25 Parish/ Town Councillors: 156.87
Total cost of complaints spent (internal):	County Councillors: £15,557.74 Parish/ Town Councillors: £44,495.35	County Councillors: £4829.98 Parish/ Town Councillors: £17,344.75	County Councillors: £13,918.53 Parish/ Town Councillors: £20,016.15
Total cost of complaints spent (external):	County Councillors: £0.00 Parish/Town Councillors: £8312.40	County Councillors: £0.00 Parish/ Town Councillors: £8312.40	County Councillors: £0.00 Parish/ Town Councillors: £0.00

- 29 Members will note that the highest figure for costs and time spent is in relation to Town/Parish Councils, this reflects that the highest number of complaints are made against Town/Parish Councils.
- 30 Members will further note that the comparison between complaints received this year, and the same period last year shows an increase in the time spent and costs incurred on complaints made against County Councillors.
- 31 The external costs incurred relate to an investigation into two complaints against a Town Councillor, which were referred to a Hearing Panel of the Standards Committee. The costs covered both the investigation and attendance of the investigating officer at the Hearing.

These costs are borne by the County Council and there is no power to recover the costs from the Town Council.

Independent Person(s) Training

- 32 Since the last Standards Committee, the Council's four independent persons were offered the opportunity to attend training on the role by Lawyers in Local Government on 13 November 2023.
- 33 All four Independent Persons expressed an interest in the course but only two were able to attend due to the timing of the course and other commitments. The two Independent Persons who attended expressed that they would recommend the course and it was commented that it was excellent and informative. The slides and feedback from the course will be circulated to all Independent Members.
- 34 During the training, it was suggested that Independent Persons may find an informal network helpful to keep in touch, share best practice and provide mutual support. The Head of Legal and Democratic Services will liaise with fellow Monitoring Officers within the region to see if there is a mutual interest for this.

Code of Conduct Training for Town & Parish Councillors

- 35 On 22 November 2023, the Monitoring Officer delivered Member Code of Conduct Training to Town and Parish Councillors via Teams. The training was offered to all Town and Parish Councillors across County Durham. Approximately 20 Councillors attended the training, which appeared to be well received. The training highlighted the importance of the Principles on Standards in Public Life (the Nolan Principles) and declaration of interests and the impact of having an interest on the ability to participate in council business.

Conclusion

- 36 This report provides a summary of the Code of Conduct Complaints handled over the last 3 months along with a part year review 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.
- Procedure for Member Code of Conduct Complaints.

Authors:

Lauren Smith

Tel: 03000 267870

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. 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.	
--	--	-----------------------------------	--

Procurement

There are no procurement implications.

Appendix 2: Code of Conduct Complaints Activity
