

Standards Committee : 18 July 2013

Title of report: Review of Complaints

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	N/A
Is it in the Council's Forward Plan?	N/A
Is it eligible for "call in" by Scrutiny?	N/A
Cabinet member portfolio	Corporate

Electoral wards affected: All

Ward councillors consulted: N/a

Public or private: Public

1. Purpose of Report

To brief standards committee upon the standards complaints dealt with since the commencement of the new arrangements for standards matters on 1 July 2012 and the action taken.

2. Key Points

The Council adopted a transitional code of conduct with effect from 1 July 2012 and a final code of conduct with effect from 24 October 2012. Under the Localism Act 2011 the Council has some flexibility in the arrangements it makes for dealing with standards complaints and is able to modify them if appropriate.

Since 1 July 2012 the Monitoring Officer has received 9 new complaints about the conduct of elected members and has dealt with 2 complaints which were made under the previous standards regime and which carried over into the new arrangements under the transitional arrangements for the commencement of the Localism Act 2011. In each case the Monitoring Officer followed the arrangements agreed by Council on 24 October 2012 and consulted a panel made up of the Group Business Managers and one of the

Council's two Independent Persons before making a decision as to the action to be taken. The individual complaints and the action taken are summarised in the Annex to this report.

3 Implications for the Council

The promotion and maintenance of high standards of conduct among councillors and voting co-opted members is an important part of maintaining public confidence in the council and its members.

4 Consultees and their opinions

N/a

5 Officer recommendations and reasons

It is recommended that this report be noted.

6 Cabinet portfolio holder recommendation

N/a

7 Next steps

The Monitoring Officer will continue to assess complaints about member conduct as and when they are received and will report the outcomes to this committee as appropriate.

8 Contact officer and relevant papers

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Background Papers:

Assessment Decision Records Ref 2012/001 to 2013/011 inclusive.

ANNEX

Complaints made before 1 July 2012

2012-001

The complaint was about a Kirkburton Parish Councillor, who has since resigned from being a parish councillor, and alleged that the former councillor had failed to declare and properly deal with personal and prejudicial interests, had conducted themselves in a manner which could reasonably be regarded as bringing their office or the Parish Council into disrepute and had improperly used their position as a member to confer on or to secure for themselves or any other person an advantage or disadvantage. The allegations related to the councillor's conduct when the Parish Council was making decisions about the funding of various groups.

The complaint was referred for investigation under the previous standards regime and the Monitoring Officer's report concluded that there had been no breaches of the Parish Council's code of conduct. The Consideration Sub-Committee was concerned that they had insufficient information to decide whether they agreed with the findings of the report and resolved to refer the complaint to be dealt with under the new standards regime. Following this decision the councillor resigned from the Parish Council.

The Monitoring Officer noted the councillor's resignation, that the complainant no longer wished to pursue the complaint and that the process of investigation has been particularly difficult for both the complainant and the councillor because it had required some examination of aspects of their personal lives. It had also involved reminding the councillor of events which had been very distressing for them when they took place. The Monitoring Officer concluded that it was not in the public interest to take the matter further and that no further action should be taken.

2012-002

The complaint was about two Denby Dale Parish Councillors and comments they were alleged to have made during a site visit to the complainant's property. The complaint was referred for investigation under the previous standards regime and the Monitoring Officer's report concluded that both councillors had breached the Parish

Council's code of conduct by failing to treat the complainant with respect.

The Consideration Sub-Committee accepted the findings and noted that one of the councillors had accepted that he had acted out of character and had expressed regret and that the breaches of the code of conduct were minor. The Consideration Sub-Committee requested that the matter be resolved informally and without a hearing.

The Monitoring Officer concluded that the councillors should apologise to the complainant for what they had said and invited them to do so.

Complaints made after 1 July 2012

2012-003

The complaint was about a Kirklees councillor's refusal to meet with the complainant. The councillor said that they had spoken to the complainant on numerous previous occasions and had in the past taken him to see the then Deputy Leader of the Council. However the councillor said that after helping the complainant to secure funding and support they had been let down by the complainant and they were not willing to let that happen again.

The Monitoring Officer concluded that there was insufficient information to demonstrate a potential breach of the Transitional Code of Conduct. Her conclusion was that the role of a ward member does not require a councillor to meet with any individual constituent or interested party. She noted that the subject member has provided an explanation for his actions and decided that he was entitled to decline to see the complainant. Accordingly she decided to take no further action in relation to the complaint.

2012-004

The complaint was about a Kirklees councillor's conduct at a Licensing Panel meeting which was considering the complainant's application for a variation of his premises licence. The councillor was not a member of the Panel and attended as a ward councillor to speak on behalf of local residents. The complaint was that the councillor had made untrue and insulting allegations about the complainant.

The Monitoring Officer considered the role of a ward councillor and concluded that it was proper for the councillor to put forward the

concerns of his constituents at the Licensing Panel meeting and to do so forcefully if they wished. The proceedings of the Licensing Panel were regulated by the councillor chairing the Licensing Panel, who would be concerned to see that any person being criticised would have the opportunity to reply. Similarly, the chairman would be in a position to rule on whether matters being raised were relevant to the decision being made. Accordingly, the Monitoring Officer took the view that the concerns raised by the complainant were matters which were capable of being dealt with at the meeting and could only conclude that the chairman dealt with them as he saw fit on the day. On that basis she was unable to find that the councillor was in breach of the Transitional Code and decided that no further action should be taken on the complaint.

The complainant took the matter to the Local Government Ombudsman and complained about the councillor's conduct and the way in which the assessment decision on the complaint had been made. The Ombudsman declined to investigate the complaint on the basis that the complainant's remedy was to appeal the licensing decision and that the allegation that one of the Group Business Managers consulted by the Monitoring Officer was a friend of the councillor did not mean that the assessment decision had been wrongly taken.

2012-005

The complaint was about a Kirklees councillor's conduct in chairing a sub-committee meeting and was made by a Kirklees councillor who was a member of the sub-committee. The complainant had been using an i-Pad during the meeting to look at relevant information and had been publicly criticised by the chair in a way they felt had caused them unnecessary distress and embarrassment in front of members of the public and council officers. The complainant had approached the chair at the end of the meeting to raise their concerns and had been told that if they had a problem they should make a formal complaint. The complainant also raised wider concerns about the way in which the member carried out their role as chair of the sub-committee particularly in relation to the summing up of matters by the chair.

The Monitoring Officer considered the role of the chairman of a sub-committee meeting and concluded that the chairman's responsibility for maintaining order in the meeting extends to ensuring that members are applying themselves to the business of the meeting. It was proper for the chairman, to query what the complainant was doing, especially given that the use of the i-pad was brought to his attention by a

member of the public. With regard to the exchange after the close of the meeting, the chair had said that they did not want to discuss the matter in front of officers.

The Monitoring Officer was concerned that the two councillors had not been able to sort out their differences informally and that had been the complainant's intention when they approached the chair after the meeting. Her conclusion was that the chair was within their rights to chair the meeting in the way that they did. However she was concerned that when the complainant had approached the subject member after the meeting, they were making a genuine attempt to resolve their concerns and that the chair failed to take the opportunity to do so and seems to have underestimated the impact that their actions, as chair of the sub-committee, would have on the complainant.

The Monitoring Officer decided that she should contact the subject member to discuss these points. She also took the view that there was a need for councillors to be clear about what use of electronic devices in formal meetings is acceptable and what is not.

On the issue of the chair's approach to their role at meetings in general the Monitoring Officer took the view that the chair's role was of particular importance and difficulty and that while it may be legitimate to question how far a chair should go in summing up matters for the sub-committee before putting it to a vote, she was not persuaded that the standards system is the appropriate way for such matters to be dealt with. Accordingly she concluded that no further action should be taken on this part of the complaint.

2012 006

The complaint was about the conduct of a Kirklees councillor in their role with a voluntary organisation which leased land from the Council. The complainant had raised concerns about the voluntary organisation's failure to comply with various requirements of the lease and the Council's Head of Audit and Risk had investigated the matter and reported to the Council's Corporate Governance & Audit Committee. The report found that there were various aspects of the matter which caused concern and made recommendations which were adopted by the Committee.

The complainant then made a standards complaint about the councillor's role in those matters and referred to the report. The councillor was first elected in May 2012 and is subject to the new

standards regime in respect of their conduct as a councillor since 1 July 2012. Accordingly only their conduct since 1 July 2012 can be the subject of a standards complaint.

The Monitoring Officer took the view that there was insufficient information about the councillor's role in these matters, in particular for the period after 1 July 2012, and on the issue of whether their role with the voluntary organisation related to the member's role as a councillor. Accordingly she decided to seek more information as to the degree and extent of the subject member's responsibilities in the voluntary organisation before making a decision on how to progress the complaint.

The Monitoring Officer met the councillor who provided further information about HMRC and Police involvement in the matter and further details of their own involvement with the voluntary organisation. In particular they confirmed that they held no elected position with the now re-named voluntary organisation and that their dealings with the voluntary organisation had always been in a private capacity and not, since their election as a councillor in May 2012, as a councillor.

The Monitoring Officer concluded that the councillor had not, at any point, been acting in their capacity of an elected member of Kirklees Council in his dealings with the voluntary organisation. She noted that their involvement with the voluntary organisation significantly predated his election as a councillor and took the view that it was unreasonable to suggest that their election as a councillor in May 2012 changed the status of his involvement with the voluntary organisation. The Monitoring Officer did not uphold the complaint.

2013-007

The complaint was about the conduct of a Kirklees councillor in their role as a ward member involved in a consultation process with local people and community organisations about the future of a community centre. The allegations concerned the councillor's conduct at meetings and a suggestion that he was biased towards one particular community group's proposals.

The Monitoring Officer had had no response from the councillor about the complaint and because of the potential seriousness of the allegation of bias was reluctant to take the matter forward without having the councillor's initial comments. Accordingly she decided to

give the councillor a further opportunity to respond before making a decision on what action to take.

The Councillor has now responded but is not prepared to authorise the Monitoring Officer to share the response with the complainant. The Monitoring Officer is seeking to resolve this matter.

2013-008

The complaint was about the conduct of a Kirklees councillor during a telephone conversation they had made to a consultant on behalf of a constituent. The constituent had been concerned about the cost and likely further cost of work being done on his behalf by the consultant. The consultant complained that they felt harassed by the councillor, who said that they had told the consultant about the concerns their constituent had raised with them.

The Monitoring Officer noted that the councillor and the consultant were the only parties to the telephone call and decided to take no further action on the basis that any further investigation was unlikely to produce a clear finding as to what took place.

2013-009

The complaint was about comments made by a Kirklees councillor about taxi drivers in an email sent to the Council's Licensing Manager as a response to consultation on a proposed taxi rank. The comments were critical of taxi drivers and were published on the Council's website as part of the agenda papers for the Licensing Panel and later published in the local press.

The Monitoring Officer decided to take no further action on the basis that if the councillor honestly believed that there were problems with the conduct of taxi drivers in his ward then he was right to raise these concerns on behalf of his constituents in the licensing context. If ward members are overly cautious about expressing views on behalf of their constituents it can undermine their role as democratically elected representatives.

However the Monitoring Officer was concerned that the comments could have been more measured and could have referred to specific problems or incidents in a way which would have been more helpful to the Licensing Panel and would have avoided any unnecessary offence

to taxi drivers as a group. She therefore considered that it would be appropriate to write to the councillor to advise them accordingly.

2013-010

The complaint is about a Kirklees councillor's alleged failure to register a disclosable pecuniary interest in relation to their ownership of shares in a social club. The complainant also raises concerns about the councillor's management of the social club.

The councillor has accepted that they did not make the appropriate declaration of their shareholding on their registration of interests form and has since submitted an updated registration form.

The Monitoring Officer is awaiting further representations from the complainant before consulting the Group Business Managers and the Independent Person.

2013-011

The complaint is about the conduct of a Kirklees councillor who is alleged to have "shoulder-charged" the complainant on their way to a meeting and refused to listen to what the complainant had to say.

The councillor has said that the complainant attempted to prevent them gaining access to Council premises and that the Police attended. The councillor says that there is CCTV footage of the incident to confirm what they says and that the complaint is vexatious.

The Monitoring Officer will be consulting the Group Business Managers and the Independent Person.