



ADUR & WORTHING
COUNCILS

Joint Governance Committee
27 May 2021
Agenda Item 10

Ward(s) Affected: All

Annual Review of Complaints about Member Conduct - 2020/21

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 2020/21, 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 Context

3.1. Section 27 of the Localism Act 2011 (the Act) provides that Councils (here: Borough, District and Parish Councils) must promote and maintain high standards of conduct by Members, 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. Adur and Worthing Councils adopted a Code of Conduct in 2015, updated in 2020, which forms part of the Constitution. The LGA Model Code of Conduct (as slightly amended) has only just been approved by the Councils in April this year, following some in-depth work by the Officer and Member Working Group which was first reported to the Joint Governance Committee on the 23rd March 2021. Lancing Parish Council and Sompting Parish Council have their own Code of Conduct for their Members, adopted by the relevant Parish Councils. The Parish Council Clerks have been informed by the Monitoring Officer of the approval of the LGA Model Code of Conduct by both Adur and Worthing Councils

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

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

By section 27(7) arrangements put in place under subsection (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. Two new Independent Persons were appointed in December 2020. One has resigned, so the Councils have two Independent Persons, one that was re-appointed in October 2020, and the remaining relatively new appointment.

3.3. New Arrangements for dealing with Code of Conduct Complaints was approved by the Councils in April this year along with the slightly amended LGA Code as mentioned in 3.1 above, following the in-depth work of the Officer Member Working Group.

3.4. 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.

- 3.5. The Standards Procedure Rules will be changed within Part 5 of the Constitution to accommodate the changes adopted by the Councils in April this year.
- 3.6. The 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 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. The Monitoring Officer may consult the Independent Person at this stage.
- 3.7. 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.

3.8. Training on the New Code of Conduct and procedure for dealing with Code of Conduct complaints will take place soon after the Annual Council Meetings.

4.0 Code of Conduct Complaints received by the Monitoring Officer

4.1. This 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.

4.2. Adur District Council

When	Complaint by	Alleged breach of the Code	Action taken	Formal Hearing	Conclusion
2019/20	Parish Councillor	Social Media - misconduct	Informal resolution - apology	No	Concluded No further Action 13900
2019/20	Adur DC Councillor	Microphone and reading handwritten	Code not engaged	No	Dismissed

		notes on agenda			13840
April 2020	Member of public	Breach of integrity, objectivity honesty and leadership	FB post, breach : lack of respect. Code not engaged	No	Dismissed 14027
June 2020	Labour Members and members of the public	Lack of respect and disrepute	Investigator's report with finely balanced decision	Yes	Finding of No Breach 14051
April 2020	Parish Councillor	Disrespect	Code engaged but conduct unlikely to amount to breach	No	Dismissed 14061
May 2020	Member of public	Disrepute	Not acting in capacity of Member	No	No further Action 14102
May 2020	Adur Councillor	Disrespect	Not acting in capacity of Councillor	No	No further Action 14114
November 2020	Anonymous Complaint	Leak of confidential information	No Breach	No	Dismissed 14199
October 2020	Adur Councillor	Disrespect	Code not engaged	No	No further Action 14196
December 2020	Member of public	Disrespect	Local resolution - apology	No	Concluded No further Action 14288
January 2021	Member of public	Confidential information disclosed	Local resolution - apology	No	Concluded No further Action 14511
February	Member of	Disrespect	Local	No	Concluded No

2021	public		Resolution offered - not accepted. Apology given		further Action 14404
March 2021	Parish Councillor	General complaint - not a formal Code of Conduct matter	Not a breach of the Code	No	Dismissed
April 2021	Parish Councillor	Pre-election period complaint	Not a breach of the Code	No	No further Action
April 2021	Adur Councillor	FB post - disrespect	Local Resolution - apology	No	No further Action 14477
April 2021	Parish Councillor	FB post - disrespect	Not a breach of the code Tit for tat	No	No further Action 14520

4.3. Worthing Borough Council

When	Complaint by	Complaint/Alleged breach of the code	Action taken	Formal Hearing	Conclusion
April 2020	Member of public	Political comments on FB- no formal complaint	No formal Complaint made	No	Dismissed
May 2020	Member of public	Derogatory Comment - failure to treat with respect	None - as trivial and politically motivated- No Breach	No	No Breach - No further Action 14055
May 2020	Worthing Councillor	Disrespect	Investigation	Yes	No Breach, Dismissed 14125
July 2020	Member of public	Racist slur - disrespect	Investigation- no breach	No	No further action Dismissed

					14132
July 2020	Member of public - to all Labour Members	Failure to treat other with respect and Council's Equality duty	Outsourced legal advice - no breach of the code	No	Dismissed 14154
September 2020	Worthing Borough Councillor	Disrespect	Outsourced legal advice - no breach of the Code	No	Dismissed 14185
October 2020	Worthing BC Councillor	Disrespect	Outsourced legal advice -no breach of Code	No	Dismissed 14200
October 2020	Member of public	Disrespect and disrepute	No Breach	No	No further Action 14241
October 2020	Member of public	FB posts	No Breach	No	Dismissed 14264
November 2020	Members of the public	General complaints	No Breach of the Code	No	Dismissed 14261

4.4. Lancing Parish Council

When	Complaint by	Alleged breach of the code	Action taken	Formal Hearing	Conclusion
May 2020	Parish Councillor	Predetermination	Referred for investigation - no evidence of breach	No	No further Action
May 2020	Member of public	Ombudsman- Not code of conduct	Advice given (Ombudsman) Not a Code of Conduct matter	NO	Concluded
May 2020	Members of public	Allegation of racial hatred	Code of Conduct not engaged - acting in private capacity	No	Dismissed 14078

4.5. Sompting Parish Council

There were no complaints for the period 2020/21

5.0 Summary and Trends

5.1. Adur District Council

In respect of Adur District Council, there were 16 complaints. Several complaints were against one particular Councillor, which are continuing. The complainant from the Parish Council appears to be the same complainant. There was only one matter that was referred to the Joint Governance Sub-Committee for hearing, where there was a finding of no breach of the Code of Conduct. Most of the complaints were dismissed or no further action was taken. The Monitoring Officer liaised with the Independent Person where appropriate. Since 2021, the Monitoring Officer has endeavoured to find a local resolution. No advice has been outsourced. No complaint has been referred for investigation.

5.2. Worthing Borough Council

In respect of Worthing Borough Council, there were 10 complaints during 2020. None so far in 2021. Most of the complaints were either dismissed or no further action taken. Again the Monitoring Officer will have liaised with the Independent Person as appropriate. There was only one complaint that was referred to the Joint Governance Sub-Committee for hearing, where the decision made by that Sub-Committee was that there was no breach of the Code of Conduct.

5.3. Lancing Parish Council

In respect of Lancing Parish Council there were 3 complaints. One complaint was dismissed as the Code of Conduct was not engaged, one no further action was taken following an investigation and the third was not a Code of Conduct complaint but a matter for the Local Ombudsman.

5.4. Summary of Complaints

There have been 29 complaints over the course of the year up to the date of this report as illustrated in the tables above. Two complaints, one in respect of Adur District Council and the other in respect of Worthing Borough Council, were referred for hearing following external independent investigations. In

both cases the Joint Governance Sub-Committee found there were no breaches of the Code of Conduct. There were no Code of Conduct complaints in respect of Sompting Parish Council

6.0 Engagement and Communication

- 6.1. Since January 2021, the Monitoring Officer has led a working group of Members and Officers, together with the existing, and the new Independent Persons, looking at a new Code of Conduct and procedure for dealing with the Complaints under the Code of Conduct, which culminated in a report being presented before the Joint Governance Committee on 23rd March 2021 recommending to the Councils of Adur and Worthing that a new Code of Conduct should be adopted based on the LGA Model Code of Conduct, as slightly amended. The Councils of Adur and Worthing adopted the LGA Model Code of Conduct, as slightly amended in April 2021. The Monitoring Officer is now in the process of changing the Constitution. The New Code of Conduct should be placed on the Councils' website for ease of reference.
- 6.2. There was excellent participation by all the Members on the Working Group and the Independent Persons, which culminated in the full report presented to the Joint Governance Committee identifying all the steps and decisions taken in moving the project forward. The Working Group were also interested in ensuring a new up to date Social Media Policy be introduced and other policies as referred to in the report of the 23rd March 2021. The Monitoring Officer is working on these policies.
- 6.3. The Monitoring Officer will be organising training for Members, on the New Code of Conduct and the procedure for dealing with complaints under the New Code in due course. Such training to be extended to the Parish Council Members.
- 6.4. Earlier this year, the Independent Persons of Adur and Worthing Councils attended training on the Code of Conduct Complaints specifically aimed at Independent Persons.
- 6.5. The Monitoring Officer has informed both Parish Clerks of Lancing and Sompting of the Councils' decision to adopt the LGA Model Code of Conduct as slightly amended.

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 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.