

## **STANDARDS AND ETHICS COMMITTEE**

### **23 OCTOBER 2019**

## **CODE OF CONDUCT – COMPLAINTS UPDATE v2**

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### **Recommendation**

- 1. The Head of Legal and Democratic Services recommends that the Committee:**
  - (a) notes the formal complaints that have been made about the conduct of County Councillors and their outcome; and**
  - (b) considers what, if any, further action should be taken to ensure members are aware of and comply with their obligations under the Code of Conduct.**

### **Summary**

2. This report is to update the Committee on formal complaints about the conduct of councillors which have been dealt with since the last report in April 2019. The Committee has delegated to the Monitoring Officer the responsibility of filtering complaints received, in consultation with the Chairman and/or Independent Person as may be appropriate, and so the MO then reports to the Committee on the decisions taken.

### **Background**

3. The Council receives a relatively small number of formal complaints concerning the conduct of county councillors. None of these have recently progressed to formal investigation but have been resolved one way or the other through the facilitation of the Monitoring Officer or no further action where appropriate. Calendar year 2018 brought an unusually high number of formal complaints (9), and that is being repeated in 2019. There were 4 formal complaints in 2013, 3 in 2014, 2 in 2015, 2 in 2016, and 1 in 2017. There have been 6 so far in 2019.

### **Complaint 01/19**

4. An outside body complained about the nature and tone of 2 emails received from a councillor concerning a Council nomination to that body, considering the tone was disrespectful, brought disrepute, intimidating, and that the councillor's own complaint which had been made about the body was bullying behaviour.

5. The Code clearly applied to the county councillor when involved in the business of a Council nominee as acting in an official capacity. Preliminary enquiries were made by the MO into the circumstances, including consultation with the Committee chairman, and talking to the complainant and the councillor. The Monitoring Officer considered the filtering guidelines set by the Committee and decided that the matter would not be further investigated as although the Code was engaged, the complaint did not disclose any potential breach. The most serious allegations of bullying or intimidation boiled

down to the councillor's own complaint about the complainant body and reference to taking legal advice.

6. The Code does not prevent councillors setting out their views robustly, even forcibly. The perceived lack of quality in the content of communications are not Code issues, which relate to conduct of councillors, not the quality of their performance. Councillors are not employees and their conduct is not judged as such. There was a margin of discretion for councillors in dealing with issues; tit-for-tat complaints would not generally disclose any breach. The Code was not breached just through comments which could have been better phrased but were not disrespectful in terms of the Code nor brought the office or Council into disrepute, and formal investigation was not justified. The complainant was notified of the final outcome 21 calendar days after the complaint was received.

7. However, there were clearly underlying issues behind the complaint. The MO attempted resolution of those issues by facilitating the outstanding nomination and making proposals to assist their working relationship.

### **Complaint 02/19**

8. A local resident complained that a local member had breached equalities provisions in relation to residents' parking in failing to contact all residents to ascertain their views but held 'preferential' meetings with several key residents without ascertaining all residents' views.

9. No potential breach was disclosed. Although the complainant considered that the councillor should have taken a particular course of action, it is a matter for councillors' discretion how they exercise their role as local members and approach particular issues. As a matter of general principle, differing from a resident's preferred course of action does not in itself disclose any potential breach of the Code of Conduct. As it happens, initial enquiries showed that Highways had sent a survey on behalf of the local councillor to all local residents.

10. The Code requires members not to do anything which may cause the Council to breach any of the Equality enactments, relating to unlawful discrimination on the basis of sex/race/religion etc. Nothing in the complaint disclosed any potential breach of the equality enactments. After initial enquiries and consultation with the Chairman, the complainant was informed that no further action would therefore be taken 3 calendar days after receipt of the complaint.

### **Complaint 03/19**

11. This was a further complaint from the same member of the public as 02/19, that the local councillor had 'warned off' a district councillor from getting involved in the highways matters of residents' parking.

12. After initial enquiries and consultation with the Chairman, no potential breach was disclosed by the complaint even if the alleged facts set out were to be proven. The county councillor would be entitled to inform a district councillor that highway parking was not a matter to get involved in with constituents as it was a county function. It is a matter for councillors' discretion how they exercise their role as local members and approach particular issues. As a matter of general principle, differing from a resident's

preferred course of action does not in itself disclose any potential breach of the Code of Conduct. The complainant was informed that no further action was to be taken on the complaint 13 calendar days after receipt.

### **Complaint 04/19**

13. This was a complaint that a county councillor had been improperly involved in persuading a district councillor to change political allegiance upon the district body. Following initial enquiries and consultation with an Independent Person, it was decided that no potential breach was disclosed. Any such alleged involvement was clearly a party political matter, not official business of the County Council and so the Code was not engaged in relation to the specific matters of complaint. Insofar as the Code was engaged in relation to comments made as a county councillor, those comments were uncontentious and disclosed no breach. The complainant was informed that no further action was to be taken on the complaint 11 calendar days after receipt.

### **Complaint 05/19**

14. This was a complaint from a member of the public that a councillor took a curt and rude tone in email exchanges. However, on initial assessment of the exchanges and consultation with the Chairman, the complainant's emails were themselves combative/offensive. They did not disclose a breach justify a complaint about tone of the councillor's response, which were within reasonable bounds in that context. No breach was disclosed, but the complaint was too minor/tit for tat in any event. Robust exchanges are not prohibited by the Code. The complainant was informed that no further action was to be taken on the complaint 12 calendar days after receipt.

### **Complaint 06/19**

15. This was a complaint from a former district councillor that a county councillor had been involved in district and party political matters to the complainant's detriment. The county's code was not engaged as it was not a county matter. The complainant was informed that no further action was to be taken on the complaint on the same day as receipt.

## **Contact Points**

### County Council Contact Points

County Council: 01905 763763

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### Specific Contact Points for this report

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## **Background Papers**

In the opinion of the proper officer (in this case the Head of Legal and Democratic Services) there are no background papers relating to the subject matter of this report.