

Agenda

Standards Committee

Date: **Thursday 23 June 2022**

Time: **6.00 pm**

Place: **Council Chamber**

For any further information please contact:

Francesca Whyley

Head of Governance and Customer Services

0115 901 3907

Standards Committee

Membership

Chair Councillor Michael Boyle

Vice-Chair Councillor Michael Payne

Councillor Pat Bosworth
Councillor Boyd Elliott
Councillor Andrew Ellwood
Councillor Mike Hope
Councillor Simon Murray
Councillor Clive Towsey-Hinton
Rosalie Hawks
Martyn Thorpe

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AGENDA

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MINUTES STANDARDS COMMITTEE

Thursday 10 March 2022

Councillor Michael Boyle (Chair)

Present: Councillor Pat Bosworth Councillor Clive Towsey-Hinton
Councillor Andrew Ellwood Rosalie Hawks
Councillor Mike Hope Martyn Thorpe
Councillor Simon Murray

Absent: Councillor Michael Payne and Councillor Boyd Elliott

Officers in Attendance: C Goodall and F Whyley

17 **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Councillors Elliott and Payne.

18 **TO APPROVE, AS A CORRECT RECORD, THE MINUTES OF THE MEETING HELD ON 9 SEPTEMBER 2021**

RESOLVED:

That the minutes of the above meeting, having been circulated, be approved as a correct record.

19 **DECLARATION OF INTERESTS**

None.

20 **RECRUITMENT OF INDEPENDENT PERSON AND RESERVE INDEPENDENT PERSON**

The Monitoring Officer introduced a report, which had been circulated in advance of the meeting, seeking approval to commence recruitment to the position of Independent Person and the currently vacant Reserve Independent Person position.

RESOLVED to:

- 1) Authorise the Monitoring Officer to commence the recruitment process to the role of Independent Person from 11 July 2022 for 2 years;
- 2) Agree that any suitable candidates for the role of Independent Person could be considered for the reserve role for the same

period; and

- 3) Agree that the interview panel of Councillor Boyle, Bosworth and Elliot could continue to interview candidates and make recommendations to appoint to any future vacancies for co-opted members or independent persons.
- 4) Delegate authority to the Monitoring Officer, in consultation with the Chair, to appoint alternative members to the interview panel should appointed members be unavailable.

21 CODE OF CONDUCT

The Monitoring Officer introduced a report, which had been circulated in advance of the meeting, seeking approval of the guidance document which would support the Council's Code of Conduct for Members.

The Chair proposed an amendment to the recommendation in order to delegate to the Monitoring Officer, permission to correct any minor typos or errors within the document, which was moved and duly seconded and it was

RESOLVED:

To approve the Code of Conduct Guide for Members at Appendix 1 to this report and to delegate to the Monitoring Officer permission to correct any minor typos or errors within the document.

22 ANY OTHER ITEM WHICH THE CHAIR CONSIDERS URGENT.

None.

23 EXCLUSION OF PRESS AND PUBLIC

RESOLVED:

That, Members being satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information that under Section 100(a)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during the consideration of the ensuing report on the grounds that the confidential appendix would involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12a of the Local Government Act 1972.

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CODE OF CONDUCT COMPLAINTS UPDATE

The Monitoring Officer introduced a report, which had been circulated in advance of the meeting, informing members of the Standards Committee of complaints received between 2 September 2021 and 10 March 2022.

RESOLVED:

To note the report.

The meeting finished at 6.29 pm

Signed by Chair:
Date:

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Report to Standards Committee

Subject: Update on recommendations from Committee on Standards in Public Life Report

Date: 23 June 2022

Author: Monitoring Officer

Purpose

To inform Standards Committee of the Government's response to the recommendations from the Committee on Standards in Public Life report.

Recommendation

THAT the report be noted.

1 Background

- 1.1 The Committee on Standards in Public Life ("CSPL") advises the Prime Minister on ethical standards across the whole of public life in England. It monitors and reports on issues relating to the standards of conduct of all public office holders. CSPL is an independent advisory non-departmental public body.
- 1.2 During 2018, the CSPL undertook a review of local government ethical standards. This review was not prompted by any specific allegations of misconduct or council failure, but rather to review the effectiveness of the current arrangements for standards in local government, particularly in light of the changes made by the Localism Act 2011.
- 1.3 On 30 January 2019, the CSPL published its report and recommendations on ethical standards in local government, following a year-long review and wide consultation to which this Council responded. A copy of the full report is a background paper to this report and is available at <https://www.gov.uk/government/publications/local-government-ethical-standards-report>.
- 1.4 Many of the CSPL recommendations would require primary legislation; some changes could be made through secondary legislation or

amendments to the Local Government Transparency Code. The best practice suggestions are a matter for individual local authorities and Members may recall that in July 2019, this Committee agreed an action plan for implementing the best practice recommendations set out in the CSPL report. Work was undertaken to complete the action plan including, most recently, a review and consultation on the Council's Code of Conduct.

1.5 In terms of the recommendations made in the CSPL report, in March 2022, the Government published its response to those recommendations. The response is shown in full at Appendix 1 to this report.

1.6 There were twenty four recommendations made in the CSPL report, a summary of the Government's response to some of the key recommendations is set out below.

1.7 Code of Conduct recommendations

In its response to recommendations relating to the Code of Conduct, the Government reiterated that it was for authorities to determine what was included in their Code of Conduct, by virtue of the Localism Act 2011 and whilst recognising the work done to create a model code by the Local Government Association it is clear that contents of a Code of Conduct will remain a local decision, and no legislative change will be forthcoming in terms of required contents or changes to member's interests. Similarly, the Government were clear that parishes should make their own decision as to whether to adopt the Code of Conduct of their principal authority. The Government disagreed with recommendations that criminal offences in relation to Disclosable Pecuniary Interests should be abolished.

1.8 Independent Persons (IP)

In terms of Independent Persons and the recommendation that they be appointed for two years only, renewable once, the Government has recognised the difficulties that authorities may have recruiting to the IP role and as such did not feel that legislating a term for such roles would be necessary, but agreed that it should be a best practice approach by authorities. The Government also disagreed that the Local Government Transparency Code should be updated to require the views of the IP on any decision to be formally recorded. Whilst supporting the principle of IPs being provided with a legal indemnity, the Government did not feel that any legislation was required to support this.

1.9 Sanctions

In response to recommendations around sanctions for breaches of the Code of Conduct, the Government stated that local authorities do have sanctions under the current regime, in addition, members may be subject to sanctions within their own political groups following a finding of breach

of the Code of conduct. The Government have proposed that they will engage with stakeholders to seek views on strengthened sanctions where breaches of the code fall below criminal activity but involve serious incidents of bullying and harassment and disruptive behaviour.

1.10 Disciplining of Statutory Officers

The Government agreed that consideration should be given to extend disciplinary protections for the Monitoring Officer, Head of Paid Service and Section 151 officers which currently apply only to decisions to dismiss such officers. The Government have stated that they will engage with stakeholders to seek views on amending the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 to provide disciplinary protections for statutory officers.

2 Proposal

- 2.1 It is proposed that the Committee notes the report and the Government's response to the CSPL recommendations. It should also be noted that some of the "best practice" approaches proposed in the Government's response are already practices adopted by this Council, for example, the list of Code of Conduct complaints is regularly published as part of the Committee agenda. The Monitoring Officer will keep under review any further actions or responses from Government on this matter and will update Committee accordingly.

3 Alternative Options

- 3.1 Not to provide an update on the Government's response to the CSPL report. It is considered that a formal reporting of this response is necessary given this Committee's work on the CSPL report findings and best practice recommendations.

4 Financial Implications

- 4.1 There are no financial implications arising from this report, as indicated, all gifts and hospitality accepted were of a low value.

5 Legal Implications

- 5.1 There were a number of recommendations from the CSPL report that suggested legislative change. Whilst some recommendations have been accepted by Government, there are no immediate plans to change legislation at this time.

6 Equalities Implications

- 6.1 There are no direct equality implications arising from this report.

7 Carbon Reduction/Environmental Sustainability Implications

7.1 There are no carbon reduction/environmental sustainability implications arising from this report.

8 Appendices

8.1 Appendix 1 – Government Response to the Committee on Standards in Public Life review of local government ethical standards.

9 Background Papers

9.1 <https://www.gov.uk/government/publications/local-government-ethical-standards-report>.

CSPL Report

Statutory Officer approval

Approved by the Chief Financial Officer

Date:

Drafted by the Monitoring Officer



Department for Levelling Up,
Housing & Communities

Kemi Badenoch MP

*Minister of State for Equalities and Levelling Up
Communities*

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Communities***

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Dear Lord Evans,

On behalf of the Government, I would like to thank the Committee on Standards in Public Life for its report and the recommendations arising from its review of Local Government Ethical Standards, and to all those who engaged with the Committee's work. Attached is the Government response to the Committee's individual recommendations that were directed at Government.

Vibrant local democracies flourish where the reputation of the local authority is held in high regard, where councillors' decision-making is transparent, valued and trusted by the communities they serve, and where people are willing and confident to put themselves forward as potential candidates. The standards and conduct framework within which local authorities operate must drive out corruption and promote commitment to the principles on standards in public life, and tolerance to the differing views of others. In responding to the review, the Government has taken into account the importance of protecting free speech and freedom of association within the law.

The Government is committed to working with local authorities and their representative organisations to ensure that local government is supported in reinforcing its reputation for ethical local standards.

The fact that this review had been conducted in such a collaborative way with the sector has been apparent from the outset and is borne out in the final report. I am keen that Government builds on the sector-wide enthusiasm for improvement.

The Government agrees with the Committee's conclusion that there have been benefits from local authorities being responsible for ethical standards, including the flexibility and

discretion to resolve standards issues informally. However, we also recognise the role of Government in ensuring that the system is robust.

The number of requests for legislation in the Committee's recommendations to strengthen the standards and conduct framework and its safeguards is considerable. As indicated in this response, the Government believes that some of these suggestions do not need a legislative response but can be more appropriately, effectively, and swiftly taken forward by local authorities as best practice. The Committee will recognise that the Government and Parliament has taken a different view on these matters when it legislated for the Localism Act 2011.

I thank the Committee for their work on the review and for their patience whilst Government carefully considered their recommendations, and I personally look forward to continuing to work with you as Government progresses the commitments made in this response with the sector.

Yours sincerely,

A handwritten signature in black ink that reads "Kemi Badenoch". The signature is written in a cursive, flowing style.

KEMI BADENOCH MP

**Minister of State for Equalities
and Levelling Up Communities**

Government response to the Committee on Standards in Public Life review of local government ethical standards

This Government response confines itself to the Committee's recommendations directed at Government, other than with regards to the first recommendation. The response to recommendations 10, 12, 13, 14 and 16 have been grouped together and therefore appear out of numerical order below.

Recommendation 1

The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.

The Localism Act 2011 states that relevant authorities must promote and maintain high standards of conduct by members and co-opted members. It requires these authorities to adopt a code of conduct for their councillors.¹ Authorities can determine the content of their own code of conduct. However, codes must conform to the seven 'Nolan' principles of standards in public life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. Relevant authorities for the purposes of these requirements include local authorities in England, namely county councils, district councils, London borough councils and parish and town councils.

It is for individual councils to set their own local code, in line with the Act. The Government has previously published a light-touch illustrative code of conduct.

The Local Government Association has worked with sector representative bodies to update its own suggested code of conduct, with the intention that this new suggested code could establish a consistent benchmark that local authorities can amend or add to as they see fit to reflect local circumstances and priorities. The Local Government Association published the updated code of conduct in January 2021. However, it remains a local decision on whether this model code is adopted.

Recommendation 2

The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.

¹ References to councillors in this document also should be deemed to include elected mayors.

This issue was brought up in the Committee's work on intimidation in public life, and the Government has already taken forward several steps in this regard. The Government is open and receptive to further steps to help prevent intimidation.

The Government agrees with the principle behind this recommendation – which safeguards elected representatives - and considers amending the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 would be an option to achieve it.

The Government will engage with interested parties on the best means to ensure that candidates and councillors are not required publicly to disclose their home address.

Notwithstanding, it is important that home addresses are internally registered with monitoring officers, to help avoid conflicts of interest.

Recommendation 3

Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.

The Government's view is that it is for individual local authorities to consider if their code of conduct is adequate in addressing the issue of inappropriate use of social media.

As the Government outlined to Parliament in March 2021 on tackling intimidation in public life: 'It is important to distinguish between strongly felt political debate on the one hand, and unacceptable acts of abuse, intimidation and violence on the other. British democracy has always been robust and oppositional. Free speech within the law can sometimes involve the expression of political views that some may find offensive': a point that the Government has recognised in a Department for Education policy paper². But a line is crossed when disagreement mutates into intimidation, which refuses to tolerate other opinions and seeks to deprive others from exercising their free speech and freedom of association.'

It is important to recognise that there is a boundary between an elected representative's public life and their private or personal life. Automatically presuming (irrespective of the context and circumstances) that any comment is in an official capacity risks conflating the two.

² Higher education: free speech and academic freedom Feb 2021
<https://www.gov.uk/government/publications/higher-education-free-speech-and-academic-freedom>

Recommendation 4

Section 27(2) of the Localism Act 2011 should be amended to state that a local authority’s code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.

The Government agrees that local authority elected representatives should act in good faith in the public interest and not seek to influence decisions for personal gain, for malicious intent or to further the interests of any business or any other organisations which they may be affiliated with.

The Local Government Association have updated their [own suggested code of conduct](#) to state that the code applies when “[a member’s] actions could give the impression to a reasonable member of the public with knowledge of all the facts that [they] are acting as a [member]”.

It is for individual local authorities to ensure that their codes of conducts are regularly updated, comprehensive and fit for purpose. Elected members receive the necessary training to make them aware of their personal responsibilities in upholding the code.

The Government will keep this matter under review but has no immediate plans to amend the regulations.

Recommendation 5

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.

The electorate must have confidence that the decisions of their elected representatives are being made in the best interests of the community they have been elected to serve. Unpaid roles may need to be declared if it is relevant to council business, and councillors should recuse themselves if necessary if discussions relate to private bodies, they are involved in.

The Government is mindful that councillors have a right to a private life, and rights of freedom of association outside their role as a councillor. It is frequently the case that people in public life have a complex pattern of interests and play a variety of roles with different types of organisations, including community interest groups and charities.

The Government will keep this matter under review but has no immediate plans to amend the regulations.

Recommendation 6

Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record gifts and hospitality received over a value of £50 or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.

The Local Government Association's suggested code of conduct published in January 2021 includes a requirement for members to "register... any gift or hospitality with an estimated value of at least £50". However, it did not contain any requirements relating to the total value of gifts or hospitality received from the same source over a sustained period.

Local authorities have the autonomy to set gifts and hospitality requirements in their own codes of conduct. The Government accepts that there is merit in best practice guidance on the thresholds for gifts and hospitality and agrees that a register of gifts and hospitality should be publicly available.

Recommendation 7

Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to the matter".

Section 31 of the Localism Act 2011 requires that a councillor must not participate in a discussion or vote on a matter where they have a disclosable pecuniary interest in any matter to be considered at the meeting. Section 30(3) of the Localism Act 2011 further provides that any relevant pecuniary interests of a councillor's spouse or partner are considered as a disclosable pecuniary interest of the councillor.

The Committee's report reflects concerns that the disclosable pecuniary interest arrangements infringe on the privacy of a councillor's spouse or partner. Where there would be a potential conflict of interest, the principle of integrity requires that any such interests should nevertheless be declared and resolved.

The Government will keep this matter under review but has no immediate plans to repeal Section 31 of the Localism Act 2011.

Recommendation 8

The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

The Government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The Government's view is that it would be more appropriately implemented as a best practice recommendation for local authorities.

In principle, it may be attractive to limit the terms Independent Persons serve to keep their role and contribution "fresh" and avoid them becoming too closely affiliated with the overriding organisational culture. However, discussions with Monitoring Officers indicate that in practice most local authorities would likely find servicing this rate of turnover unachievable. There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent specifications of being amongst the electorate, having no political affiliation, no current or previous association with the council, and no friends or family members associated with the council.

When local authorities have found effective Independent Persons who demonstrate the capability, judgement and integrity required for this quite demanding yet unpaid role, it is understandable that they may be reluctant to place limitations on the appointment.

Recommendation 9

The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.

The Government does not agree with this. The Local Government Transparency Code is a statutory requirement to publish information; it does not regulate the content of councils' minutes or decision notices.

The substantive policy suggestion has merit but will depend on circumstances. In cases where there is no case to answer from an unfounded complaint, it should not necessarily be a legal requirement to publish details of that unfounded complaint.

Recommendation 10

A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding or a breach and that suspending the councillor would be a proportionate sanction.

Recommendation 12

Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.

Recommendation 13

Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.

Recommendation 14

The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, an appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.

Recommendation 16

Local authorities should be given the power to suspend councillors, without allowances, for up to six months.

There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct, and this was a deliberate policy decision by the Coalition Government at the time of the Localism Act 2011 to differentiate from the previous, failed Standards Board regime. The Standards Board regime allowed politically motivated and vexatious complaints and had a chilling effect on free speech within local government. These proposals would effectively reinstate that flawed regime.

It would be undesirable to have a government quango to police the free speech of councillors; it would be equally undesirable to have a council body (appointed by councillors, and/or made up of councillors) sitting in judgment on the political comments of fellow councillors.

On the rare occasions where notable breaches of the code of conduct have occurred, local authorities are not without sanctions under the current regime. Councillors can be barred from Cabinet, Committees, or representative roles, and may be publicly criticised. If the elected member is a member of a political group, they would also expect to be subject to party discipline, including being removed from that group or their party. Political parties are unlikely to reselect councillors who have brought their group or party into disrepute. All councillors are ultimately held to account via the ballot box.

As part of the Government's response to the Committee's report on intimidation in public life, the Government recommended that every political party establish their own code of conduct for party members, including elected representatives.

The Government will engage with sector representative bodies of councillors and officers of all tiers of local government to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity and related sanctions but involve serious incidents of bullying and harassment or disruptive behaviour.

Recommendation 11

Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.

The Government agrees in principle.

Initial soundings with the sector indicate that some local authorities already provide legal indemnity for Independent Persons.

The Government endorses providing legal indemnity for Independent Person as local authority best practice but does not currently see the need to require this through secondary legislation.

Recommendation 15

The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g., bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.

The Government believes that this is better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standard Committees of the cases and complaints handled and would encourage this as best practice by the sector.

The Government does not believe that there is a requirement to prescribe to local authorities the form and content of such Standard Committee annual reports.

Recommendation 17

The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.

The criminal law, overseen by the police and courts, provides for more appropriate and effective action against breaches of public order, for anti-social behaviour, and against harassment.

The occasion where councils would seek to bar councillors from council premises are thought to be extremely rare. We will consider this further.

Recommendation 18

The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

It is a criminal offence to fail to declare pecuniary interests, which acts as a strong deterrent against corruption.

The Government does not agree with this recommendation, but rather believes the criminal offence of a non-disclosure of pecuniary interest to be a necessary and proportionate safeguard and deterrent against corruption.

The high bar of police involvement has served to discourage politically motivated and unfounded complaints.

Recommendation 20

Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.

The Government does not agree that this is necessary and has no plans to repeal Section 27(3) of the Localism Act 2011.

The Government considers that the adoption of the principal authority's code or the new model code is a matter for local determination.

There are merits in achieving consistency within principal authority areas to eliminate potential confusion amongst constituents and elected members but there may be instances where a parish council may want to add to the code of their principal authority to reflect local circumstances.

Recommendation 21

Section 28 (11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.

The Government has no current plans to repeal Section 28 (11) of the Localism Act 2011 but will give this matter further consideration.

Recommendation 22

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.

The three statutory officers in local government are the Monitoring Officer, the Head of Paid Service (Chief Executive) and the Chief Finance Officer (often referred to as the Section 151 Officer).

Under the current disciplinary arrangements for statutory officers, any decision to dismiss a statutory officer must be taken by full council, following a hearing by a panel that must include at least two Independent Persons. The Committee consider that the disciplinary protections for statutory officers should be enhanced, by extending disciplinary protections to all disciplinary actions (such as suspension or formal warnings), not just dismissal.

The Government agrees in principle with this recommendation and recognises this will be pertinent to Monitoring Officers who may not necessarily be afforded the same seniority in the organisational hierarchy of a local authority as the two other statutory officers (Head of Paid Service and the Section 151 Officer), and who may be subject to personal pressures when conducting high profile breach of conduct investigations.

The Government will engage with sector representative bodies of all tiers of local government to seek views on amending the Local Authorities (Standing Orders) (England)(Amendment) Regulations to provide disciplinary protections for statutory officers.

Recommendation 23

The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.

The Government agrees with the principle that openness is essential.

Most local authorities already publish their whistleblowing policy, procedures and a named contact on their websites, and Government is recommending that this is adopted as a best practice recommendation.

The Government published the UK National Action Plan for Open Government 2021 – 2023 in January 2022. This includes a commitment on local transparency.³ The Department for Levelling Up Housing and Communities (DLUHC) will work with the local government community to develop a set of specific actions to advance transparency in the sector. DLUHC will support local government to solidify their transparency policies and processes and encourage proactive publication of open data across councils.

Recommendation 24

Councillors should be listed as ‘prescribed persons’ for the purposes of the Public Interest Disclosure Act 1998.

Prescribed persons are individuals or organisations that a worker may approach outside their workplace to report suspected or known wrongdoing and still be protected by the rights afforded to them under whistleblowing legislation. They are prescribed by an order made by the Secretary of State (for Business, Energy and Industrial Strategy) for this purpose. A complete list of prescribed persons is available here: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>.

Local councillors would not meet the criteria of being external to an individual’s workplace in relation to matters affecting the council and could therefore not be considered as a ‘prescribed person’ for the purposes of the Public Interest Disclosure Act 1998. Disclosures relating to local authorities can be made to the external auditor of the relevant authority, the Comptroller and Auditor General (National Audit Office), or a Member of Parliament.

However, the Government recognises that this may provide a further check and balance against council corruption or wrongdoing and is open to further representations on the matter on how local accountability can be strengthened in this regard.

³ <https://www.gov.uk/government/publications/uk-national-action-plan-for-open-government-2021-2023/uk-national-action-plan-for-open-government-2021-2023#local-transparency>



Report to Standards Committee

Subject: Recruitment of Independent Person and Reserve Independent Person

Date: 23 June 2022

Author: Monitoring Officer

Purpose

To recommend to Council that John Baggaley should be appointed as Independent Person and Stewart Bembridge be appointed as reserve Independent Person.

Recommendation

That Members:

- 1) recommend to Council that John Baggaley be appointed as Independent Person under the Localism Act 2011 for 2 years; and
- 2) recommend to Council that Stewart Bembridge be appointed as reserve Independent person under the Localism Act 2011 for 2 years.

1 Background

1.1 Members will recall that at the Standards Committee meeting on 10 March 2022, it was agreed that steps be taken to recruit to the role of Independent Person and reserve Independent person. A previous recent attempt to recruit to the role of reserve IP had been unsuccessful, so members agreed to try another recruitment exercise for both roles given that the current Independent Person's appointment is to end in July 2022. Two applications were received and the interview panel previously agreed by the Committee were convened to conduct interviews.

1.2 The two applicants were interviewed by the panel on 14th June 2022 and the panel recommends that John Baggaley, should continue as Independent Person and be appointed for a further two years. In addition, the interview

panel recommends Stewart Bembridge be appointed as reserve Independent Person who is able to act when the Independent Person is unable to do so for example as a result of a conflict in interest, ill-health or absence.

2 Proposal

- 2.1 It is proposed that the Standards Committee recommends to Council that John Baggaley be appointed as the Independent Person for a further 2 years and that Stewart Bembridge be appointed as reserve Independent Person for a period of 2 years.

3 Alternative Options

- 3.1 The Committee could determine not to recommend appointment of these candidates despite both being recommended for the roles by the interview panel. It is recognised that John Baggaley has already been the Independent Person at this authority for a number of years and whilst he has the relevant experience and knowledge to fulfil the role he will have been (and continue to be if appointed) in the role for significantly longer than two or four years in total. The Committee for Standards in Public Life (CSPL) report recommended that to ensure that the Independent Person's judgement and independence is not compromised by a long period of involvement in a single authority, that Independent Persons should be appointed for a 2 year period only, renewable once. This Committee accepted that a two year appointment period for both the Independent and Reserve Independent was appropriate, in line with this recommendation, however, the number of applicants for the roles was limited. The government have responded to the CSPL recommendations (March 2022) in the following terms:

The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

The Government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The Government's view is that it would be more appropriately implemented as a best practice recommendation for local authorities. In principle, it may be attractive to limit the terms Independent Persons serve to keep their role and contribution "fresh" and avoid them becoming too closely affiliated with the overriding organisational culture. However, discussions with Monitoring Officers indicate that in practice most local authorities would likely find servicing this rate of turnover unachievable. There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent

specifications of being amongst the electorate, having no political affiliation, no current or previous association with the council, and no friends or family members associated with the council. When local authorities have found effective Independent Persons who demonstrate the capability, judgement and integrity required for this quite demanding yet unpaid role, it is understandable that they may be reluctant to place limitations on the appointment.

Taking into account the above, the experience that John Baggaley has in the role and the number of applicants, as well as his ability to provide support to the proposed reserve Independent Person who also has the relevant skill set to undertake the role, the interview panel determined that the appointment of John Baggaley as Independent person and Stewart Bembridge as reserve, was appropriate. Whilst the CSPL recommendation is for a two year appointment renewable once, this is not a legislative requirement and is not necessarily always practical. It should also be noted that it is a legal requirement to have an Independent person, if these individuals are not recommended for appointment this would leave the council without an Independent Person from July as a further recruitment process and appointment is not deliverable prior to July.

- 3.2 Another alternative would be to appoint Stewart Bembridge as the Independent person and John Baggaley as the reserve Independent person. This was considered by the interview panel but the recommendation from the panel is that the appointments set out in this report are recommended to Council.

4 Financial Implications

- 4.1 On appointment, the Independent person and reserve will be entitled to an allowance. This will be met from existing budgets.

5 Legal Implications

- 5.1 Standards Committee have authority to deal with the recruitment of Independent Persons and Reserves and to make recommendations to Council on appointment. There is a legal requirement to have an Independent person. There is no such requirement in terms of a Reserve Independent Person, however, it is recommended best practice by the CSPL. Recruitment should follow the requirements of the Localism Act.

6 Equalities Implications

- 6.1 There are no equalities implications arising from this report.

7 Carbon Reduction/Environmental Sustainability Implications

7.1 There are no carbon reduction/environmental sustainability implications arising from this report.

8 Appendices

8.1 None

9 Background papers

9.1 [Government response to the Committee on Standards in Public Life review of local government ethical standards \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/consultations/government-response-to-the-committee-on-standards-in-public-life-review-of-local-government-ethical-standards)

Statutory Officer approval

Approved by the Chief Financial Officer

Date:

Drafted by the Monitoring Officer



Report to Standards Committee

Subject: Changes to the delegation scheme following the adoption of the new constitution

Date: 23 June 2022

Author: Monitoring Officer

Purpose

To seek approval to amend all current delegations previously approved by Standards Committee following the adoption of the new constitution.

Recommendations

THAT:

- 1) The officer delegations at Appendix 1 be approved;
- 2) The Monitoring Officer be authorised to make any other necessary administrative amendments to reflect the change to the constitution.

1 Background

1.1 On 3 March 2022 full council agreed the adoption of a newly re-written constitution taking affect from 4 March 2022. The new constitution was a result of several meetings of a cross party working group along with officers who came together to review the effectiveness of the constitution.

1.2 As part of the review of the constitution, a review of the schemes of delegation was conducted; which have now been updated to reflect the correct management arrangements and delegations. It should be noted that in relation to delegations from the Standards Committee there is one additional delegation to the Monitoring Officer proposed in the new delegations, which delegates authority to the Monitoring officer for:

Conducting the recruitment process for the Independent person, reserve Independent person and Co-opted Members to the Standards committee.

Whilst Committee would still approve a recruitment process being undertaken and make recommendations to Council as to appointment, as well as being part of the recruitment process through an interview panel, this delegation enables the Monitoring Officer to undertake the practical

elements of the process such as advertisement, arranging interviews and administrating appointments.

2 Proposal

It is proposed that the officer delegations set out in Appendix 1 be approved.

3 Alternative Options

Not to approve the delegations but this will lead to lack of clarity about which Officer has the power to act, and in respect of the new delegation may hinder the administrative process of recruitment and overburden Committee.

4 Financial Implications

None arising from this report.

5 Legal Implications

5.1 Officer delegations in respect of non-executive functions are made under the powers contained in Section 101 of the Local Government Act 1972 (as amended) and with reference to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

5.2 If the officer delegation scheme is not updated it will lead to lack of clarity over who can make decisions. This could in turn lead to risk of legal challenge.

6 Equalities Implications

There are no equalities implications arising from this report.

7 Carbon Reduction/Environmental Sustainability Implications

There are no carbon reduction/environmental sustainability implications arising from this report.

8 Appendices

Appendix 1 – Non-Executive scheme of delegations to officers

9 Background Papers

None.

Statutory Officer approval

Approved by:
Date:
On behalf of the Chief Financial Officer

Approved by:
Date:
On behalf of the Monitoring Officer

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Gedling Borough Council Constitution

Standards Matters			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
S1	Dealing with complaints of breach of the Code of Conduct by Borough Councillors and Parish Councillors	Monitoring Officer	In accordance with Arrangements for Dealing with Complaints and in consultation with Independent Person, where required in the Arrangements
S2	Granting dispensations to Borough Councillors who have a disclosable pecuniary interest on any of the following grounds: <ul style="list-style-type: none"> a) without the dispensation, the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of that business; b) that, without a dispensation, no member of the Cabinet would be able to participate on the matter 	Monitoring Officer	
S3	Conducting the recruitment process for the Independent Person, reserve Independent Person and Co-opted Members to the Standards Committee	Monitoring Officer	
S4	Authority to constitute the membership of the hearing panel at any time.	Monitoring Officer	

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Report to Standards Committee

Subject: Gifts and Hospitality 2021/22

Date: 23 June 2022

Author: Monitoring Officer

Purpose

To inform Standards Committee of gifts and hospitality received between 1 April 2021 and 31 March 2022 and identify any issues arising from the annual review of the Register of Gifts and Hospitality.

Recommendation

THAT the report be noted.

1 Background

- 1.1 The Council has a Gifts and Hospitality Code of Practice for Members and Officers to enable Members and Officers to decide on the circumstances and the manner in which gifts and hospitality may be accepted. The Code of Practice was reviewed during 2018 and minor amendments approved by both Standards Committee and Appointments and Conditions of Service Committee in 2019. Historically, each council department held its own register of gifts and hospitality in which details of gifts and hospitality offered to Officers were registered. Since 2012 the register for officers has been held centrally in an electronic folder and during 2019 it was transferred to the online Employee Claims system. The system automatically sends an email reminder to Managers at the end of each quarter requesting that they ensure the register entries are up to date.
- 1.2 An annual report on gifts and hospitality received by officers was reported to Senior Leadership Team for 2021/22 in June 2022. As part of that report, it was proposed that a review of the Code of Practice for Gifts and

Hospitality be undertaken in 2022/23 to ensure it remains fit for purpose.

- 1.3 The register of gifts and hospitality for Members is still held in an electronic folder in the I:Drive and is updated on the Monitoring Officer's behalf by Democratic Services. The register is published on a quarterly basis if any updates are made. Members received training on the need to register gifts and hospitality in excess of £50 as part of the induction training following the 2019 borough elections. Members are being reminded on a quarterly basis to keep their Register of Interests including gifts and hospitality received up to date via the 'Councillor Contact' emails or by direct email.
- 1.4 The entries on the Register for officers shows that during 2021/22, across the Council's officers, 23 offers of gifts were made; only one gift of a case of wine was refused as it was offered from a contractor. Most common gifts were boxes of chocolates, and boxes of biscuits given by members of the public to staff which were shared amongst teams. There were three instances of hospitality offered consisting of snacks, drinks and a dinner offered at networking events at a conference/award ceremony. The hospitality offers were all accepted, were of relatively low value and were offered to a number of conference goers, not just officers from this authority.

No offers of gifts or hospitality were recorded by Members in 2021/22.

The Gifts and Hospitality Register for Officers appears at Appendix 1. The Gifts and Hospitality Register for Members is not appended as it contains no entries.

- 1.5 In reviewing the register for officers, there are four more entries for 2021/22 than 2020/21, but it is still a significantly lower number than in 2019/20 (92 gifts recorded in 2019/20). This is likely to be as an ongoing result of the Covid-19 pandemic which saw some of the Council's facilities closed through the early part of 2021/22, and fewer customers having face to face interactions with officers. In addition, with fewer networking events and conferences being held face to face due to the pandemic, offers of hospitality remain low. This does not give rise to a cause for concern, and as facilities return to normal, and events return to a face to face basis, officers will be reminded of the need to ensure all gifts and hospitality offered are recorded.
- 1.6 A review of the registered entries has identified that managers are prompt to respond and authorise gifts where appropriate, which is an improvement on 2020/21 where some delays were identified. It is identified that managers need to ensure full reasons for any acceptance or refusal are given as in some instances explanations were brief.

- 1.7 There are no specific issues in relation to the value of gifts accepted or repeat gifts from the same company which would give rise to a cause for concern.
- 1.8 In reviewing the register for Members, again there have been no entries in 2021/22. Historically, members have predominantly recorded offers of hospitality from attendance at events and conferences, again, given the pandemic, whilst some conferences have resumed, not all have been conducted during 2021/22, and as such the offering of such hospitality has not occurred. As conferences return to normal, members will be reminded to ensure any gifts and hospitality offered is recorded on the register.

2 Proposal

- 2.1 It is proposed that the Committee notes the report. As indicated, the Monitoring Officer will be undertaking a review of the Code of Practice in relation to Gifts and Hospitality in 2022/23 and as such, any changes will be reported through to Committee for consideration.

3 Alternative Options

- 3.1 Not to provide an update on gifts and hospitality offered to officers and members,

4 Financial Implications

- 4.1 There are no financial implications arising from this report, as indicated, all gifts and hospitality accepted were of a low value.

5 Legal Implications

- 5.1 With regard to Officers, Section 117(2) of the Local Government Act 1972 provides that an Officer of a Local Authority shall not, under the colour of his or her office of employment, accept any fee or reward whatsoever other than his or her proper remuneration. The Bribery Act 2010 makes it an offence to seek, accept or agree to accept a financial or other advantage as an inducement or reward to perform a function improperly. In simple terms, it is a criminal offence for employees to seek or accept a financial or other advantage in return for making a decision, granting an award or performing any other public function, regardless of what decision is made.
- 5.2 The Code of Conduct requires Members to notify the Council's Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50.00 which they have accepted as a member from any person or body other than the authority within 28 days of receipt.

5.3 The Council has a Gifts and Hospitality Code of Practice for Members and Officers which has been approved by Standards Committee and Appointments & Conditions of Service Committee but which should be kept under review.

6 Equalities Implications

6.1 There are no direct equality implications arising from this report.

7 Carbon Reduction/Environmental Sustainability Implications

7.1 There are no carbon reduction/environmental sustainability implications arising from this report.

8 Appendices

8.1 Appendix 1 - Gifts and Hospitality Register for Officers 2021/22.

9 Background Papers

9.1 None.

Statutory Officer approval

Approved by the Chief Financial Officer

Date:

Drafted by the Monitoring Officer

Appendix 1 – Gifts and Hospitality Register - Officers

Department	Offer Date	Description	Amount	Acceptance
Arnold Leisure Centre	05/06/2021	Box of Chocolates	3.00	Accepted
Customer Services	22/09/2021	small box of chocolates	2.00	Accepted
Customer Services	04/03/2022	flowers	5.00	Accepted
Customer Services	18/03/2022	box of chocolates	3.00	Accepted
Arnold Leisure Centre	19/12/2021	Box of chocolates, 2 x can of fosters	4.00	Accepted
Revenues Services	06/10/2021	Evening drinks and buffet style food provided at Conference	20.00	Accepted
Public Protection	02/03/2022	Mug	1.25	Accepted
Welfare Services	21/12/2021	bottles of wine x6	30.00	Refused
Welfare Services	23/07/2021	Box of chocolates and small bunch of flowers	6.00	Accepted
Executive Office	20/05/2021	packet of 'mint thins'	2.00	Accepted
Health Safety	17/06/2021	latte	2.00	Accepted
Redhill Leisure Centre	06/12/2021	biscuits box x2	5.00	Accepted
Redhill Leisure Centre	16/12/2021	Biscuit Selection	3.00	Accepted
Redhill Leisure Centre	21/12/2021	Quality Street 450g bag	3.00	Accepted
Arnold Leisure Centre	08/03/2022	Bottle of whiskey	35.00	Accepted
Public Protection	28/07/2021	Box of chocolates and bottle of wine	5.00	Accepted
Public Protection	07/03/2022	Gift: Promotional mug, sachet of coffee and tea bag received in the post	4.00	Accepted
Arnold Leisure Centre	27/08/2021	Asda mini choc cupcakes/muffins	2.00	Accepted
Revenue Services	27/04/2021	Small hamper containing individual serving portions of crisps, peanuts, chocolate, popcorn, coffee, biscuits and marmalade.	15.00	Accepted
Revenue Services	05/10/2021	Evening meal at conference	40.00	Accepted
Revenue Services	06/10/2021	Evening drinks and snacks at conference	20.00	Accepted
Redhill Leisure Centre	05/05/2021	Small box of Chocolate	7.99	Accepted
Redhill Leisure Centre	20/12/2021	biscuits	5.00	Accepted
Redhill Leisure Centre	20/12/2021	Roses chocolates	5.00	Accepted
Redhill Leisure Centre	20/12/2021	Tin of biscuits	4.00	Accepted
Public Protection	12/10/2021	Small bunch of flowers and a thank you card	5.00	Accepted

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Report to Standards Committee

Subject: Code of Conduct Complaints Update

Date: 23 June 2022

Author: Monitoring Officer

Purpose

To inform members of the Standards Committee of complaints received between 10 March 2022 and 23 June 2022.

Recommendation

THAT the report be noted.

1 Background

- 1.1 A summary of the number of complaints received since the implementation of the existing Standards regime (from 1 July 2012) is set out in the graph in Appendix 1. A summary of the complaints received since 2020/21 is set out in the table at Appendix 1. Since 10 March 2022, the Monitoring Officer has received 3 new code of conduct complaints.
- 1.2 Members of the Standards Committee will recall that at the time of the last committee meeting, 3 complaints were outstanding. At the time of writing, two of those complaints remain outstanding, namely the two referred for investigation to external investigators. The investigators have now completed their reports which were sent to the Monitoring Officer on 8th June 2022 for consideration and a determination to be made. The third complaint, which was outstanding at the last meeting has now concluded, and a summary of the decision in relation to that complaint is attached at Appendix 2.
- 1.3 In relation to the three new complaints received since the 10 March 2022, two of those complaints have concluded and a summary of the decisions are attached at Appendix 2. At this time one complaint received since 10 March 2022 remains outstanding.

2 Proposal

2.1 It is proposed that the Committee notes the report.

3 Alternative Options

3.1 Not to report code of complaints received by the Monitoring Officer.

4 Financial Implications

4.1 There are no financial implications arising from this report.

5 Legal Implications

5.1 Code of Conduct complaints must be dealt with in accordance with the Council's Approved Arrangements for Dealing with Complaints.

6 Equalities Implications

6.1 There are no equalities implications arising from this report.

7 Carbon Reduction/Environmental Sustainability Implications

7.1 There are no carbon reduction/environmental sustainability implications arising from this report.

8 Appendices

8.1 Appendix 1 – Summary of the Code of Conduct complaints received since 1 July 2012.

8.2 Appendix 2 – Exempt Appendices – Summary of complaints determined between 10 March 2022 and 23 June 2022.

9 Background papers

9.1 None identified.

10 Reasons for Recommendation

10.1 To keep Committee updated on Code of Conduct Complaints

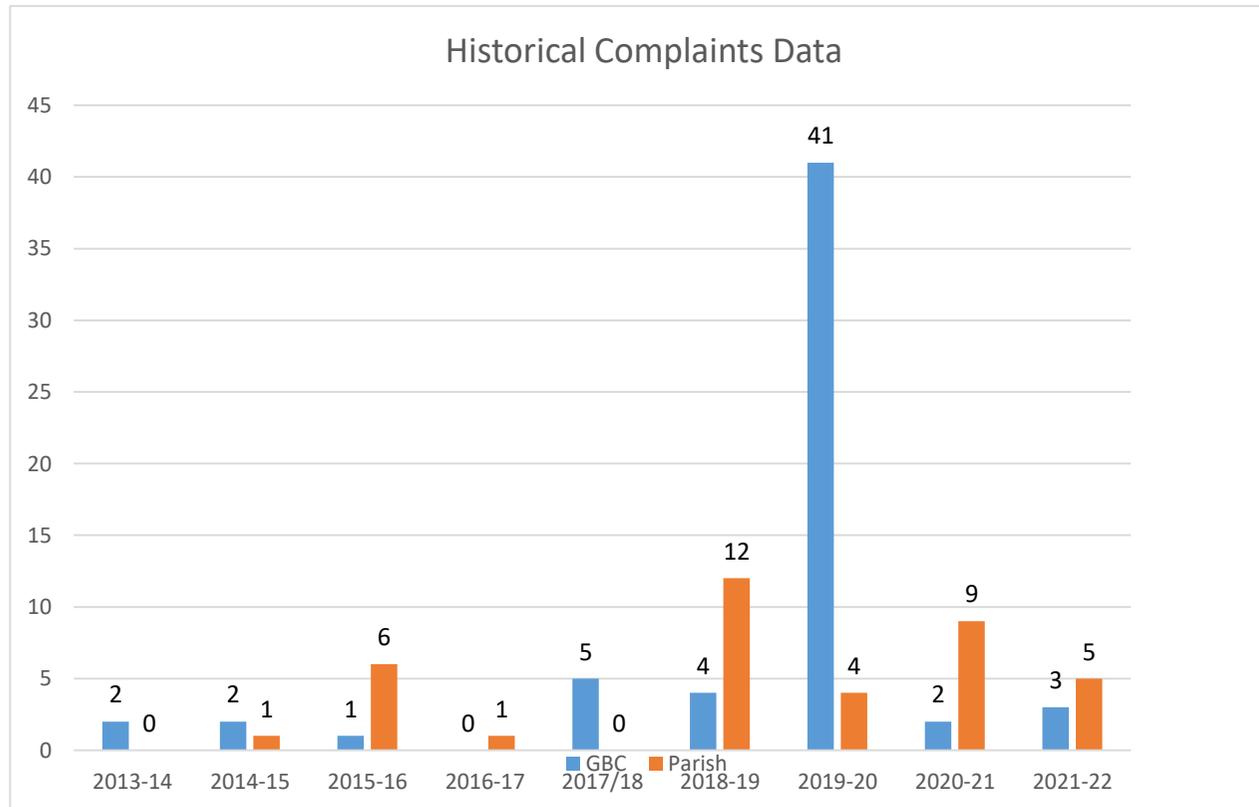
Statutory Officer approval

Approved by the Chief Financial Officer

Date:

Drafted by the Monitoring Officer

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Complaint Ref	Date received	GBC/Parish Council	Complainant	Decision	Date of decision
Complaints received 2020-21					
STD002164	09/06/20	Calverton Parish Council	Councillor (not GBC)	Complaint treated as withdrawn	24/08/20
STD002181	22/06/20	Calverton Parish Council	Member of Public	Complaint treated as withdrawn	24/08/20

Complaint Ref	Date received	GBC/Parish Council	Complainant	Decision	Date of decision
STD002182	22/06/20	Calverton Parish Council	Councillor (not GBC)	Complaint treated as withdrawn	24/08/20
STD002187	26/06/20	Calverton Parish Council	Member of Public	No further action	21/09/20
STD002207	13/07/20	GBC	Member of Public	Reject Complaint – Not acting in official capacity	13/08/20
STD002306	21/10/20	GBC	Member of Public	Complaint treated as withdrawn	
STD002393	07/01/21	Calverton Parish Council	Councillor (not GBC)	Informal Resolution: recommended a written apology be issued	02/07/21
STD002463	02/02/21	Calverton Parish Council	Councillor (not GBC)	No further action	24/05/21
STD002464	02/02/21	Calverton Parish Council	Councillor (not GBC)	Complaint treated as withdrawn	
STD002465	31/01/21	Bestwood St Albans Parish Council	Member of the Public	No further action	12/05/21
STD002499	16/02/21	Calverton Parish Council	Councillor (not GBC)	Ongoing – referred for investigation	
STD002608	16/02/21	Calverton Parish Council	Councillor (not GBC)	Ongoing – referred for investigation	

Complaints received 2021-22

Complaint Ref	Date received	GBC/Parish Council	Complainant	Decision	Date of decision
STD002554	21/04/21	Calverton Parish Council	Member of the Public	Complaint treated as withdrawn	
STD002555	07/04/21	Calverton Parish Council	Member of the Public	No further action	13/08/21
STD002582	06/05/21	GBC	Member of the Public	Reject complaint – Not acting in official capacity	21/05/21
STD002583	07/05/21	GBC	Member of the Public	Reject complaint – Not acting in official capacity	21/05/21
STD002584	11/05/21	GBC	Member of the Public	Reject complaint – Not acting in official capacity	21/05/21
STD002657	14/07/21	Calverton Parish Council	Member of the Public	No further action	13/05/22
STD002955	13/03/21	Calverton Parish Council	Councillor (not GBC)	Ongoing	
STD002956	13/03/21	Calverton Parish Council	Councillor (not GBC)	No further action	30/05/21
Complaints received 2022-23					
STD002993	03/05/22	GBC	Member of the Public	Reject complaint – Conduct complained of outside the Code of Conduct	15/06/22

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