



ADUR & WORTHING
COUNCILS

Joint Audit and Governance Committee
30 May 2023

Key Decision [Yes/No]

Ward(s) Affected:

Annual Review of Member Conduct Complaints - 2022/23

Report by the Monitoring Officer

Executive Summary

1. Purpose

- 1.1. This report advises Members of the Joint Audit and Governance Committee of the complaints received by the Monitoring Officer, that Elected Members have breached the Code of Conduct. Complaints received relate to Elected Members of Adur District Council, Worthing Borough Council, Sompting Parish Council and Lancing Parish Council.
- 1.2. The report advises of all complaints received during the municipal year 2022/23 from the date of the last annual report dated 31/05/2022, and the action taken by the Monitoring Officer, and/or the Council.

2. Recommendations

- 2.1. The Joint Audit and Governance Committee is asked to note the contents of this report and the actions taken by the Monitoring Officer and/or the Council.

3. Context

3.1. Section 27 of the Localism Act 2011 (the Act) provides that Councils (here: Worthing Borough, Adur District, Lancing and Sompting Parish Councils) must promote and maintain high standards of conduct by Members including Co-opted Members of the Councils. In discharging this duty the Councils must adopt a code dealing with the conduct that is expected of Members when they are acting in that capacity.

3.2. Under section 28(6) of the Act, Councils must have in place arrangements under which:

- (a) allegations can be investigated and,
- (b) decisions on allegations can be made.

Arrangements put in place under section 27(6)(b) must include provision to appoint at least one "Independent Person" whose views are to be sought and taken into account, by the Councils. Adur & Worthing Councils currently have two appointed Independent Persons.

3.3. The Joint Audit and Governance Committee is responsible for standards, ethics and probity matters, audit and accounts activity and the constitutional framework. Within its terms of reference, the Committee has the following responsibilities:

- To lead on the Council's duties to design, implement, monitor, approve and review the standards of ethics and probity of the Council, its Councillors and Co-opted Members.
- To promote a culture of openness, ready accountability and probity in order to ensure the highest standards of conduct of Councillors and Co-opted Members.
- To oversee and manage a programme of guidance, advice and training on ethics, standards and probity for Councillors and Co-opted Members and on the Members' Code of Conduct.
- To establish a standards sub-committee to receive reports following investigation on behalf of the Monitoring Officer into allegations of misconduct by Members and to determine appropriate action in respect of alleged breaches of the Members' Code of Conduct.

- To receive an annual report from the Monitoring Officer on the local resolution and assessment of allegations of breach of the Member Code of Conduct, by Members of the Councils and any Parish Council.
- 3.4. In 2021 Adur and Worthing Councils adopted the most up-to-date version of the Local Government Association model Code of Conduct for Members. This can be found at Part 5 of the Councils' Constitutions, together with the Member Complaints and Standards Sub-Committee Procedure Rules at Part 4. Both documents were again reviewed in October 2022 with no changes made. The Lancing and Sompting Parish Councils have their own Code of Conduct for their Members.
- 3.5. The Member Complaints and Standards Sub-Committee Procedure Rules provide for an initial assessment of all complaints to be undertaken by the Monitoring Officer. The purpose of assessment is to determine whether or not, on the basis of information supplied by the complainant, if the matter were proven, it would amount to a breach of the Member Code of Conduct; no investigation or hearing is conducted at this stage. The Monitoring Officer will reject the complaint if the Subject Member was not acting in their capacity as a Councillor at the time, or if the complaint is deemed to be trivial, malicious, vexatious, politically motivated or tit for tat. If accepted, the Monitoring Officer will then consider whether the complaint may be more appropriately dealt with by way of informal resolution, and if so, will attempt to resolve it. On assessment, options open to the Monitoring Officer include deciding to take no further action or resolving the complaint informally. The Monitoring Officer may consult the Independent Person at this stage.
- 3.6. Should the Monitoring Officer conclude that the complaint merits an investigation, the investigation may be conducted by the Monitoring Officer or delegated to another Officer or an external appointment. The investigation will result in an investigator's report and if, in the view of the Monitoring Officer, there is evidence, on the balance of probabilities, that the Subject Member has breached the Code of Conduct, then a meeting will be called of the Standards Sub-Committee of the Joint Audit and Governance Committee, to hear and determine the matter, and impose sanctions if appropriate. Possible sanctions in respect of an Adur or Worthing Member may include censure, publicity, recommendation to the Leader or Council that the Member be removed from a Committee, additional training or withdrawal of facilities. In respect of a Parish Councillor, recommendations can be made to the Parish Council as to an appropriate sanction.

3.7. All Members should attend training on the Code of Conduct and the Member Complaints and Standards Sub-Committee Procedure Rules at least once a year.

4. Code of Conduct Complaints received by the Monitoring Officer

4.1. This report is brought to the Joint Audit and Governance Committee to:

- Assist the Committee in fulfilling the Councils' duty to promote and maintain high standards of conduct;
- Provide the Committee with an overview of the overall number of complaints received by the Monitoring Officer;
- Enable the Committee to satisfy itself that the Monitoring Officer is broadly exercising her delegations correctly, for example by noting that a reasonable and proportionate amount of matters were referred for investigation; and
- Enable the Committee to ascertain any trends they may identify and have the opportunity to address them by updating guidelines, or organising training.

4.2. The following tables set out the complaints received for each Council:-

Adur District Council

When	Complaint by	Alleged breach of the Code of Conduct	Action taken	Formal Hearing	Conclusion
31/08/2021	Officers	Failure to disclose a pecuniary interest conflict of interest.	Investigation by Monitoring Officer through external consultant	No	Complaint already reported to JGC in May 2022 with outcome to follow. Matter since concluded - Informal resolution, no further action.
05/07/2022	Members of the public	Not specified by complainants	Further information	No	Matter closed following lack

			requested of the complainants		of response from complainants
--	--	--	-------------------------------	--	-------------------------------

Worthing Borough Council

When	Complaint by	Alleged breach of the Code	Action taken	Formal Hearing	Conclusion
05/05/2022	Member of the public	Harassment and intimidation, discrimination and slanderous use of a public forum	Consideration by the Monitoring Officer	No	Complaint already reported to JGC in May 2022 with outcome to follow. Matter since concluded - Insufficient evidence to support allegations, matter closed.
23/05/2022	Member of the public	Lack of respect and failure to lead by example	Consideration by the Monitoring Officer	No	No breach found, no further action.
22/03/2023	Member	Improper political group motives and allegation of breach of Nolan Principles of selflessness, objectivity, accountability, openness, honesty and leadership.	Consideration by the Monitoring Officer, consultation with IPs	No	Some Officer and Member training required, but no breach of Code found

Lancing Parish Council

When	Complaint by	Alleged breach of the Code	Action taken	Formal Hearing	Conclusion
------	--------------	----------------------------	--------------	----------------	------------

17/08/2022	Member	Lack of respect, bullying, harassment	Consideration by the Monitoring Officer, consultation with IP	No	No breach found
02/02/2023	Members of the public and a Member	Lack of respect, bullying	Consideration by the Monitoring Officer, consultation with IP	No	No breach found
03/02/2023	Members of the public	Failure to treat fairly and with respect, misuse of position, bullying.	Consideration by the Monitoring Officer, consultation with IP	No	No breach found

Sompting Parish Council

When	Complaint by	Alleged breach of the Code	Action taken	Formal Hearing	Conclusion
14/04/2022	Member of the public	Lack of impartiality, confidentiality, access to information, use of position	Consideration by Monitoring Officer	No	Complaint already reported to JGC in May 2022 with outcome to follow. Matter since concluded - No breach of Code.

5. Summary and Trends

5.1. Adur District Council

In the last year there has been one new Code of Conduct complaint made against Adur District Councillors.

The bullet points below set out the trend in complaints received. The number of complaints this year has decreased when compared to the number received in 2021/22:

- 1 complaint in 2022/2023
- 7 complaints in 2021/2022
- 16 complaints in 2020/2021
- 7 complaints in 2019/2020
- 3 complaints in 2018/2019

5.2. **Worthing Borough Council**

In the last year Worthing has received two new complaints.

The bullet points below set out the trend in complaints received. The number of complaints this year has decreased when compared to the number received in 2021/22:

- 2 complaints in 2022/2023
- 12 complaints in 2021/2022
- 10 complaints in 2020/2021
- 3 complaints in 2019/2020
- 5 complaints in 2018/2019

5.3. **Lancing Parish Council**

In respect of Lancing Parish Council there were:

- 3 complaints in 2022/23
- 2 complaints in 2021/2022
- 3 complaints in 2020/2021
- 1 complaint in 2019/2020
- 1 complaint in 2018/2019

5.4. **Sompting Parish Council**

In respect of Sompting Parish Council there were:

- 0 complaints in 2022/23
- 1 complaint in 2021/2022
- 0 complaints in 2021/2022
- 1 complaint in 2019/2020

- 2 complaints in 2018/2019

5.5. Summary of Complaints

There have been 6 Code of Conduct Complaints as illustrated in the above tables. The types of complaint received indicate the continued importance of Member training and awareness of the Member Code of Conduct.

6. Financial Implications

- 6.1. Other than the extensive Officer time involved in dealing with the Code of Conduct Complaints, there are no financial implications arising from this report. These costs are deducted from the existing Legal Services Budget.

7. Legal Implications

- 7.1. The Localism Act 2011 provides the statutory framework for Member conduct, the mandatory obligation for Local Authorities to have a Code of Conduct and for Councils to have local arrangements for dealing with complaints about Member conduct.
- 7.2. The Terms of Reference of the Joint Audit and Governance Committee provide that the Committee is responsible for Standards of Ethics and Probity amongst Members. The Member Complaints and Standards Sub-Committee Procedure Rules provide procedural arrangements for the consideration of complaints relating to Member conduct.
- 7.3. The Localism Act 2011 provides that the District Council is responsible for dealing with allegations relating to Member conduct in respect of any parishes in its area.

Legal Officer: Joanne Lee

Date: 24/04/2022

Background Papers

None

Officer Contact Details:-

Joanne Lee

Assistant Director and Monitoring Officer, Legal & Democratic Services

01903 221134

Joanne.lee@adur-worthing.gov.uk

Sustainability & Risk Assessment

1. Economic

Matter considered and no issues identified.

2. Social

2.1 Social Value

Matter considered and no issues identified.

2.2 Equality Issues

Matter considered and no issues identified.

2.3 Community Safety Issues (Section 17)

Matter considered and no issues identified.

2.4 Human Rights Issues

Any hearing to be held before the Joint Governance Sub-Committee (for standards) would be based on the principles of natural justice and comply with the Human Rights legislation, particularly the right to a fair hearing.

3. Environmental

Matter considered and no issues identified.

4. Governance

Upholding high standards of conduct and probity amongst Members is paramount and breaches of the Code of Conduct have an adverse effect on public confidence in the democratic process and adversely affect the reputation of the Council.