

## **Update on Complaints received under the Member's Code of Conduct**

**To:** Audit and Governance Committee

**Date:** 24 March 2015

**Main Portfolio Area:** Leader

**Author of report:** John Scarborough, Head of Legal Partnership and Monitoring Officer

**Classification:** Non-Exempt

**Ward:** All

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### **Executive Summary**

This report provides an update on complaints received under the Member's Code of Conduct in the period ending 13 March 2015.

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### **LINK TO STRATEGIC COMPASS**

Passionate about providing value – we are open, transparent and accountable  
Passionate about our customers – customers are well communicated with  
Passionate about our community – A confident Tunbridge Wells

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### **Report status**

The report is for noting by the Audit and Governance Committee.

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### **Route to Implementation/Timetable:**

The Audit and Governance Committee will note the report.

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## BACKGROUND/INTRODUCTION

1. The current Members' Code of Conduct ("the Kent Code") for Tunbridge Wells Borough Council was adopted by the Borough Council on 18 July 2012. It was a requirement under the Localism Act 2011 that all Councils adopt a Code of Conduct and that the Code adopted must be based upon the Nolan Principles of Conduct in Public Life.
2. At the same Full Council meeting the Tunbridge Wells Borough Council also adopted arrangements for dealing with complaints ("the Kent Procedures") made under the Code of Conduct in the Tunbridge Wells area.
3. The same Localism Act 2011 requirement to adopt a Code of Conduct also applied to all the Parish and Town Councils in the Tunbridge Wells area. Therefore at around the same time, i.e. July 2012, all the Parish and Town Councils in the Tunbridge Wells area also adopted a Code of Conduct.
4. All the Parish and Town Councils in the Tunbridge Wells area adopted the same 'Kent Code' (apart from Paddock Wood Town Council) which had been agreed across Kent and was indeed adopted by the County Council, most of the District Councils and most of the Parish and Town Councils in Kent. Paddock Wood Town Council adopted the NALC (National Association of Local Councils) Code of Conduct.
5. Under the Localism Act 2011 Tunbridge Wells Borough Council is responsible for dealing with any complaints made under the Members' Codes of Conduct throughout the Tunbridge Wells area. Thus the Borough Council is responsible for dealing with any complaints affecting Members of, not only the Borough Council, but also all the Parish and Town Councils in the Tunbridge Wells Borough.
6. The arrangements for dealing with complaints ("the Kent Procedures") that were adopted by the Borough Council on 18 July 2012 therefore also apply in cases concerning Parish and Town Councils.
7. The Borough Council have resolved that oversight of the Kent Procedures falls under the Audit and Governance Committee.

## UPDATE ON COMPLAINTS RECEIVED

8. The Monitoring Officer provides an update to the Audit and Governance Committee upon complaints received at each meeting. The update is set out so that the names of the complainant and the Member complained about are both kept confidential. The reason for this is that the Localism Act 2011 repealed the previous statutory process for dealing with complaints whereby decisions including names would be published. In the absence of that statutory process, complaints must be dealt with in accordance with the Data Protection Act which means such data must be kept confidential.
9. Since the meeting of the Audit and Governance Committee on **9 December 2014**, one new complaint has been received. This has been assessed by the Monitoring Officer in consultation with the Independent Person and has been referred for formal investigation.
10. There were two outstanding complaints reported at the last meeting.
11. Both complaints had been assessed by the Deputy Monitoring Officers, in consultation with the Independent Person, as requiring investigation. The complaints were referred for investigation and the investigation reports have been completed. In both cases, the

Monitoring Officer, having consulted with the Independent Person, has concluded that there is evidence of a failure to comply with the relevant Code of Conduct.

12. In the first case, the matter has been referred for consideration by the Hearing Panel on 2 April 2015 in accordance with the relevant procedure detailed in the Kent Procedures.
13. In the second case, the matter has also now been referred for consideration by the Hearing Panel. The hearing was due to take place on 17 March 2015 but following a request for an adjournment from the subject member for personal reasons, a new date is presently being sought. The Committee will be updated verbally at the meeting.

#### **WHAT IS THE ISSUE THAT REQUIRES A DECISION AND WHAT DOES THIS MEAN FOR THE PEOPLE OF TUNBRIDGE WELLS?**

14. To note the update upon complaints under the Member's Code of Conduct.

#### **WHO HAVE WE CONSULTED AND HOW? (OR WHO WILL WE CONSULT FOLLOWING THE DECISION?)**

15. Members of the Audit and Governance Committee and the Independent Person in accordance with the Kent Procedures.

#### **HOW WILL THE DECISION BE COMMUNICATED?**

16. The Committee's decision will be published in the minutes of this meeting on the Council's website in due course.

#### **RECOMMENDATION**

That Members note the update on complaints received under the Member's Code of Conduct.

#### **REASON FOR RECOMMENDATION:**

To note the update on complaints received under the Member's Code of Conduct.

**Contact Officer: John Scarborough, Head of Legal Partnership, Mid Kent Legal Services.**

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**Lee Colyer**  
**Head of Finance and Governance**

**Appendices to the Report:**  
Appendix A – Cross Cutting Issues

**Background Papers: None**