



ADUR & WORTHING
COUNCILS

Joint Governance Committee
22 September 2020
Agenda Item 11

Ward(s) Affected: All

Annual Review of Complaints Concerning Member Conduct - 2019/20

Report by the Monitoring Officer

Executive Summary

1.0 Purpose

- 1.1 The report advises Members of the Joint Governance Committee of 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 2019/20, and those that were unconcluded at the end of the 2018/19 municipal year, action taken by the Monitoring Officer, and/or the Council, including any attempts at informal resolution and the outcome.

2.0 Recommendations

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

3.0 Background

- 3.1 It is expected that Elected and Co-opted Members of the Borough, District and Parish Councils will uphold the highest standards of conduct expected of holders of public office. Section 28 of the Localism Act 2011 requires the Councils to have a Code of Conduct for Elected Members and both Adur and Worthing Councils adopted a Code in 2015, updated in 2020, which forms part of the Constitution. Lancing Parish Council and Sompting Parish Council have their own Code of Conduct for their Members, adopted by the relevant Parish Council.
- 3.2 Face to face training on the Code of Conduct is offered by the Monitoring Officer to all Members on an annual basis and training is also included in the new Member induction day. Regular updates and briefings are included in the Members' Bulletin.
- 3.3 The Adur & Worthing Code of Conduct is based on the 7 Nolan principles for those who hold public office: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 3.4 The Localism Act places emphasis on local resolution of conduct matters, and the Councils' internal procedures provide authority to the Monitoring Officer to dispose of matters by way of informal resolution where appropriate.
- 3.5 Section 28(6) and 28(7) of the Localism Act 2011 requires the Councils to put in place 'arrangements' under which allegations that a Member of the Borough, District or Parish Council has failed to comply with the relevant Authority's Code of Conduct when they are acting in their capacity as a Councillor. The Localism Act also provides an obligation on Local Authorities to appoint at least one Independent Person to act as a consultee when considering standards matters.
- 3.6 The Joint 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.
- 3.7. Procedural arrangements have also been adopted by Adur & Worthing Councils in the form of the Standards Procedure Rules which are contained within Part 5 of the Constitutions.
- 3.8. The procedure rules provide for an initial assessment stage 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 Code of Members' 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, resolving the complaint informally, referring the complaint to the Police and referring the complaint for full investigation.
- 3.9. Should the Monitoring Officer, after consulting with the Independent Person, 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 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.
- 3.10. Members will recall the report brought to them in November 2019 entitled 'Standards in Public Life' which updated Members of the Joint Governance

Committee with the work recently undertaken by the Committee on Standards in Public Life and their recommendations. This led to a review of the Council's Code of Conduct which was considered by the Committee in January 2020 and adopted by each full Council in February 2020.

- 3.11 Following the work of the Committee on Standards in Public Life and the recommendations in their report, the LGA have undertaken a review of the Model Code of Conduct. The draft version has been considered by the Joint Governance Committee, and Members were able to engage with the LGA direct during the consultation period. It is anticipated that the LGA will publish the model code in October 2020 and if so, a further report will be brought to the Joint Governance Committee thereafter to consider its adoption. Any revised code is likely to lead to a need to consider a revision to the Standards Procedure Rules and a requirement for additional Member training in early 2021.

4.0 Complaints received by the Monitoring Officer alleging that an Elected Member has breached their Code of Conduct

Set out below is a record of all complaints received by the Councils' Monitoring Officer during the year 2019/2020, as well as those complaints received prior to the start of that year but concluded during the year. The report is brought to the Joint 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.

4.1 Elected Members of Adur District Council

- 4.1.1 A complaint was received in 2018/19 but determined in 2019/20 from an Adur District Councillor alleging that another Adur District Councillor had breached the Code of Conduct, by disclosing confidential information. On assessment, both the Council's Independent Person and the Monitoring Officer considered that the conduct was potentially sufficiently serious to warrant a full investigation. Following an

investigation, the matter was referred to a Sub-Committee of the Joint Governance Committee, which determined that the Councillor had breached the provisions of the Adur District Council Code of Conduct relating to the disclosure of confidential information. The Sub-Committee imposed a sanction on the Councillor, requiring the Councillor to provide a formal letter of apology to the Complainant, to undertake Google training, and the Sub-Committee also censured the Councillor and a Censure Notice was published on the Council's website.

- 4.1.2 A complaint was received in May 2019 from an Adur District Councillor, alleging that another Adur District Councillor had breached the Code of Conduct by failing to treat others with respect and failing to uphold high standards of conduct during a Planning Committee site visit. On assessment, both the Council's Independent Person and the Monitoring Officer considered that the complaint was trivial and it was therefore rejected.
- 4.1.3 In June 2019 a complaint was received from an external partner organisation alleging that an Adur District Councillor had breached the Code of Conduct by failing to treat others with respect in posting comments on social media. On assessment, both the Independent Person and the Monitoring Officer considered that any breach was relatively minor and that the matter did not warrant full investigation. The matter was informally resolved with the Councillor providing a written apology in respect of the social media posts, by way of disposal of the complaint.
- 4.1.4 In August 2019 a complaint was received from a member of the public alleging that an Adur District Councillor had breached the Code of Conduct by her response to a post on social media, which it was alleged failed to treat an individual with respect. On assessment, both the Independent Person and the Monitoring Officer determined that the Councillor was not acting in their capacity as a Councillor at the time and the complaint was dismissed.
- 4.1.5 A complaint was received in June 2019 from a Lancing Parish Councillor, acting in personal capacity, alleging that an Adur District Councillor had failed to treat him with respect by posting verbally abusive comments on social media. On assessment, both the Independent Person and the Monitoring Officer considered that the conduct may be suitable for informal resolution and in an attempt to

dispose of the matter, asked the Councillor to provide a written apology to the Complainant. The Subject Member refused to do so and on further assessment both the Independent Person and the Monitoring Officer considered that the matter should be referred for investigation. Following investigation, the matter was referred to a Sub-Committee of the Joint Governance Committee for determination, where it was held that the Councillor had breached the Code of Conduct. The Joint Governance Committee imposed a sanction requiring the Councillor to undertake additional training and recommended the Councillor apologise to the Complainant; they also censured the Councillor and a Censure Notice was placed on the Council's website.

4.1.6 A further complaint was received from another Adur District Councillor that an Adur District Councillor breached the Code of Conduct by disrespectful behaviour during a Council Committee meeting, towards a Member of the Committee. Upon assessment, both the Independent Person and the Monitoring Officer determined that the behaviour complained of was trivial and the complaint was dismissed.

4.1.7 A complaint was received, from a Lancing Parish Councillor acting in his personal capacity, alleging that an Adur District Councillor had breached the Code of Conduct by failing to treat him with respect and failing to uphold high standards of conduct, in a thread of posts on social media. On assessment, both the Independent Person and the Monitoring Officer were of the view that the complaint was capable of informal resolution and it was disposed of by way of the Councillor issuing an apology to the Complainant.

4.2 Elected Members of Worthing Borough Council

4.2.1 A complaint was received in 2018/19 alleging that a Worthing Borough Councillor had breached the Code of Conduct and was determined in 2019/20. The complaint was received from a partner organisation alleging that the Councillor had failed to treat others with respect by acting in an intimidating manner and improperly using his position as a Councillor. On assessment, both the Independent Person and the Monitoring Officer considered that the allegation was sufficiently serious to warrant an investigation. Following the investigation, the matter was referred to a Sub-Committee of the Joint Governance Committee, who determined that the Councillor had breached the Code of Conduct. The Committee imposed a sanction requiring the Councillor to formally apologise to the Complainant, to undertake

additional training and to engage with a mentor; the Committee also censured the Councillor and a Censure Notice was published on the Council's website.

4.2.2 A complaint was received from the Council's Chief Executive in May 2019 alleging that a Worthing Borough Councillor had breached the Code of Conduct by allegedly being rude and abusive to a Council Officer in person and in a post on social media. On assessment, both the Independent Person and the Monitoring Officer considered that the matter warranted further investigation. However, the Councillor then resigned his office and it was not considered in the public interest, bearing in mind time and costs involved, to progress the matter and consequently no further action was taken.

4.2.3 A complaint was received in July 2019 from a member of the public alleging that a Worthing Borough Councillor had breached the Code of Conduct by being rude and disrespectful. On assessment, both the Independent Person and the Monitoring Officer considered that the complaint was trivial and it was consequently rejected.

4.3 Elected Members of Sompting Parish Council

4.3.1 In August 2019 a complaint was received from a member of the public alleging that a Sompting Parish Councillor had breached the Sompting Parish Council Code of Conduct by failing to treat him with respect in a comment posted on social media. Both the Independent Person and the Monitoring Officer, on assessment, concluded that the Councillor was not acting in his capacity as a Parish Councillor at the relevant time and the complaint was therefore dismissed.

4.4 Elected Members of Lancing Parish Council

4.4.1 In October 2019 a complaint was received from an Adur District Councillor alleging that a Lancing Parish Councillor had breached the Lancing Parish Council Code of Conduct in respect of a comment posted on social media. On assessment, both the Independent Person and the Monitoring Officer concluded that the complaint was trivial, potentially politically motivated and tit for tat, and it was therefore rejected.

5.0 Summary and Trends

5.1 Of the twelve complaints dealt with by the Monitoring Officer during 2019/20:-

- Seven were in respect of allegations against Adur District Councillors,
- Three in respect of allegations against Worthing Borough Councillors,
- One in respect of a complaint against a Sompting Parish Councillor, and
- One in respect of a complaint against a Lancing Parish Councillor.

5.2 In respect of the twelve complaints dealt with during 2019/20:-

- Three were determined by a Sub-Committee of the Joint Governance Committee and in each case a breach of the Code was found,
- Six were rejected by the Monitoring Officer, after consultation with the Independent Person; four due to being trivial and two due to the Subject Member not being under the jurisdiction of the Code at the relevant time,
- Two were informally resolved, and
- One did not proceed due to the resignation of the Subject Member.

5.3 Of the twelve complaints dealt with during 2019/20:-

- One related to the disclosure of confidential information,
- Seven related to Councillors posting, or responding to posts, on social media, and
- Four related to alleged failure to treat with respect, other than on social media.

6.0 Engagement and Communication

6.1 The Monitoring Officer has consulted with one of the Councils' Independent Persons in respect of the assessment of each complaint received.

6.2 The Sub-Committee of the Joint Governance Committee has taken into account the views of one of the Councils' Independent Persons in each matter that they have determined.

7.0 Financial Implications

7.1 There are no financial implications arising from this report. The costs associated with instructing external investigators are included within the Council's existing Legal Services budget.

8.0 Legal Implications

- 8.1 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.
- 8.2 The Terms of Reference of the Joint Governance Committee provide that the Committee is responsible for Standards of Ethics and Probity amongst Members. The Standards Procedure Rules provide procedural arrangements for the consideration of complaints relating to Member conduct.
- 8.3 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.

Background Papers

- Part 3 Terms of Reference of the Adur District Council and Worthing Borough Council Constitutions
- Standards Procedure Rules
- Localism Act 2011
- Adur District Council Code of Conduct for Elected Members
- Worthing Borough Council Code of Conduct for Elected Members
- Lancing Parish Council Code of Conduct for Elected Members
- Sompting Parish Council Code of Conduct for Elected Members

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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 Standards Sub-Committee would be based on the principles of natural justice and comply with Human Rights legislations and particularly the right to a fair trial.

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.