

# Update on complaints received under the Members' Code of Conduct

For Audit and Governance Committee on 19 September 2023

## Summary

**Lead Member:** Leader of the Council, Councillor Ben Chapelard

**Lead Director:** Lee Colyer, Director of Finance, Policy and Development

**Head of Service:** Claudette Valmond, Head of Legal Partnership and Monitoring Officer

**Report Author:** Gary Rowland, Senior Legal Advisor (Corporate Governance)

**Classification:** Public document

**Wards Affected:** All

Approval Timetable	Date
Audit and Governance Committee	19 September 2023

## Recommendations

Officer recommendations as supported by the Portfolio Holder:

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

# 1. Introduction and Background

- 1.1 This report provides an update on complaints received under the Members' Code of Conduct in the period 1 March 2023 to 31 August 2023.
- 1.2 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.
- 1.3 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.
- 1.4 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.
- 1.5 The Borough Council have resolved that oversight of the Kent Procedures falls under the Audit and Governance Committee.

# 2. Update on Complaints Received

- 2.1 Twice yearly, the Monitoring Officer provides an update to the Audit and Governance Committee regarding Code of Conduct complaints. The update omits details of the identities of the complainant and the subject member because the Localism Act 2011 repealed the previous statutory process under which names were published. In the absence of that statutory process, the Data Protection Act 2018 requires the names to be kept confidential.

- 2.2 At the Audit and Governance Committee on 14 March 2023 it was reported that there was one outstanding complaint against a borough councillor. This complaint has now been concluded as follows:

**Complaint 1**

The complaint concerned an allegation that a borough councillor had brought their office or the Authority into disrepute.

The Monitoring Officer concluded that a breach of the Code had not been established as the complaint met Local Assessment Criteria (e) - the complaint is relatively minor and dealing with the complaint would have a disproportionate effect on both public money and officers' and Members' time.

- 2.3 Since the last meeting, the Monitoring Officer has received a further two complaints. Both complaints concern the alleged behaviour of borough councillors.

One of these complaints have now been concluded as follows:

**Complaint 2**

The complaint concerned an allegation that a borough councillor had brought their office or the Authority into disrepute.

The Monitoring Officer concluded that a breach of the Code had been established and that the complaint should be resolved informally, by way of a written apology from the subject member.

**Complaint 3**

The one remaining complaint is currently being considered by the Monitoring Officer and will be detailed in the next report.

### **3. Preferred Option and Reason for Recommendation**

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

### **4. Consultation Results and Previous Committee Feedback**

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

## **5. Next Steps: Communication and Implementation of the Decision**

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

## **6. Appendices and Background Documents**

Appendices: None

## **7. Cross Cutting Issues**

### **A. Legal (including the 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.

Gary Rowland, Senior Legal Advisor (Corporate Governance) 04/09/2023

### **B. 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.

Gary Rowland, Senior Legal Advisor (Corporate Governance) 27/02/2023

### **C. Staffing**

There are no relevant issues identified within this report.

Gary Rowland, Senior Legal Advisor (Corporate Governance) 27/02/2023

### **D. Risk Management**

An effective complaints system is part of an effective system of governance.

Gary Rowland, Senior Legal Advisor (Corporate Governance) 27/02/2023

### **E. Environment and Sustainability**

There are no relevant issues identified within this report.

Gary Rowland, Senior Legal Advisor (Corporate Governance) 27/02/2023

### **F. Community Safety**

There are no relevant issues identified within this report.

Gary Rowland, Senior Legal Advisor (Corporate Governance) 27/02/2023

## **G. Equalities**

There are no relevant issues identified within this report.

Gary Rowland, Senior Legal Advisor (Corporate Governance) 27/02/2023

## **H. Data Protection**

Data will be held and processed in accordance with the data protection principles contained in the Data Protection Act 2018.

Gary Rowland, Senior Legal Advisor (Corporate Governance) 27/02/2023

## **I. Health and Safety**

There are no relevant issues identified within this report.

Gary Rowland, Senior Legal Advisor (Corporate Governance) 27/02/2023

## **J. Health and Wellbeing**

There are no relevant issues identified within this report.

Gary Rowland, Senior Legal Advisor (Corporate Governance) 27/02/2023