



Signed off by	Deputy Monitoring Officer
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To	Standards Committee
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Subject	Annual Standards and Member Complaints report 2022-23
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Recommendations
That the Committee receives and notes the Member Complaints Report for 2022-23.
Reasons for Recommendations
To demonstrate the promotion and maintenance of high standards of conduct by Councillors.
Executive Summary
<ol style="list-style-type: none"> 1. This report summarises the discharge of the Standards function during the 2022-23 municipal year. This report includes but is not limited to: <ol style="list-style-type: none"> a. The Member Code of Conduct b. Complaints against Members c. The role of the Monitoring Officer d. Maintenance of the Register of Interests.
The Standards Committee may receive and note this report

Statutory Powers

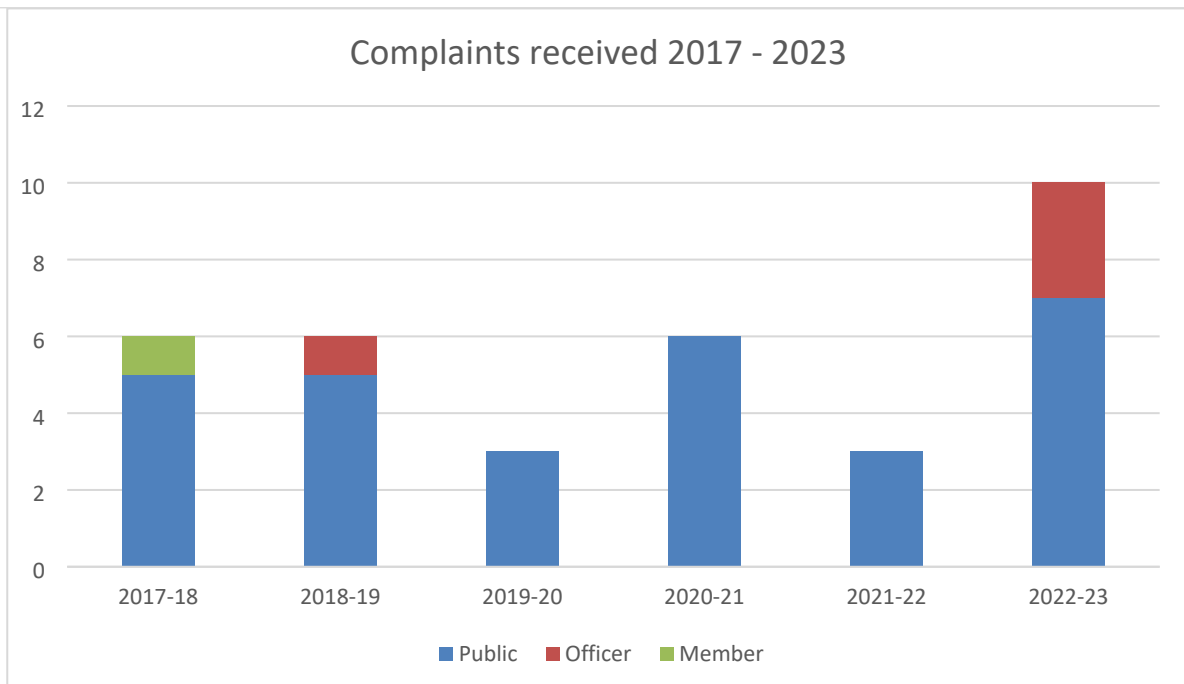
2. The Localism Act 2011 requires Councils to have in place locally focussed processes for regulating the conduct of Members. The Act also imposes a duty on Councils to promote and maintain high standards of conduct by Members.

Code of conduct

3. The Member [Code of Conduct](#) was reviewed during 2019/20 by the Monitoring Officer and the Governance Task Group, in accordance with the findings of the review conducted by the Committee on Standards in Public Life.
4. The Governance Task Group agreed the revised Code of Conduct in March 2020 and recommended the Code to Council for approval in July 2020 where it was duly approved.
5. A further review of the Code of Conduct is expected next year, in view of the [LGA's Model Code of Conduct](#) and forming part of a wider review of the [Council's Constitution](#).
6. All Members were provided with mandatory Code of Conduct training after the local elections, on 21st June 2023. Further training will be provided after the elections in May 2024, when the reviewed Code of Conduct is expected to be in place.

Summary of complaints received 2022-23

7. The Council's Standards Committee is responsible for dealing with allegations that a member may have failed to observe the Council's Member Code of Conduct and has introduced procedures to ensure fairness and transparency whilst, at the same time, providing proportionate, cost effective and timely advice.
8. The procedure for dealing with complaints, attached at Annex 1 to this report, involves the following four stages:
 - a. initial consideration by the Monitoring Officer (Stage 1).
 - b. local resolution (Stage 2).
 - c. referral to an Assessment Panel (Stage 3).
 - d. determination by a Hearings Sub-Committee (Stage 4).
9. Ten formal councillor complaints were received in the 2022-23 municipal year, representing a 100% increase on the rolling average of complaints received each year (five). This uplift may be attributed to the submission of multiple complaints against Councillors in respect of singular incidents (see paragraphs 12 and 23).
10. Of these ten formal complaints:
 - a. Three were submitted by officers against a Member and the remaining seven were submitted by members of the public.
 - b. Two related to an alleged breach of a resident's personal data.
 - c. Four related to Members' conduct during formal committee meetings.
 - d. Three alleged offensive and racist comments on social media.



11. Historical annual complaints reports for the previous three municipal years are available to view via the links below:

- [Complaints 2019-20 \(Standards Committee, 1st September 2020\)](#)
- [Complaints 2020-21 \(Standards Committee, 8th June 2021\)](#)
- [Complaints 2021-22 \(Standards Committee, 8th November 2022\)](#)

Complaints about conduct during formal committee meetings

Case study A – comments during Planning Committee, December 2022

12. Three members of the public complained against a councillor’s comments during a Planning Committee meeting in December 2022.

13. Agreement was subsequently reached between the complainants and the Councillor to settle the complaint informally via an apology.

Case study B – comments during Full Council, February 2023

14. A member of the public made a complaint relating to a Councillor’s comments during a Full Council meeting in February 2023.

15. As this complaint related to a former Councillor, it was agreed with the Monitoring Officer and the Independent Person following the end of their term of office that it was not appropriate to investigate the matter further.

16. We wrote to the former Councillor to point out that on this occasion their behaviour was perceived by a member of the public as falling below the standards expected of a Councillor.

General observations about the use of mobile phones

17. More generally speaking, concerns have been raised by officers on several occasions about the use of mobile phones during formal committee meetings. In this regard, the Council’s committee meetings guidance of July 2022 states:

- (i) *“The full attention of Councillors who are involved in the decision-making will be required during any formal debate or vote on any item under their consideration. These Councillors must not be distracted by using social media or any mobile devices during the time that the debate and vote is underway.*
- (ii) *To minimise disruption or disturbance to others attending the meeting, all attendees are asked to ensure that their phones or other mobile devices are set on silent or vibrate mode during meetings.*
- (iii) *No Councillor in attendance, whether as a decision-maker or observer, is permitted to use social media or mobile devices during an 'exempt' session or disclose in any way the content of the items under discussion.”*

18. In response to these concerns, Democratic Services circulated reminders via the weekly Member newsletter about the Council’s policy on the use of mobile phones during formal committee meetings.

Complaints about conduct on social media

Case study C – disclosure of personal data and alleged racist conduct.

- 19. A member of the public lodged a complaint against a councillor alleging a breach of conduct relating to Facebook posts. This complaint was referred to a Standards Assessment Panel on Monday 26th June, comprising of three Members of the Standards Committee.
- 20. In relation to the allegation of racism, the Panel recommended that the case be closed as there was no proof that the Councillor had misspelt the complainant’s name deliberately, rather than inadvertently, and therefore no proof on the balance of probabilities that the Councillor had breached the Code of Conduct in respect of this matter.
- 21. In relation to the allegation of revealing the fact of the complainant’s relationship with another Councillor, the Panel considered that this was not a breach of the GDPR but found that the Councillor had nevertheless breached the Code of Conduct, specifically paragraph 1.3 (1)(h) relating to the disclosure of confidential information.
- 22. The Panel recommended that the Councillor should apologise to the complainant for having revealed the fact of their relationship with another Councillor and that the Councillor should undergo one-to-one training on the use of social media, preferably with a member of the Communications team.

Case study D – alleged racist conduct.

- 23. Two officers made a complaint against a councillor alleging a breach of the Code relating to offensive, racist comments posted on “X” (formerly known as Twitter).
- 24. The complaint was referred to the Assessment Panel, whereupon it was recommended that the complaint be closed with no further action on the basis that the Councillor was not acting in an official capacity and that the Code of Conduct could not therefore be applied under paragraph 1.2 (1)(b), which states that –

“1.2 Scope

1) *You must comply with this Code whenever you:*

a) conduct the business of the authority, which includes the business of the office to which you are elected or appointed; or

b) act, claim to act or give the impression you are acting as a representative of your authority.

25. In reaching its conclusion, the Panel noted that a separate investigation by the Councillor's respective political group was underway at the time.

26. In addition, mandatory Equalities and Diversity training is being arranged for all Members to promote respect for others, in line with the Council's Code of Conduct and the Equalities Act 2010.

Complaints about disclosure of personal data

27. In addition to the disclosure of personal data investigated under Case Study C (paragraph 19), another complaint against a Councillor alleged that their personal information (e.g. name and email address) was inadvertently shared with a third party.

28. Further to consultation with the Independent Person, complainant and Councillor, this complaint was informally settled by apology.

29. All Members are required to attend mandatory Data Protection training, which was delivered as part of the Member Learning and Development Programme on 27th June 2023.

Learning points

Social media use

30. As social media is a direct means of communicating with residents, it can be a useful communications channel for Members to reach their constituents and key stakeholders. However, it is also a platform which should be used respectfully and with care.

31. With the decline in local media readership, social media has an increasingly important role for the council in engaging with key audiences and delivering its messages directly, using the channels they prefer. This has been reflected in a steady increase over the past decade in the number of complaints about Members' conduct on social media.

32. The Council does not currently have any specific guidance relating to Member conduct on social media in relation to its own Code of Conduct. It is therefore recommended that the Monitoring Officer (or a Deputy), following a review of the Code of Conduct, produces corresponding social media guidance for Members which aligns with the revised Code. If the LGA's Model Code of Conduct is adopted, then the existing social media guidance produced by the LGA will be circulated to Members following the review of the Code and as part of the annual induction process.

When does the Code apply?

- 33.** The Councillor Code of Conduct and relevant legislation applies online and in social media. If you are referring online in any way to your role as a councillor, including commenting as a councillor or about Council related matters, you are deemed to be acting in your 'official capacity' and any conduct may fall within the code. This can be the case even when a councillor uses their personal social media channels.
- 34.** However, Case Study C highlighted a lack of clarity about when the Code applied when using a personal social media account. The view of the Independent Person was that the Code could potentially be applied, but ultimately the Assessment Panel concluded that it did not apply.
- 35.** Taking these points into consideration, and in view of the complaints received in the 2022-23 municipal year, the following remedies are planned:
 - a.** Greater clarity is needed in terms of when the Code applies, both in terms of when Members are commenting online and when sitting on an Assessment Panel considering the conduct of others. A review of the Code of Conduct is expected to consider this issue; and subsequent training for all Members will promote a greater understanding of the scope of the Code.
 - b.** The review of the Code of Conduct is recommended to include the provision of a new Social Media Protocol for Members in respect of their conduct online. This should provide greater clarity and understanding about expected standards of conduct online in the future.

The Monitoring Officer

- 36.** The Monitoring Officer is Joyce Hamilton, the Strategic Head of Legal and Governance.
- 37.** Section 5 of the Local Government and Housing Act 1989 requires that every local authority designates a Monitoring Officer. The Committee on Standards in Public Life summarised the role of the Monitoring Officer as "the lynchpin of the arrangements for upholding ethical standards in an authority".
- 38.** The functions and responsibilities of the Monitoring Officer are defined in the law and Constitution (see [Article 13.3](#)), and generally fall into four key elements as follows:
 - a.** The guardian of good governance.
 - b.** The overview and upkeep of the Constitution.
 - c.** The Section 5 duty to report unlawful conduct.
 - d.** The promotion of Standards of Conduct of Councillors.
- 39.** The Monitoring Officer is supported by three Deputy Monitoring Officers, including:
 - a.** Agnes Krofah, Legal Services Manager.
 - b.** James Hitchcock, Legal Solicitor.
 - c.** Alex Vine, Democratic and Electoral Services Manager.
- 40.** Complaints against Members of the Council are considered and investigated by the Monitoring Officer or one of their Deputies in consultation with an Independent

Person, unless there is a conflict of interest, in which case an external Independent Person may be appointed to conduct an investigation.

Independent Persons

41. The Localism Act introduced a new ethical standards regime for local government in July 2012. Amongst other things, it requires the Council, in some circumstances, to seek the views of an Independent Person before it takes a decision on an allegation of misconduct by a councillor which it has decided to investigate.
42. The Monitoring Officer may consult with the Independent Person and decide whether a complaint merits a formal investigation. The Independent Person's views may also be sought by the Council at any other stage in a misconduct complaint, or by a councillor against whom an allegation has been made.
43. The Standards Committee [resolved to appoint five Independent Persons jointly with other local authorities in Surrey at a special meeting held on 11th July 2023](#).

Register of Interests

44. The register of interest forms are completed by Members electronically, verified, and the [Register of Interests is published on the Council's website](#).
45. The Register is audited annually, typically during January and February, in order for the return of 'Related Party Transactions' to be included within the Annual Statement of Accounts after the financial year ending in April.
46. However, any changes to the Code of Conduct affecting the treatment of interests must also be reflected in the Register of Interests within 28 days of it taking effect, and therefore the Register (and instructions for Members) will be refreshed immediately after the Code has been reviewed.
47. Members are responsible for updating their own entry in the Register of Interests within 28 days of their personal circumstances changing, or within 28 days of acceptance of office after their election.
48. The Monitoring Officer is responsible for ensuring Members are sufficiently trained and informed to complete their Register of Interests accurately.

Legal Implications

49. The Constitution sets out the role of the Standards Committee, and the Monitoring Officer, in promoting high standards of conduct. This committee helps to promote and maintain the highest standards of conduct amongst members of the Council, and ensures that Councillors act in accordance with the Local Government Code of Conduct.

Financial implications

50. There are no financial implications.

Risk implications

51. Reputational – the conduct of Members reflects on the reputation of other Members and the Council as a whole. Breaches of the code of conduct may be of significant public interest and may therefore represent a reputational risk to the Council.
52. Personal liability – Councillors are personally responsible for the content they publish on any form of social media. Publishing an untrue statement about a person which is damaging to their reputation may incur a defamation action for which the Member concerned will be personally liable. The same applies if a Member passes on any similar untrue statements they receive.

Background Papers

53. Reigate and Banstead Borough Council Members' Code of Conduct - https://www.reigatebanstead.gov.uk/info/20400/your_council_documents/1236/member_code_of_conduct
54. Procedures for dealing with complaints under the member code of conduct process (appendix 1).
55. LGA Guide for Councillors on handling intimidation (includes advice on using social media) - https://www.local.gov.uk/sites/default/files/documents/Councillors%20guide%20to%20handling%20intimidation%20updated%20Apr%202021_0.pdf
56. LGA Councillors workbook on supporting residents with complex issues - https://www.local.gov.uk/sites/default/files/documents/11%2058_LGA%20Cllr%20Workbook_Supporting%20residents%20with%20complex%20issues_July%202021_7.pdf
57. LGA Overview of social media for councillors – <https://www.local.gov.uk/our-support/leadership-workforce-and-communications/comms-hub-communications-support/social-media-0>
58. LGA Guide to the role of councillors on social media – <https://www.local.gov.uk/our-support/leadership-workforce-and-communications/comms-hub-communications-support/social-media-1>
59. LGA Social media do's and don'ts – <https://www.local.gov.uk/our-support/guidance-and-resources/communications-support/digital-councils/social-media/get-started/dos-and-donts>
60. Reigate and Banstead Borough Council Members' Communications Protocol (restricted extranet website) – <https://reigate-bansteadextranet.moderngov.co.uk/ecSDDisplay.aspx?NAME=SD919&ID=919&RPID=2807106>