

# Agenda

## Standards Committee

Date: **Thursday 28 November 2024**

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Time: **6.00 pm**

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Place: **Council Chamber**

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For any further information please contact:

**Francesca Whyley**

Deputy Chief Executive and Monitoring Officer

0115 901 3907

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# Standards Committee

## Membership

<b>Chair</b>	Councillor Paul Feeney
<b>Vice-Chair</b>	Councillor David Brocklebank
	Councillor Boyd Elliott
	Councillor Andrew Ellwood
	Councillor Martin Smith
	Councillor Clive Towsey-Hinton
	Rosalie Hawks
	Louise Kopyrko

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### **Responsibility of committee:**

Within their terms of reference the Standards Committee will be responsible for:

- a) promoting and maintaining high standards of conduct by the members and co-opted members of the council;
- b) assisting members and any co-opted members of the Council to observe the Members' Code of Conduct;
- c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- d) monitoring the operation of the Members' Code of Conduct;
- e) advising, training or arranging to train members and any co-opted members of the council on matters relating to the Members' Code of Conduct;
- f) performing the functions set out in (a) - (e) above in respect of the parish councils in the Borough;
- g) granting dispensations to members and any co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- h) dealing with any reports from the Monitoring Officer on any matter;
- i) advising on what should be entered into the register of interests for members and co-opted members;

- j) dealing with matters relating to the recruitment of co-opted independent and parish members of the Standards Committee;
- k) dealing with matters relating to the recruitment of the Independent Person and to make recommendations to Council as to the appointment of the Independent Person.
- l) approving all strategies, policies, protocols and procedural documents that fall within the remit of the Committee (excluding budget and policy framework items).

# AGENDA

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- 2 **To approve, as a correct record, the minutes of the meeting held on 18 July 2024** 5 - 6
- 3 **Declaration of interests**
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- 5 **Code of Conduct complaints update** 21 - 41  
Report of the Monitoring Officer
- 6 **Any other item which the Chair considers urgent**

## MINUTES STANDARDS COMMITTEE

Thursday 18 July 2024

Councillor Paul Feeney (Chair)

Councillor Stuart Bestwick  
Councillor Rachael Ellis

Councillor Andrew Ellwood

Absent: Councillor Clive Towsey-Hinton

Officers in Attendance: F Whyley and E McGinlay

### 1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Brocklebank and Towsey-Hinton. Councillor Rachael Ellis attended as a substitute for Councillor Brocklebank.

### 2 TO APPROVE, AS A CORRECT RECORD, THE MINUTES OF THE MEETING HELD ON 14 MARCH 2024

#### RESOLVED:

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

### 3 DECLARATION OF INTERESTS

Councillor Rachael Ellis disclosed a non-pecuniary interest in item 6, having been involved in one of the conduct investigations into a complaint for the committee to note.

### 4 ANNUAL REVIEW OF GIFTS AND HOSPITALITY

The Monitoring Officer introduced a report, circulated in advance of the meeting, informing members of gifts and hospitality received between 1 April 2023 and 31 March 2024.

#### RESOLVED:

To note the details of the annual review of gifts and hospitality

### 5 APPOINTMENT OF INDEPENDENT PERSON AND RESERVE INDEPENDENT PERSON

The Monitoring Officer introduced a report, circulated in advance of the meeting, which sought approval from the Standards committee to

recommend to Council that David Walsh should be appointed as Independent Person and John Baggaley be appointed as reserve Independent Person

**RESOLVED:**

That members

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

**6 CODE OF CONDUCT COMPLAINTS UPDATE**

The Monitoring Officer introduced a report, circulated in advance of the meeting, informing members of the Standards Committee of complaints received between 15 March 2024 and 18 July 2024.

**RESOLVED:**

To note the report.

**7 ANY OTHER ITEM WHICH THE CHAIR CONSIDERS URGENT**

None.

The meeting finished at 6.10 pm

Signed by Chair:

Date:



## Report to Standards Committee

**Subject:** Review of Council's Arrangements for Dealing with Code of Conduct Complaints

**Date:** 28 November 2024

**Author:** Monitoring Officer

### Purpose

To seek support through a cross- party working group to review the Council's arrangements for dealing with code of conduct complaints.

### Recommendation

THAT Committee:

- 1) Agree to establish a cross-party working group to assist the Monitoring Officer in a review of the Council's Arrangements for Dealing with Code of Conduct Complaints.

## 1 Background

- 1.1 The Localism Act 2011 ("the Act") requires local authorities to have in place arrangements under which allegations of breach of the Code of Conduct can be investigated and arrangements under which decisions on allegations can be made (s.28(6)).
- 1.2 The Council currently has arrangements in place for dealing with code of Conduct complaints which can be found at appendix 1 ("the arrangements"). The Arrangements were last updated in 2022.
- 1.3 In January 2024, Gedling Borough Council adopted a new Code of Conduct which largely aligned with the Local Government Associations (LGA) Model Code of Conduct. Whilst the new Code does not necessarily directly impact on the Council's approach to undertaking investigations, it is felt that a refresh of the arrangements is required to ensure they are up to date with other LGA guidance in relation to investigations and to ensure clarity for complainants, and subject members in the making of and handling of Code of Conduct complaints.

## **2 Proposal**

- 2.1 In order to support the Monitoring Officer in this review of the arrangements, it is proposed that a working group is established from this Committee to give feedback on any proposed changes. The input of a working group has worked well on other reviews such as the Code of Conduct and it gives Committee the opportunity to be involved in the development of the new arrangements. Once the review is completed the new arrangements would be brought back to this Committee for approval.

## **3 Alternative Options**

- 3.1 The arrangements could remain as they are, or, be reviewed without the support of a working group. It is felt that as the last update was 2022 and there have been changes to the Code of Conduct since then, that a review is necessary to ensure the arrangements remain fit for purpose. The support of a Working Group to facilitate this review is recommended as this has worked well on similar reviews.

## **4 Financial Implications**

- 4.1 The costs associated with the review are met from existing budgets.

## **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, it is a legal requirement to have such arrangements, but they should be reviewed to ensure they remain fit for purpose.

## **6 Equalities Implications**

- 6.1 There are no equalities implications arising from this report, but an EIA will be considered as part of the review process to ensure any changes to the arrangements consider any equality impacts.

## **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 – The Council's Arrangements for Dealing with Code of Conduct Complaints.



**9 Background papers**

9.1 None identified.

**10 Reasons for Recommendation**

10.1 To ensure the complaints process is kept under review and remains fit for purpose.

**Statutory Officer approval**

**Approved by the Chief Financial Officer**

**Date:**

**Drafted by the Monitoring Officer**

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## **Arrangements for dealing with complaints about breach of the Code of Conduct**

### **1. Introduction**

These arrangements set out how Gedling Borough Council (“the Council”) will deal with allegations that an elected or co-opted member of the Council or of a Parish Council within its area has failed to comply with the Code of Conduct.

The person making the complaint will be referred to as “the Complainant” and the person against whom the complaint is made will be referred to as “the Subject Member”.

### **2. The Code of Conduct**

The Council has adopted a Code of Conduct for members, which is available for inspection on the Council’s website and on request from Reception at the Civic Centre.

Each Parish Council is also required to adopt a Code of Conduct. If the Complainant wishes to inspect a Parish Council’s Code of Conduct, the Complainant should inspect any website operated by the parish council or request the parish clerk to allow the Complainant to inspect the parish council’s Code of Conduct.

### **3. Making a complaint**

All complaints must be submitted in writing to –

The Monitoring Officer  
Gedling Borough Council  
Civic Centre  
Arnot Hill Park  
Arnold  
Nottingham  
NG5 6LU

[Francesca.whyte@gedling.gov.uk](mailto:Francesca.whyte@gedling.gov.uk)

The complaint shall include:

- the Complainant’s name and contact details;
- the name of the member(s) the Complainant believes has breached the Code of Conduct and the name of the authority;

- what the Subject Member has allegedly done that the Complainant believes breaches the Code of Conduct; and
- details of why the Complainant believes their name and/or the details of the complaint should be withheld (if necessary).

In order to ensure that the Council has all the information to be able to process the complaint a complaint form is available on the Council's website. If the complainant decides not to use the complaint form, they must still provide the Monitoring Officer with all the information set out above; otherwise the Monitoring Officer will not be able to consider the complaint.

Formal complaints about the conduct of a Parish Councillor towards the Clerk can be made by either the Chair, an individual Parish Councillor, the Parish Council as a whole or the Clerk.

#### **4. Conflict of interest**

Where the Monitoring Officer considers that he/she has a conflict of interests, for example, as a result of a close professional relationship with the Subject Member; the Monitoring Officer will pass the complaint to the Deputy Monitoring Officer to deal with. Where the Deputy Monitoring Officer similarly has a conflict of interest, arrangements may be made for a Monitoring Officer from another local authority in Nottinghamshire to oversee and manage the complaint.

#### **5. Criminal conduct**

If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to refer the matter to the Police and other regulatory agencies.

#### **6. Acknowledging the complaint**

The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it. The Monitoring Officer will write to the Subject Member (and in the case of a complaint about a Parish Councillor to the Clerk of the Parish Council) with details of the allegations (subject to any representations from the Complainant about confidentiality or concerns that disclosure of the complaint would prejudice any potential investigation) and notifying the Subject Member of their right to consult the Independent Person. At the same time the Monitoring Officer will write to the Independent Person with details of the allegations so that he/she is aware of the nature of the complaint if the Subject Member consults them. The Subject Member may, within 10 working days of the date of the letter, or such longer period as the Monitoring Officer may agree, make written representations to the Monitoring Officer which will be taken into account when deciding how the complaint will be dealt with.

#### **7. Initial filtering of complaints**

Code of Conduct complaints can only be accepted if they relate to a member's behaviour whilst they are acting, or giving the impression that they are acting, in

their official capacity. Complaints which clearly relate to a member acting in their private capacity or otherwise fall outside of the Code of Conduct can be rejected by the Monitoring Officer without notifying the Subject Member (and in the case of a complaint about a Parish Councillor to the Clerk of the Parish Council) or seeking the views of the Independent Person. The Monitoring Officer will inform the Complainant, the Subject Member (and in the case of a complaint about a Parish Councillor to the Clerk of the Parish Council) of the decision and the reasons for that decision in writing.

## **8. Confidentiality**

As a matter of fairness and natural justice, the Subject Member should be told who has complained about them. There may be occasions where the Complainant requests that their identity is withheld. Such a request may be granted in circumstances that the Monitoring Officer considers to be exceptional, for example:

- a) The Complainant has reasonable grounds for believing that they will be at real risk of intimidation, victimisation or physical harm if their identity is disclosed.
- b) The Complainant is an officer who works closely with the Subject Member and they are afraid of the consequences to their employment if their identity is disclosed.
- c) The Complainant suffers from a serious health condition, which might be adversely affected if their identity is disclosed.

If the Monitoring Officer decides to refuse a request by the Complainant for confidentiality, he/she will offer the Complainant the option to withdraw the complaint, rather than proceed with disclosure of the Complainant's identity.

As a matter of fairness and natural justice, the Subject Member should also be informed of the nature of the complaint. If however the Monitoring Officer considers that disclosure of details of the complaint to the Subject Member might prejudice the investigation, the Monitoring Officer can agree to delay notifying the Subject Member until consideration of the complaint has progressed sufficiently.

It is important, first, to preserve the integrity of the complaints process and, second, to minimise any negative impact of the complaint on all the people affected by it, that information relating to the complaint is treated as confidential. The assessment of complaints will therefore be conducted by the Monitoring Officer in private. The parties to a complaint are expected to maintain confidentiality as well. Parties are not prohibited from discussing the complaint to seek advice and support; however, it should not be discussed in the public domain.

## **9. Additional Information**

If the Complainant does not submit sufficient information to enable the Monitoring Officer to come to a decision, the Monitoring Officer may ask the Complainant for such information, and may request additional information from the Subject Member.

The Monitoring Officer may also carry out pre-assessment enquiries, which will not amount to an investigation. This may include obtaining documentation, such as a copy of the relevant Code of Conduct or minutes of meetings.

## **10. Initial Assessment of Complaint**

The Monitoring Officer will review the complaint together with any representations received from the Subject Member and, after consultation with the Independent Person, take a decision as to whether the complaint merits formal investigation or should be dealt with informally or rejected. This decision will normally be taken within 20 working days of receipt of the complaint or the Subject Member's written representation, whichever is the latter. The Monitoring Officer will inform the Complainant, the Subject Member (and in the case of a complaint about a Parish Councillor to the Clerk of the Parish Council) of the decision on initial assessment and the reasons for that decision in writing. The decision of the Monitoring Officer will also be reported to the Standards Committee for information. Where the Monitoring Officer has determined that if the complaint is proven, there would potentially be a breach of the Code and recommended an information resolution, it is in the public interest for the Subject Member to be named, however where the Monitoring Officer has made a finding of no breach, the Subject Member will not be identified.

Each complaint will be assessed to determine whether it is one the Monitoring Officer can and should investigate.

The Monitoring Officer will consider the following in deciding whether the complaint can be investigated:

- a) Is the complaint about the conduct of a named, elected or co-opted member of the Borough Council or a Parish Council within the Borough?
- b) Was the named member in office at the time the alleged misconduct took place?
- c) Was the Code of Conduct in force at the time the alleged misconduct took place?
- d) If the complaint is proven, would there potentially be a breach of the Code under which the Subject Member was operating at the time of the alleged misconduct?

If the complaint fails one or more of these tests it will be rejected.

The Monitoring Officer will then consider the following in deciding whether the complaint should be investigated, dealt with informally or rejected:

- i. The complaint appears to be trivial, vexatious, malicious, politically motivated or tit for tat.
- ii. The complaint is anonymous. The Monitoring Officer will not usually investigate anonymous complaints, unless there is a clear public interest in doing so.

- iii. The complainant has not provided any evidence that supports the complaint. The Monitoring Officer will not usually investigate where a complainant has simply make an allegation that the councillor has failed to act in a way that is required by the Code.
- iv. A significant period of time has elapsed since the events, which are the subject of the complaint. This could be because, where a matter is serious, it would be reasonable to expect the Complainant to make a complaint promptly, or because the passage of time may make it more difficult to obtain documentary evidence and reliable witness evidence. The Monitoring Officer will normally reject a complaint where the last event complained of took place more than 6 months prior to the date of the complaint.
- v. The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter. This could be where the matter is such that there is unlikely to be any firm evidence on the matter.
- vi. The complaint or a substantially similar allegation has previously been the subject of an investigation and there is nothing more to be gained by further action being taken.
- vii. The complaint suggests that there is a wider problem throughout the authority.
- viii. The complaint discloses a potential breach of the Code, but the Subject Member has remedied or made reasonable endeavours to remedy the issues to which the complaint relates and the complaint does not disclose sufficiently serious potential breaches of the Code of Conduct to merit further consideration.
- ix. The complaint discloses a potential breach of the Code, but the complaint is not serious enough to merit an investigation in circumstances where the resources needed to investigate are wholly disproportionate to the allegations and there is no overriding public interest in carrying out an investigation. Public interest is regarded as “something which is of serious concern and benefit to the public”.

## **11. Informal Resolution**

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable; and

- offering an apology;
- agreeing to attend a training course;
- agreeing to engage in a process of conciliation; or

- the Council introducing some other remedial action (such as changing procedures).

Where the Subject Member makes a reasonable offer of informal resolution, but the Complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

Where the Monitoring Officer recommends informal resolution, but the Subject Member is not willing to accept his/her conduct was unacceptable or not willing to accept the informal resolution proposed, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

## **12. Investigation**

If the Monitoring Officer decides that the complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to the Complainant to understand the nature of the complaint.

The Investigating Officer would normally write to the Subject Member and provide him/her with a copy of the complaint, and ask the Subject Member to provide his/her explanation of events, and to identify what documents the Investigating Officer needs to see and who she/he needs to interview. In exceptional cases, where it is appropriate to keep the Complainant's identity confidential or the Monitoring Officer considers that disclosure of details of the complaint to the Subject Member might prejudice the investigation, the Investigating Officer can delete the Complainant's name and address from the papers given to the Subject Member, or delay notifying the Subject Member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the Complainant and to the Subject Member concerned, to give them both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration. Both parties will be given 10 working days to make representations or, in exceptional circumstances, such other period as the Investigating Officer considers reasonable.

Having received and taken account of any comments on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

## **13. Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct**

The Monitoring Officer will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient, will send to the Complainant and the Subject Member (and the Parish Council, where the complaint relates to a Parish Councillor) a copy of the Investigating Officer's final report and confirm the finding of no failure to comply with the Code of Conduct. If the



Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

#### **14. Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct**

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearing Panel ("the Panel") or, after consulting the Independent Person, seek local resolution.

##### **a. Local Resolution**

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and the Complainant and seek to agree what the Complainant considers to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable; and

- offering an apology;
- agreeing to attend a training course;
- agreeing to engage in a process of conciliation; or
- the Council introducing some other remedial action (such as changing procedures).

If the Subject Member complies with the suggested resolution, the Monitoring Officer will issue a decision notice. The decision notice will include a brief statement of facts, the provisions of the code of conduct engaged by the allegations, the views of the Independent Person, the reasons for the decision and any sanctions applied. A copy of the decision notice will be sent to the Complainant, to the Subject Member [and to the Parish Council in the case of a complaint about a Parish Councillor], published on the Council's website and reported to the next convenient meeting of the Standards Committee.

However, if the Complainant tells the Monitoring Officer that any suggested resolution would not be adequate or the Subject Member refuses to accept the resolution; the Monitoring Officer will refer the matter for a local hearing.

##### **b. Local Hearing**

If the Monitoring Officer considers that local resolution is not appropriate, or the Complainant is not satisfied by the proposed resolution, or the Subject Member is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearing Panel which will conduct a local hearing before deciding whether the Subject Member has failed to comply with the Code of Conduct and, if so, whether to take any action.

The Monitoring Officer will conduct a “pre-hearing process”, requiring the Subject Member to give his/her response to the Investigating Officer’s report in writing, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing. The Chairman of the Panel may issue directions as to the manner in which the hearing will be conducted.

At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Subject Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the Complainant to attend and give evidence to the Panel. The Subject Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct. The Panel can allow witnesses to be questioned and cross examined by the Subject Member, the Monitoring Officer, the Investigating Officer (or their representative(s)) directly or through the Chairman. The Panel can also question witnesses.

The Independent Person will be invited to attend to observe, but will not participate in the hearing. The Panel will seek the views of the Independent Person and take those views into account before making its decision.

The Panel may conclude that the Subject Member did not fail to comply with the Code of Conduct, and if so will dismiss the complaint.

If the Panel concludes that the Subject Member did fail to comply with the Code of Conduct, the Chairman will inform the Subject Member of this finding and the Panel will then consider what action, if any, the Panel should take as a result of the Subject Member’s failure to comply with the Code of Conduct. In doing this, the Panel will give the Subject Member an opportunity to make representations to the Panel and seek the views of the Independent Person and take those views into account before making its decision.

**15. What action can the Hearing Panel take where a member has failed to comply with the Code of Conduct?**

The Council has delegated to the Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Panel may do one or a combination of the following –

- a. Send a formal letter to the Subject Member;
- b. Issue a formal Censure;
- c. Publish its findings in respect of the Subject Member’s conduct;
- d. Report its findings to Council (or to the Parish Council) for information;

- e. Recommend to the Subject Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- f. Recommend to the Leader of the Council that the Subject Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- g. Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Subject Member;
- h. Recommend to the Subject Member's Group Leader that he/she is removed ([or recommend to the Parish Council that the Subject Member be removed]) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Parish Council);
- i. In the case of a co-opted Member, recommend to Council (or to the Parish Council) that he/she be removed from the Council or any of its committees, sub-committees or working groups;
- j. Withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the Subject Member by the Council (such as a computer, website and/or email and Internet access) for a specified period; or
- k. Exclude (or recommend that the Parish Council exclude) the Subject Member from the Council's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the Subject Member or to withdraw members' or special responsibility allowances. It also has no power to impose a sanction which would fetter the otherwise appropriate activities of a democratically elected representative.

## **16. What happens at the end of the hearing?**

At the end of the hearing, the Chairman will state the decision of the Panel as to whether the Subject Member failed to comply with the Code of Conduct and as to any actions which the Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Panel. The decision notice will include a brief statement of facts, the provisions of the code of conduct engaged by the allegations, the views of the Independent Person, the reasons for the decision and any sanctions applied. A copy of the decision notice will be sent to the Complainant, to the Subject Member [and to the Parish Council in the case of a complaint about a Parish Councillor], published on the Council's website and reported to the next convenient meeting of the Standards Committee.

## **17. What is the Hearing Panel?**

The Hearing Panel is a sub-committee of the Council's Standards Committee.

The Independent Person is invited to attend all meetings of the Panel and his/her views are sought and taken into consideration before the Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **18. Who is the Independent Person?**

The Independent Person is a person who has been appointed by the Council under Section 28 of the Localism Act 2011. The Independent Person's views must be sought and taken into account before a decision on an allegation can be made. Their views may also be sought by the Subject Member.

The Monitoring Officer will consult the Independent Person as set out in these arrangements, but has the discretion to consult the Independent Person on any other issues arising out of an allegation that a member has failed to comply with the Code of Conduct. The Council has also appointed a reserve Independent Person who is able to act when the Independent Person is incapacitated or otherwise unable to act, for example due to illness, holiday or conflict.

## **19. Revision of these arrangements**

The Standards Committee has the power to amend these arrangements. The Council has delegated to the Panel and the Monitoring Officer the right to depart from these arrangements where it considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **20. Appeals**

There is no right of appeal against a decision of the Monitoring Officer or the Panel.

If the Complainant feels that the Council has failed to deal with the complaint properly, he/she may complain to the Local Government and Social Care Ombudsman.



## Report to Standards Committee

**Subject:** Code of Conduct Complaints Update

**Date:** 28 November 2024

**Author:** Monitoring Officer

### Purpose

To inform members of the Standards Committee of complaints received between 18 July 2024 and 28 November 2024.

### 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 2021/22 is set out in the table at Appendix 1. Since 18 July 2024, the Monitoring Officer has received 7 new Code of Conduct complaints.
- 1.2 Members may recall that at the last Committee, there were two complaints outstanding. Both of these have now concluded and a summary of the outcome of those matters is attached at Appendix 3 – Exempt Appendix.
- 1.3 In relation to the 7 new complaints, 2 have concluded after formal investigation. The decision notice in relation to those 2 complaints is attached at Appendix 2. At the current time 5 complaints remain ongoing.

## 2 Proposal

- 2.1 It is proposed that the Committee notes the report.

## 3 Alternative Options

- 3.1 Not to report code of conduct complaints received by the Monitoring Officer however this would be contrary to the Council's arrangements for dealing with complaints.

#### **4 Financial Implications**

4.1 The costs associated with complaints are met from existing budgets.

#### **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 any equality related matters are dealt with within individual complaint responses. The complaints process is accessible and complaints can be submitted in a number of formats.

#### **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.

Appendix 2 – Decision notice complaints STD004302, STD004323

Appendix 3 – Exempt Appendices outcome of complaints

#### **9 Background papers**

9.1 None identified.

#### **10 Reasons for Recommendation**

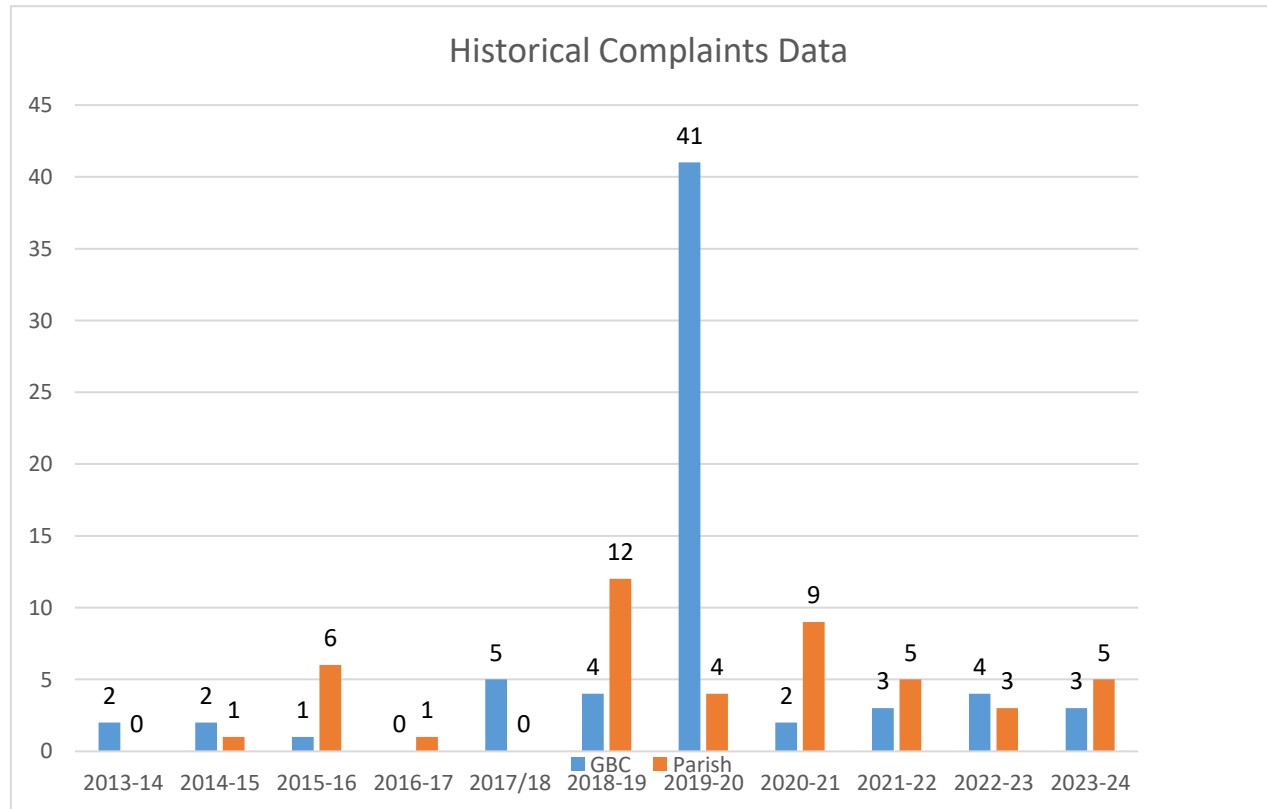
10.1 To keep Committee updated on Code of Conduct Complaints

**Statutory Officer approval**

**Approved by the Chief Financial Officer**

**Date:**

**Drafted by the Monitoring Officer**



Complaint Ref	Date received	GBC/Parish Council	Complainant	Decision	Date of decision
<b>Complaints received 2021-22</b>					
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

<b>Complaint Ref</b>	<b>Date received</b>	<b>GBC/Parish Council</b>	<b>Complainant</b>	<b>Decision</b>	<b>Date of decision</b>
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	16/03/22	Calverton Parish Council	Councillor (not GBC)	Reject complaint – Not acting in official capacity	28/07/22
STD002956	16/03/22	Calverton Parish Council	Councillor (not GBC)	No further action	30/05/22
<b>Complaints received 2022-23</b>					
STD002993	03/05/22	GBC	Member of the Public	Reject complaint – Conduct complained of outside the Code of Conduct	15/06/22
STD003067	29/06/22	St Albans Parish Council	Councillor (not GBC)	No further action	16/09/22
STD003116	01/08/22	Calverton Parish Council	Councillor (not GBC)	No further action	16/11/22



<b>Complaint Ref</b>	<b>Date received</b>	<b>GBC/Parish Council</b>	<b>Complainant</b>	<b>Decision</b>	<b>Date of decision</b>
STD003124	13/08/22	Gedling Borough Council	Member of the public	Reject complaint – not acting in official capacity	19/08/22
STD003126	15/08/22	Gedling Borough Council	Member of the public	Reject complaint – not acting in official capacity	19/08/22
STD003127	15/08/22	Gedling Borough Council	Member of the public	Reject complaint – not acting in official capacity	19/08/22
STD003249	30/11/22	Calverton Parish Council	Member of the public	Informal Resolution, apology given – no further action	10/03/23
<b>Complaints received 2023-24</b>					
STD003558	13/04/23	Burton Joyce Parish Council	Member of the Public	No further action	13/7/2023
STD003677	30/6/23	St Albans Parish Council	Councillor (not GBC)	Investigation concluded – No breach, no further action	27/6/24
STD003687	10/7/23	Newstead Parish council	Member of the Public	Potential breach identified – informal resolution proposed	17/08/23
STD003690	13/7/23	Newstead Parish Council	Member of the Public	Potential breach identified – informal resolution proposed	17/08/23
STD004065	26/1/24	GBC	Member of the Public	No further action	8/2/24
STD004092	16/2/24	GBC	Member of the	No further action	29/2/24

Complaint Ref	Date received	GBC/Parish Council	Complainant	Decision	Date of decision
			Public		
STD004118	6/3/24	GBC	Member of the Public	No further action	28/3/24
STD004121	9/3/24	GBC	Member of the Public	Withdrawn	1/7/24
STD004143	27/3/24	St Albans Parish Council	Member of the Public	No further action	14/8/24
<b>Complaints Received 2024/25</b>					
STD004264	28/6/24	St Albans Parish Council	Councillor (not GBC)	No further action	3/10/24
STD004302	27/7/24	GBC	Member of the Public	Investigation concluded – breach found Local Resolution	19/11/24
STD004323	3/8/24	GBC	Councillor GBC	Investigation concluded – breach found, local resolution	19/11/24
STD004450	19/8/24	St Albans Parish Council	Councillor (not GBC)	Ongoing	
STD004347	23/8/24	St Albans Parish Council	Councillor (not GBC)	Ongoing	
STD004358	31/8/24	St Albans Parish Council	Councillor (not GBC)	Ongoing	

<b>Complaint Ref</b>	<b>Date received</b>	<b>GBC/Parish Council</b>	<b>Complainant</b>	<b>Decision</b>	<b>Date of decision</b>
STD004455	14/10/24	St Albans Parish Council	Councillor (not GBC)	Ongoing	
STD004520	17/11/24	Calverton Parish Council	Councillor (not GBC)	Ongoing	

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## **Decision Notice: Breach of the Code of Conduct - Local Resolution after Investigation**

**Reference: STD0004302, STD004323**

### **Complaints**

On 27<sup>th</sup> July 2024, the Monitoring Officer received a complaint from a member of the public in relation to the conduct of Gedling Borough Council Councillor, Paul Wilkinson. On 3<sup>rd</sup> August 2024, the Monitoring officer received a second complaint, from a Gedling Borough Councillor in relation to the conduct of Councillor Paul Wilkinson.

Both complaints related to the conduct of Councillor Paul Wilkinson at a Council meeting on 26<sup>th</sup> July 2024. After initial assessment and consultation with the Independent Person David Walsh, the Monitoring Officer referred both complaints for formal investigation. An Independent Investigator was appointed to conduct the investigation. The investigation concluded on 15<sup>th</sup> October 2024 and a report was submitted to the Monitoring Officer. The investigator concluded, in relation to both complaints that Councillor Paul Wilkinson had breached the following paragraph of the Gedling Borough Council Code of Conduct.

#### **1. Respect**

##### **As a councillor:**

##### **1.1 I treat other councillors and members of the public with respect.**

In summary, the complaints related to comments made by Councillor Wilkinson at a Gedling Borough Council meeting on 26<sup>th</sup> July 2024. During that meeting, a motion was proposed by Councillor Russell Whiting. The motion was seconded by Councillor Hughes. The motion, as originally proposed and introduced by Councillor Whiting is shown below.

*Motion 1: That this Council notes:*

- *Since the conflict started more than 37,000 people have been killed – with more than 50% estimated to be women and children. With thousands more buried under the rubble.*
- *A letter in The Lancet Journal estimates that the true death toll may be as high as 186,000.*
- *The words of Foreign Secretary David Lammy MP on July 7 2024 when talking about Gaza: “We want to see a cease-fire. We want to see those hostages out”*
- *That then Foreign Secretary Lord Cameron on Thursday 11 January in describing the situation in Gaza as ‘heartbreaking’ ‘desperate’ and how ‘death and despair haunt’ the lives of Gaza’s children and his statement on March 25 that The UK has long been calling for an immediate humanitarian pause leading to a sustainable ceasefire without a return to destruction, fighting and loss of life, as the fastest way to get hostages out and aid in.*
- *That on 2 April Sir Ed Davey MP said “This violence has to stop. Now. We need an immediate bilateral ceasefire – a real ceasefire that finally sets us on the path to a lasting peace.*
- *In February 2024 the UK Parliament voted unanimously in favour of an immediate ceasefire in Gaza*

*Therefore, this Council resolves to:*

- *Record its deep concern for the severe reverberations of this crisis felt within Gedling borough and across the UK, with Jewish, Muslim, and Palestinian communities all fearing and grieving;*

- Thank community leaders in this borough for the role they are playing in reducing tensions at this sensitive and difficult time;
- Thank members of the public throughout the Borough who have donated or provided assistance to the humanitarian response to the crisis in Gaza;
- Support any forthcoming Government proposals for resettlement support for Palestinians seeking sanctuary here in the UK, as with the war in Ukraine;
- Commit to identify ways in which the events can be remembered in the future, in this borough;
- Offer appropriate support and assistance to the diverse communities within Gedling who have been impacted by, or who face emerging issues as a result of this crisis.
- Request that the Chief Executive write to the Secretary of State for Foreign, Commonwealth and Development Affairs affirming the support of Gedling Borough Council for any and all efforts to bring about a bilateral cessation of hostilities leading to a lasting peace arrangement

An amendment to this motion was proposed by Councillor Roxanne Ellis and the amendment was seconded by Councillor Paul Wilkinson, the amendment was accepted by the proposer and seconder of the original motion and as such the amended motion became the substantive motion.

In the course of the debate on the amended motion, Councillor Wilkinson made the following comments:

*“ Now had that happened from the outset I think there would have been a ceasefire a long time ago so let's lay the blame where it lies. It lies with Hamas a terrorist organisation and you'll note that Councillor Whiting does not condemn Hamas. If you look at his social media he never condemns Hamas, in fact what he what he has called for and as with many motions of this this nature it's often not the words that are that are uh on on on paper it's what's said in the speeches and the mask slipped there Councillor Whiting because what you called for in your speech was the destruction of Israel “*

Following these comments by Councillor Wilkinson, Councillor Whiting called for Councillor Wilkinson to withdraw his final statement (underlined) but Councillor Wilkinson refused to do so.

At no point during his speech on the original proposed motion did Councillor Whiting call for the destruction of Israel.

Both complainants alleged that the comments made by Councillor Wilkinson amounted to a breach of the Gedling Borough Council Code of Conduct. Both complainants alleged that the comments amounted to a lack of respect, but also alleged that Councillor Wilkinson had brought his role or authority into disrepute (para 5 of the Code of Conduct) and that Councillor Wilkinson had used his position as a Councillor improperly to the advantage or disadvantage of someone else (para 6 of the Code of Conduct.)

## **Decision**

The investigator spoke to both complainants and Councillor Wilkinson during the course of the investigation. The investigator reviewed the Council's Code of Conduct, relevant case law and guidance and watched the recording of the meeting on 26<sup>th</sup> July 2024 which was also transcribed. A draft report on the investigation was submitted to the complainants for comments and a final report was then submitted to the Monitoring Officer.

Section 27(2) of the Localism Act 2011 requires all relevant authorities to "adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity."

Gedling Borough Council has adopted such a Code of Conduct which reflects this and states:

*This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:*

- *you misuse your position as a councillor*
- *your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.*

*The Code applies to all forms of communication and interaction, including:*

- *at face-to-face meetings*
- *at online or telephone meetings*
- *in written communication*
- *in verbal communication*
- *in non-verbal communication*
- *in electronic and social media communication, posts, statements, and comments.*

*You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.*

As the comments by Councillor Wilkinson were made in the course of debate at a Council meeting it is clear that Councillor Wilkinson was acting in an official capacity and therefore the Code was engaged.

The Investigator concluded that Councillor Wilkinson had breached the Code of Conduct by failing to treat Councillor Whiting with respect. The Investigator did not find any other breach of the Code.

In coming to the conclusion that a breach had occurred, the Investigator considered the right of Councillor Wilkinson to free speech, particularly in the context of political debate. However, the Investigator concluded that Councillor Wilkinson's remarks crossed the line from political comment to personal attack on Councillor Whiting. The comments made by Councillor Wilkinson were during a debate on a highly emotive topic, and by stating that Councillor Whiting had called for the destruction of Israel, Councillor Wilkinson made an extremely serious allegation, which did not in any way reflect what Councillor Whiting actually said.

In line with the Council's arrangements for dealing with complaints, following receipt of the investigation report, the Monitoring Officer considered whether the matter could be reasonably resolved without the need for a hearing.

The Monitoring Officer consulted with the Independent Person and it was agreed that a local resolution would be sought for both complaints. It should be noted that all parties, through the course of the investigation had indicated that a local resolution may be acceptable.

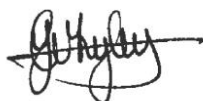
The local resolution proposed by the Monitoring Officer was that Councillor Wilkinson offer a public apology for his comments to Councillor Whiting at the Council meeting on Wednesday 13<sup>th</sup> November 2024, the wording of such apology to be agreed by Councillor Whiting.

All parties accepted the local resolution and on 13<sup>th</sup> November 2024, Councillor Wilkinson, during the Council meeting apologised publicly to Councillor Whiting for his comments and any offence caused. Councillor Whiting formally accepted the apology.

This now concludes the matter.

This Decision will be reported to the next convenient meeting of the Standards Committee and will be published as part of that agenda.

Please note, there is no right of appeal against this decision. If the Complainant feels the Council have failed to deal with the complaint properly, he/she may complain to the Local Government and Social Care Ombudsman PO Box 4771, Coventry, CV4 0EH.



**Signed:**

**Dated: 19/11/24**

**Francesca Whyley  
Monitoring Officer**



By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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