

A Review of the Complaints Received Under the Members' Code of Conduct to 21st September 2021

To: Constitution and Ethics Committee

Meeting Date: 29 September 2021

From: Monitoring Officer & Director of Law and Governance

Outcome: To brief the Constitution and Ethics Committee on the number and nature of the complaints received about Members under the Code of Conduct from January 2020 to 21st September 2021, along with details of other complaints which are in process or have been concluded.

Recommendation: The Committee is recommended to:

Note the contents of this report.

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1. Background

- 1.1 The Localism Act (“the Act”) places a statutory duty on the Council to promote and maintain high standards of conduct amongst its Members and co-opted Members. This includes the obligation on the Council to have in place a Code of Conduct setting out the standard of conduct expected of Members when acting in their capacity as Councillors.
- 1.2. The requirements of the Act are supported by Article 2 of the Constitution, Members of the Council, and by Part 5.1, Members’ Code of Conduct. The Constitution and Ethics Committee’s Terms of Reference give it authority to monitor the operation of the Code of Conduct and the complaints received under it.
- 1.3. This report serves to provide the Constitution and Ethics Committee with an overview of the complaints received under the Code of Conduct since its last update.

2. Overview of Complaints

2.1 Ongoing Complaints

2.1.1 The publication of details of complaints only takes place after conclusion of the complaint and only if a breach of the code has been established. The purpose of this restriction is to reduce speculation on limited information, to ensure there is no compromise of any assessment or investigation, and to uphold the requirements of the Data Protection Act 2018 and UK GDPR.

2.1.2 Since the time of last reporting, ten new complaints have been received with the following still ongoing:

CONDCOMP/CCC/06. A complaint was received from the Audit and Accounts Committee on 5th March 2021 and was reported separately to the Committee in July 2021.

CONDCOMP/CCC/09. A complaint was received from a County Councillor on 29th July 2021 which concerned the conduct of the subject Member at the meeting of Full Council which had taken place on 22nd July 2021. The subject Member has provided a full response to the complaint, which has since been shared with the complainant and there are currently ongoing discussions as to whether an informal resolution can be agreed.

CONDCOMP/CCC/10. A complaint was received from a County Councillor on 29th July 2021 which concerned the conduct of the subject Member at the meeting of Full Council which had taken place on 22nd July 2021. The subject Member has provided a full response to the complaint which has been shared with the complainant, who has been asked to confirm whether or not it satisfactorily resolves their concerns.

2.2 Concluded Complaints

2.2.1 Since the time of last reporting, the following complaints have been resolved/discontinued:

CONDCOMP/CCC/01. A complaint was received from a member of the public on 4th March 2021 which concerned what was considered to be the disrespectful tone and content of an email sent to him by the subject Member. The subject Member's response included an acknowledgement of the longstanding history between them and what he considered to be consistent criticism. However, the subject Member went on to apologise for any offense that may have been caused and this was relayed to the Complainant. The Complainant was unwilling to accept the apology and the complaint was therefore discussed with the Independent Person. Following an initial assessment, the Independent Person's view was that, whilst the email was not appropriate, an apology had been offered and it would not therefore be in the public interest to pursue the matter further. The Deputy Monitoring Officer agreed, and the outcome was therefore confirmed to the complainant and subject Member on 1st April 2021.

CONDCOMP/CCC/02. A complaint was received from a member of the public on 6th August 2020 which concerned what was described as disrespectful and bullying behaviour on the part of the subject Member to a third party. The subject Member responded with an explanation of their version of events and to refute that they amounted to breaches of the Code. The Complainant did not consider that the subject Member's response had satisfactorily resolved his concerns and the complaint was therefore discussed with the Independent Person. The Independent Person recognised, in considering the facts of the complaint, that there was a clear difference of opinion between the Complainant and the subject Member. Nevertheless, even taking the allegations at face value, there was an obligation to give due consideration to the subject Member's Convention Rights and the case law associated with that. In that regard, whilst it was noted that the subject matter of the discussion was controversial as between the subject Member and the third party, and that the exchange could even have been viewed as confrontational, it was not considered that the words spoken were in any way unlawful. The Independent Person therefore went on to consider whether the words spoken and behaviours demonstrated were otherwise inappropriate in accordance with the Nolan Principles and General Obligations of the Code. Following that assessment, the Independent Person did not consider that the circumstances met the threshold for further investigation. The Deputy Monitoring Officer agreed, and the outcome was therefore confirmed to the complainant and subject Member on 10th November 2020.

CONDCOMP/CCC/03. A complaint was received from a member of the public on 7th October 2020 which concerned an allegation that the subject Member had brought his office/authority into disrepute as a result of a deliberate failure to respond to concerns raised in specific correspondence. The subject Member had also stated their intention not to respond at a public meeting and a minute of that was provided in support of the complaint. The subject Member provided a detailed response explaining that the correspondence had been sent to several Members at the same time and one of them had responded on behalf of them all. That was the basis upon which he had stated his intention not to respond. The complainant was not satisfied with the subject Member's response and the matter was therefore referred for discussion with the Independent Person. Following consideration of the complaint and the response, the Independent Person considered that there had been no deliberate attempt to deprive the complainant of a response since another Member had responded to the correspondence, with the response clearly stating that it was sent on behalf of all named recipients. It was noted that the complainant considered that some of the questions posed remained unanswered. However, the

Independent Person was satisfied that the lack of an individual response from the subject Member would not give rise to a breach of the Code of Conduct in the circumstances described. The Deputy Monitoring Officer agreed, and the outcome was therefore confirmed to the complainant and subject Member on 11th November 2021.

CONDCOMP/CCC/04. A complaint was received from a member of the public on 23rd March 2021 which contained allegations of disrespectful and bullying behaviour on the part of the subject Member, designed to intimidate the complainant and with the potential to bring their office/authority into disrepute. The factual basis for the allegations centred around the complainant and subject Member's opposing views about a matter of community importance and the comments made verbally and on social media in response to that. The subject Member provided a full response to the complaint in which the allegations were denied with supporting evidence provided. The Councillor was no longer a Councillor following the May elections, and therefore the complaint was discontinued.

CONDCOMP/CCC/05. A complaint was received from a County Councillor on 16th March 2021 which contained allegations in relation to a breach of s.21 of the General Obligations. In particular, the allegations centred around the subject Member's conduct in the Council Chamber and a perceived lack of respect that had been shown during the meeting. Again, the conduct process was instigated with lengthy correspondence between the subject Member and Monitoring Officer. The Councillor stood down from being a Councillor at the May elections, and therefore the complaint was discontinued..

CONDCOMP/CCC/07. A collective complaint was received from two members of the public on 6th May 2020 which contained allegations in relation to comments made by the subject Member at a meeting during which controversial development proposals were discussed. The subject Member is accused of predetermination and bias which could prejudice the outcome of future discussions and consultation in relation to the proposal. The subject Member provided a full response to the complaint in which the allegations were denied. The complainant did not accept the subject Member's explanation and the matter was therefore discussed with the Independent Person on 3rd July 2021. Following that assessment, the Independent Person did not consider that the Code of Conduct had been breached. The Deputy Monitoring Officer agreed, and the outcome was therefore confirmed to the complainant and subject member on 21st July 2021.

CONDCOMP/CCC/08. A complaint was received from a member of the public on 29th June 2021 which contained various general statements of concern however, it was not possible to identify from the information provided which Councillors the complaint was specifically about and/or which of the general obligations of the Code were alleged to have been breached. The Deputy Monitoring Officer wrote to the complainant on 30th June 2021 referring them to the guidance on the Council's dedicated conduct webpage and requesting that they identify the subject matters and respective breaches of the Code. The Deputy Monitoring Officer has not received a response and it has not therefore been possible to take any further action.

3. Source documents

- 3.1 [Cambridgeshire County Council's Code of Conduct, and information about how to make a conduct complaint and the process that will be followed](#)