

# Audit & Governance Committee

2 April 2019

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

<b>Final Decision-Maker</b>	Audit & Governance Committee
<b>Portfolio Holder(s)</b>	Leader of the Council, Councillor Jukes
<b>Lead Director</b>	Lee Colyer, Director of Finance, Policy and Development
<b>Head of Service</b>	Patricia Narebor, Head of Legal Partnership and Monitoring Officer
<b>Lead Officer/Report Author</b>	Keith Trowell, Team Leader (Corporate Governance) and Deputy Monitoring Officer
<b>Classification</b>	Non-exempt
<b>Wards affected</b>	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

<b>Meeting</b>	<b>Date</b>
Audit & Governance Committee	2 April 2019

# 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 13 November 2018 to 19 March 2019.
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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 27 November 2018 it was reported that at that time the one ongoing complaint previously reported had been concluded with a finding that the allegations were not supported by evidence. Since that meeting there have been five new complaints.
- 3.3 One of the complaints is against a Borough Councillor alleging bullying and aggressive comments. This complaint is at an early stage and is currently being assessed.
- 3.4 The other four complaints are all against the same parish councillor and all comprise similar allegations about bullying, preventing access to information and compromising impartiality. Following initial investigations and the required consultation with the Council's Independent Person, Mr Michael O'Higgins, the Monitoring Officer decided that the complaints should be referred for formal investigation. An investigator has been appointed and her investigation is underway. The outcome of the investigation will be reported to the Committee at a later date.
- 3.5 There are no other outstanding complaints.

#### **4 PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 That Members note the update on complaints received under the Members' 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**

<b>Issue</b>	<b>Implications</b>	<b>Sign-off (name of officer and date)</b>
<b>Legal</b> including Human Rights Act	It is a requirement under the Localism Act 2011 that all Councils adopt a Code of Conduct and that	Keith Trowell, Team Leader (Corporate Governance) – 19.03.19.

	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.	
<b>Finance and other resources</b>	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 20.03.19
<b>Staffing establishment</b>	No issues.	
<b>Risk management</b>	An effective complaints system is part of an effective system of governance.	Keith Trowell, Team Leader (Corporate Governance) – 19.03.19.
<b>Data Protection</b>	Data will be held and processed in accordance with the data protection principles contained in the Data Protection Act 2018.	Keith Trowell, Team Leader (Corporate Governance) – 19.03.19.
<b>Environment and sustainability</b>	There are no relevant issues identified within this report.	
<b>Community safety</b>	There are no relevant issues identified within this report.	
<b>Health and Safety</b>	There are no relevant issues identified within this report.	
<b>Health and wellbeing</b>	There are no relevant issues identified within this report.	
<b>Equalities</b>	The There are no relevant issues identified within this report.	

## 8 REPORT APPENDICES

None

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## 9 BACKGROUND PAPERS

None