

Audit & Governance Committee

3 April 2018

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 of the Council, Councillor Jukes
Lead Director	Lee Colyer, Director of Finance, Policy and Development
Head of Service	Patricia Narebor, Head of Legal Partnership and Monitoring Officer
Lead Officer/Report Author	Keith Trowell, Interim Team Leader (Corporate Governance) and Deputy 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	3 April 2018

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 3 April 2018.
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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. At the same Full Council meeting the 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.
 - 2.2 The Localism Act 2011 requirement to adopt a Code of Conduct also applied to the parish and town councils in the Tunbridge Wells area and all have adopted a Code of Conduct. These parish and town councils, with the exception of Paddock Wood, adopted the same 'Kent Code' which had been agreed across Kent and was 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 National Association of Local Councils model Code of Conduct.
 - 2.3 Under the Localism Act 2011 the Borough Council is responsible for dealing with any complaints made under the Members' Codes of Conduct against Borough, parish and town council members throughout the Tunbridge Wells Borough area. The arrangements for dealing with complaints ("the Kent Procedures") that were adopted by the Borough Council also apply in cases concerning parish and town councils.
 - 2.4 The Borough Council have resolved that oversight of the Kent Procedures falls under the Audit and Governance Committee.
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3. UPDATE ON COMPLAINTS RECEIVED

- 3.1 At each Audit and Governance Committee meeting the Monitoring Officer provides an update regarding Code of Conduct complaints. The update omits details of the identities of the complainant and the subject member because the Localism Act repealed the previous statutory process under which names were published. In the absence of that statutory process, the Data Protection Act requires the names to be kept confidential at this stage

- 3.2 At the Audit and Governance Committee on 21 November 2017 it was reported that the one outstanding complaint had been decided resulting in a finding that the alleged conduct did not amount to a breach of the Code of Conduct. Since that meeting three further complaints against parish councillors have been received.
- 3.3 Two of the further complaints were against the same councillor in relation to the same allegations of bullying thereby compromising the impartiality or integrity of a person working for the Council and bringing the Council into disrepute. Having consulted with the Council's Independent Person as required, the Monitoring Officer decided the initial complaint would not be investigated as matters had been resolved informally. The 'Subject Member', having acknowledged the actions were inappropriate, offered an apology that had been accepted. The other complaint was rejected by the Monitoring Officer as it failed the Local Assessment Criteria test because it was a 'repeat complaint' not supported by new or further evidence substantiating or indicating that the complaint was exceptionally serious or significant.
- 3.4 The third complaint alleged the councillor brought the office of councillor into disrepute by speaking in a rude and condescending manner. The Monitoring Officer, after consulting the Independent Person, rejected the complaint under one of the legal jurisdiction criteria tests concluding that the councillor was not acting in an official capacity at the time of the incident as conversation took place in a shop.
- 3.5 There are currently no other outstanding complaints.
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4 PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 That members note the update on complaints received under the Members' Code of Conduct.
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5 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 This report does not require further consultation as it is for information only.
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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.
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7 CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
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.	Keith Trowell, Interim Team Leader (Corporate Governance) - 06.03.18.
Finance and other resources	If a complaint proceeds to investigation it may be carried out by an external person. If this is the case, there will be an irrecoverable cost to the Council.	Jane Fineman, Head of Finance & Procurement – 06.03.18.
Staffing establishment	No issues.	
Risk management	An effective complaints system is part of an effective system of governance.	Keith Trowell, Interim Team Leader (Corporate Governance) - 06.03.18.
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