

Audit & Governance Committee

8 December 2015

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Update on Complaints received under the Members' Code of Conduct

Final Decision-Maker	Audit & Governance Committee
Portfolio Holder(s)	Leader – Councillor Jukes
Lead Director	Lee Colyer, Director of Finance & Corporate Services
Head of Service	John Scarborough, Head of Legal Partnership and Monitoring Officer
Lead Officer/Report Author	John Scarborough, Head of Legal Partnership and Monitoring Officer
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

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

This report relates to the following Five Year Plan Key Objectives:

- A Prosperous Borough
- A Green Borough
- A Confident Borough

The report supports the Council's commitment to probity in all our affairs as well as the values of openness and responsibility.

Timetable

Meeting	Date
Audit & Governance Committee	8 December 2015

Update on Complaints received under the Members' Code of Conduct

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report provides an update on complaints received under the Members' Code of Conduct in the period ending on 27 November 2015.
-

2. INTRODUCTION AND BACKGROUND

- 2.1 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.
- 2.2 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. The current version of the Kent Procedures can be found on the Council's website.
- 2.3 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.
- 2.4 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.
- 2.5 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.
- 2.6 The arrangements for dealing with complaints ("the Kent Procedures") that were adopted by the Borough Council therefore also apply in cases concerning Parish and Town Councils.
- 2.7 The Borough Council have resolved that oversight of the Kent Procedures falls under the Audit and Governance Committee.
-

3. UPDATE ON COMPLAINTS RECEIVED

- 3.1 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.
- 3.2 Since the meeting of the Audit and Governance Committee on 22 September 2015, three new complaints have been received. The updated position is as follows.
- 3.2.1 Complaint 1 – The Monitoring Officer wrote to the complainant on 21 October requesting further details. As at 25 November, no reply has been received and the Monitoring Officer is making contact with the complainant to see if they wish to continue with the complaint.
- 3.2.2 Complaint 2 - It was necessary to write to the complainant in order to seek clarification on certain issues. Now that this clarification has been received, the Monitoring Officer has obtained initial comments from the Member concerned and is carrying out an initial assessment of the complaint in consultation with the Independent Person.
- 3.2.3 Complaint 3 – following receipt of the complaint, the Monitoring Officer has written to the complainant in order to seek clarification on certain issues.
- 3.3 There was one outstanding complaint at the last meeting. The Monitoring Officer has carried out an initial assessment of the complaint in consultation with the Independent Person and will shortly be writing to the complainant and Member concerned with his decision.
-

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

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

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 This report does not require further consultation as it is for information only.
-

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

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

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications
Legal including Human Rights Act	It is 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. The Members' Code of Conduct was adopted by Full Council on 18 July 2012 and can be found on the Council's website.
Finance and other resources	If a complaint proceeds to investigation then it can be carried out by an external person. If this is the case, there will be a fee for whichever external person carries out the work.
Staffing establishment	No issues.
Risk management	An effective complaints system is part of an effective system of governance.
Environment and sustainability	There are no relevant issues identified within this report.
Community safety	There are no relevant issues identified within this report.
Health and Safety	There are no relevant issues identified within this report.
Health and wellbeing	There are no relevant issues identified within this report.
Equalities	There are no relevant issues identified within this report.

8. REPORT APPENDICES

None

9. BACKGROUND PAPERS

None