

ASHFIELD DISTRICT COUNCIL



Council Offices,
Urban Road,
Kirkby in Ashfield
Nottingham
NG17 8DA

Agenda

Standards and Personnel Appeals Committee

Date: **Wednesday, 9th December, 2020**

Time: **7.00 pm**

Venue: **[Ashfield District Council's YouTube Channel](#)**

For any further information please contact:

Lynn Cain

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01623 457317

STANDARDS AND PERSONNEL APPEALS COMMITTEE

Membership

Chairman: Councillor Lee Waters

Councillors:

Jim Blagden
David Hennigan
Phil Rostance

Christian Chapman
Warren Nuttall
Helen-Ann Smith

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SUMMONS

You are hereby requested to attend a meeting of the Standards and Personnel Appeals Committee to be held at the time and on the date mentioned above for the purpose of transacting the business set out below.



Carol Cooper-Smith
Chief Executive

AGENDA

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1. **To receive apologies for absence, if any.**
2. **Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests.**
3. **To receive and approve as a correct record the minutes of the meeting of the Committee held on 29 July 2020.** 5 - 10
4. **Update regarding Committee on Standards in Public Life Report and LGA Model Code of Conduct.** 11 - 22
5. **Quarterly Complaints Monitoring Report.** 23 - 34

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STANDARDS AND PERSONNEL APPEALS COMMITTEE

Virtual Meeting held on Wednesday, 29th July, 2020 at 7.00 pm

Present: Councillor Lee Waters in the Chair;

Councillors Jim Blagden, Christian Chapman,
David Hennigan, Warren Nuttall, Phil Rostance
and Helen-Ann Smith.

Apologies for Absence: Councillor Jason Zadrozny (Annesley & Felley
Parish Council representative) and Ruth Dennis.

Officers Present: Lynn Cain, Ruth Dennis, Mike Joy and
Shane Wright.

In Attendance: Stuart Fletcher and Councillor Daniel Williamson
(as substitute for Councillor Jason Zadrozny).

SP.1 Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests

No declarations of interest were made.

SP.2 Minutes

RESOLVED

that the minutes of the meeting of the Committee held on 4 March 2020, be
received and approved as a correct record.

SP.3 Annual Ethical Governance Update

The Service Manager, Scrutiny and Democratic Services presented the annual
update and gave Members an overview of the work of the Standards and
Personnel Appeals Committee during 2019/2020.

Members acknowledged their final attendance figures for 2019/2020 and the
updates in relation to ongoing Member Code of Conduct complaints received
by the Council. Committee also took the opportunity to discuss the
recommendations of the External Investigator in respect of various Member
Code of Conduct complaints all relating to behaviour issues at the Council
meeting held on 4 March 2019.

RESOLVED that

- a) progress made in relation to the agreed 2019/20 work plan, as presented,
be received and noted;

- b) the number of Member complaints received during 2019/20 and 2020/21 to date and the current outstanding complaints as set out in Appendix 1 to the report, be received and noted;
- c) consideration of the recommendations of the Investigator in respect of Member Code of Conduct complaints ADC2019-04 – 2019-10, as presented, be deferred to enable more detailed discussions to take place and to allow Members to seek the views of the Director of Legal and Governance (and Monitoring Officer) prior to any decisions being taken;
- d) the position in relation to Member attendance at meetings during 2019/20, be received and noted.

(During consideration of this item, Councillor Christian Chapman entered the meeting at 7.10pm.)

SP.4 Standards and Personnel Appeals Committee Workplan 2020/21

Members were asked to consider the proposed Standards and Personnel Appeals Committee Work Plan for the next municipal year and consider the inclusion of any additional items as required.

The Service Manager, Scrutiny and Democratic Services advised that the Work Plan included items which were considered by the Committee annually, such as updating the Constitution, the operation of the Council's Whistleblowing Policy, quarterly monitoring of the complaints against Members and the annual review of work undertaken by the Committee in comparison to the agreed Work Plan.

RESOLVED

that the Standards and Personnel Appeals Committee Work Plan for 2020/21, as appended to the report, be approved.

SP.5 Whistleblowing Annual Update

The Service Manager, Scrutiny and Democratic Services presented the report and provided Members with an update as to the operation of the Whistleblowing Policy over the preceding 12 months and requested approval for some minor amendments to the Policy.

Members were advised that the annual whistleblowing update and its operation during the preceding 12 months had been delayed due to the Covid-19 outbreak. Members also acknowledged that one further anonymous complaint had been received since the agenda had been published.

RESOLVED that

- a) the amended Whistleblowing Policy, as appended to the report, be approved;
- b) the update as to the operation of the Whistleblowing Policy over the preceding 12 months, be received and noted;

- c) the Director of Legal and Governance (and Monitoring Officer), be requested to provide the following information (if obtainable) to Committee Members via email:
- the instigators of reported incidences of whistleblowing (i.e. employees, agency workers or tier 2 or tier 3 managers) the types of officers/employees/teams potentially implicated and if there has been any pattern or trends emerging as to the type of cases reported;
 - a comparison of reported incidences of whistleblowing from other local authorities over the past ten years (a concern that the Council's figures seemed slightly on the low side).

SP.6 Virtual Meetings Guidance

The Service Manager, Scrutiny and Democratic Services presented the report and provided details of the recent changes to the running and participation in public meetings as a result of the Coronavirus pandemic and subsequent regulation changes to ensure constituted public meetings continue to take place.

The introduction of the time limited Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, required all local authorities to move to undertaking virtual meetings as a way to enable continued public access to constituted meetings.

To ensure these meetings continued to operate in a controlled and professional manner, a Virtual Meeting Guidance Protocol had been developed and circulated to all Members for information and was in line with recent guidance from the Local Government Association and East Midlands Councils.

Members debated the virtual meetings that had been held by the Council and neighbouring authorities to date and commented as follows:-

- the Council's meetings had all been held in a professional manner;
- the public perception of the Council's virtual meetings had been very positive;
- muting all participants during debate enabled all unnecessary background noise to be eliminated, resulting in a better experience for viewers;
- participant backgrounds needed to be appropriate with no advertising material displayed;
- congratulations to Democratic Services and IT for the swift transition to virtual meetings and timely responses to any technical difficulties;

- the protocol should be adhered to by both Members and officers;
- the preference for the use of Zoom over Microsoft Teams for ease of application.

RESOLVED

that the Virtual Meetings Guidance Protocol, as attached at Appendix A to the report, be received and endorsed.

SP.7 Local Government Association - Consultation on Model Member Code of Conduct

The Service Manager, Scrutiny and Democratic Services presented the draft Model Member Code of Conduct and consultation questions posed by the Local Government Association (LGA) as part of their development of a new Member Code of Conduct. He reminded Members that a questionnaire in relation to the consultation had been circulated previously to enlist Members' views in relation to the content of the draft Code.

The Scrutiny Research Officer advised Members that he had attended a LGA Consultation Webinar earlier that day regarding the draft Member Code of Conduct. Attendants were advised as to the ethos behind the new revised Code of Conduct and its objective to ensure the role of a Councillor remained positive and rewarding. Expectations of behaviour were outlined and there was also some offer of protection against bullying and unreasonable behaviour towards Councillors.

The most popular question at the Webinar was in relation to the lack of robust sanctions for local authorities' to implement should any Members be found to be in breach of the Code of Conduct. It was felt that high standards of Member behaviour was sometimes difficult to maintain as any acts of breach to the Code went unpunished with Council's having no access to effective sanctions for improvement.

Consultation on the draft Code of Conduct was due to end on 17 August and Members were requested to consider and provide a response to the set of questions contained within the consultation document, as appended to the report.

Having started to debate the draft Model Code of Conduct, it became clear to the Committee that a more in-depth discussion would be required to ensure a suitable Council response was submitted in relation to the LGA's consultation. It was suggested that Committee Members meet again as an informal Group during the next two weeks to formulate a response in good time for the consultation deadline.

RESOLVED that

- a) the content of the draft Model Member Code of Conduct and the consultation questions posed by the LGA, be received and noted;

- b) an informal meeting of the Standards and Personnel Appeals Committee be arranged over the next two weeks to enable Members to formulate a suitable response to the LGA in good time for the consultation deadline;
- c) Committee Members be requested to complete and submit the consultation questionnaire, as previously circulated, in time for the informal meeting as outlined above;
- d) the Director of Legal and Governance (and Monitoring Officer) be authorised to finalise the detailed drafting of the Council's response in consultation with the Chairman prior to submission to the LGA.

The meeting closed at 8.50 pm

Chairman.

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Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	9 DECEMBER 2020
Heading:	UPDATE REGARDING COMMITTEE ON STANDARDS IN PUBLIC LIFE REPORT AND LGA MODEL CODE OF CONDUCT		
Portfolio Holder:	NOT APPLICABLE		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

The purpose of this report is to update the Committee in respect of the Committee on Standards in Public Life (CSPL) report and the Local Government Association's (LGA) draft Model Code of Conduct following the consultation exercise earlier in the year.

Recommendation(s)

Committee is asked to:

- 1. Note the update provided to the Cabinet Office regarding the implementation of the Committee on Standards in Public Life best practice recommendations;**
- 2. Note the update regarding the Local Government Association's (LGA) draft Model Code of Conduct following the consultation exercise earlier in the year.**

Reasons for Recommendation(s)

To ensure the Committee charged with ensuring high standards of conduct is aware of the most up to date position regarding the Committee on Standards in Public Life best practice recommendations and the LGA's Model Code of Conduct following the recent consultation exercise.

Alternative Options Considered

The report is for noting.

Detailed Information

Committee on Standards in Public Life (CSPL) – Best Practice Recommendations

The CSPL wrote to all Chief Executives in September and October 2020 asking about the progress of each Council against the 15 best practice recommendations published as part of their report on Ethical Standards, issued in January 2019. The deadline for responding was 30 November 2020. The CSPL intends to publish responses. The best practice represents a benchmark for ethical practice which the CSPL expect local authorities to implement.

The Monitoring Officer prepared the attached response (Appendix 1) based on the work undertaken by this Committee since January 2019 and the various views it has expressed in relation to the best practice recommendations.

Local Government Association's Proposed Model Code of Conduct

Members will recall considering the LGA's consultation in respect of the proposed Model Code of Conduct at its meeting in July and also taking part in an information working group to finalise the Council's response to the consultation. A consultation response was submitted by the Council in accordance with the views of the Committee.

The latest update was provided by the LGA's Principal Legal Adviser via e-mail on 2 November 2020, as detailed below:

- Consultation on a draft Code ran for 10 weeks from Monday 8 June until Monday 17 August.
- 4 webinars were conducted with over 1000 participants.
- Over 1600 written responses to the consultation received.
- Lots of comments questions and feedback provided during the webinar sessions.
- High level consultation summary response:
 - Overwhelming support for the Code. But a number of issues raised.
 - First person or third person
 - Respect or Civility?
 - More on social media including confidentiality.
 - Declaration of gifts £25 too low £50 too high?
 - Need for accompanying guidance with examples
 - Equality Act - obligation to comply
 - Obligation to cooperate with investigation
 - Compulsory training for members
 - Sanctions
- A stakeholder roundtable to discuss the response and next steps took place on 30 September 2020.
- The revised draft Code was considered at an LGA Councillors Forum on 22 October 2020.

The LGA has detailed the next steps as follows:

- The draft code will be reviewed in light of the discussion held on 22 October 2020.
- A final Code will then be prepared for submission to the LGA Board from approval on 3 December 2020.
- The approved Code will then be published.
- The LGA will then proceed with preparing guidance.

At the time the agenda for the meeting was published the outcome of the LGA Board meeting was not known. A verbal update (if available) will be provided at the meeting.

Implications

Corporate Plan:

To ensure we deliver high-quality public services we have adopted a set of corporate values which underpin the successful delivery of our priorities. How we work is as important as what we do. The Council’s values are: People Focussed; Honest; Proud; Ambitious.

Legal:

Elements of the draft Model Code would require legislation.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	No direct financial implications arising from this report.
General Fund – Capital Programme	No direct financial implications arising from this report.
Housing Revenue Account – Revenue Budget	No direct financial implications arising from this report.
Housing Revenue Account – Capital Programme	No direct financial implications arising from this report.

Risk:

Risk	Mitigation
The Council has recognised the following Corporate Risk: Ethical Governance – failure/delay to implement changes to the Members' Code of Conduct and recommendations of the Committee on Standards in Public Life (CSPL) and Peer Challenge (CR003)	This report demonstrates the Council’s commitment to maintaining high levels of ethical behaviour and an intention to implement a suitable revised code and the recommendations of the CSPL. The Committee work plan includes items to address the identified risk.

Human Resources:

There are no HR implications contained in the body of the report.

Environmental/Sustainability

There are no Environmental/Sustainability issues as a direct result of the recommendations in this report.

Equalities:

There are no equalities issues as a direct result of the recommendations in this report

Other Implications:

None

Report Author and Contact Officer

Ruth Dennis

DIRECTOR OF LEGAL AND GOVERNANCE

MONITORING OFFICER

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CSPL local government ethical standards 15 best practice recommendations

Name of local authority: Ashfield District Council

The Standards and Personnel Appeals Committee, which is responsible for governance and ethical standards at Ashfield District Council, has received numerous reports relating to the CSPL report since 2019. The Committee established a Working Group of the Committee which met on a number of occasions specifically to consider, with the Monitoring Officer, in greater detail the best practice recommendations, develop responses and inform the subsequent Committee reports and recommendations.

The meeting of the Committee due to take place in March 2020 did not take place due to COVID-19 restrictions. In light of the pressures placed upon the Council's limited resources as a result of responding to the pandemic further progress since that time has been limited. The Committee had also agreed to pause further detailed work on the best practice recommendations pending the outcome of the LGA's Model Code of Conduct consultation and potential launch of the a Code. The Committee met on two occasions to consider the Model Code of Conduct consultation and submitted a response. Further progress with the actions agreed below will be limited as officer resources are prioritised for responding to the pandemic.

1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Progress:

The Council's existing Code of Conduct includes a prohibition for bullying but no definitions or examples.

Prior to the LGA's proposed Model Code and Consultation, the Committee had drafted and agreed wording for inclusion in the Council's Code of Conduct to cover the definition of bullying and harassment. These were based on the ACAS definition and examples of bullying and the definition of harassment set out in the Equality Act 2010. The Committee had agreed to produce a Protocol/Guidance Note to append to the Code to contain examples. However, in light of the potential LGA Model Code and to avoid abortive work, the Committee did not recommend making such changes to the Code at the AGM in April 2020 as it wished to consider the LGA's proposals before making a final recommendation. Due to the delayed consultation and launch by the LGA of its Model Code as a result of COVID-19 no recommendations to

Council to amend the existing Code have been made as yet. The Committee meeting due to take place on 9 December 2020 will include an update on the LGA's consultation and Code launch if this is available.

2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Progress:

The Council's existing Code of Conduct does not contain a requirement to comply with an investigation but there is a provision in the Council's existing complaints process which states that if a Member fails to co-operate then the investigation can continue and failure to take part will be taken in to account as part of the process.

The Council's existing complaints process allows "*malicious, politically motivated or tit-for-tat*" complaints to be refused by the Monitoring Officer but there is no prohibition in the Code or process.

The Committee has agreed to review the Code of Conduct and the complaints process but, as set out above, this is on hold pending the launch of the LGA's Code of Conduct.

3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Progress:

The Council reviews the Code frequently and has done so since its introduction in 2012 (this has generally been every 2 years). No consultation carried out previously outside the organisation.

The Committee has agreed to:

- Introduce an annual review but some concern was raised at how resource intensive this may become when there will often be little change to be made.
- Agreed to consider consultation options, but again questioned the value this will produce compared to the resource effort.

- Suggested consultation with existing channels (rather than creating new ones) such as the Citizens' Panel, Youth Council.
-

4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Progress:

The Code is available on the internet but is not in a very prominent position. The Council's website is currently being reviewed and redesigned and the Committee has agreed that the prominence of the Code should be considered as part of this.

When requested, the Council provides copies of the Code to the public either electronically or in hardcopy format. Public access to the Council Offices are currently by appointment only due to the COVID-19 restrictions. The Council is currently reviewing all its resources to move to a digital/electronic platform and so it is not expected that the Council will provide paper copy Code of Conduct documents in its offices.

5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Progress:

The existing register for Member Gifts and Hospitality is in hardcopy format. The register is reviewed by the Monitoring Officer annually but the report has not been published or reported to the Committee. Members are reminded of their responsibilities to declare gifts and hospitality annually. There are an average of 1-3 declarations per year.

The Committee has agreed to develop an online register which is made public and this is underway but not yet ready for publication. Once the "new" register has been developed, the Committee has agreed to introduce quarterly reporting to the Committee, but are concerned this is disproportionate to the number of declarations made on an annual basis. A Guidance Note for Members is being developed to be circulated to Members in addition to the annual reminder sent to Members.

6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Progress:

The Complaint process which is published does include an assessment criteria with some mention of proportionality. The Committee has, however, agreed to review the complaints process to incorporate a clearer/more detailed test. As per previous actions, it is accepted that this will then be published in an accessible/easy to find location on the website.

7: Local authorities should have access to at least two Independent Persons.

Progress:

The Council already has two Independent Persons.

8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Progress:

Already happens for each complaint received.

9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Progress:

A decision notice is always produced including all suggested elements except that the views of the Independent Person have not normally been included. It is some considerable time since a breach of the Code of Conduct has been found by the Sub-Committee necessitating such a notice to be published. Information has been published in the past, but not necessarily the full decision notice.

The Committee has agreed:

- With the need to publish in a suitable place on the website.
- Include as part of the Complaints Process.

- A template decision notice could be produced to ensure consistency
-

10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Progress:

The complaints process setting out these details is available on the website but it is not always easy for the public to find it; as part of the redesign of the website, this will be considered.

An electronic complaint form is available on the website.

The Committee agreed as part of the complaints process review to consider if the guidance is clear.

11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Progress:

The Council currently accept complaints however made, including if made directly by the Clerk. The Committee questioned the purpose of this recommendation and how practical it is to enforce such an approach – it did not consider it appropriate for a complaint made by the clerk be refused for example. The Committee also considered this is not within its own gift but would consider any views raised by its Parishes.

12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Progress:

Advice, support and investigations relating to alleged breaches already provided as far as existing resources allows. Further support would not be possible from a resources point of view.

There is often a mistaken belief that the Monitoring Officer's role with the Parishes is wider than it is which often leads to unrealistic expectations by the public or the Parish Councillors themselves as to what the Monitoring Officer can do.

The Parishes can be the source of a disproportionate number of complaint and thus pull on the Monitoring Officer's resource.

As Ashfield the Monitoring Officer has 3 Deputies to support but these are shared with another Local Authority as part of a formal shared service which Ashfield hosts. Training is provided annually to the Monitoring Officer and Deputies.

The Monitoring Officer has a budget of £2,500 per annum for all investigations (Parish and District) which barely is sufficient to cover 1 external investigation (if that). Due to budgetary pressures it is simply not possible to increase resources.

13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Progress:

The Monitoring Officer from another local authority has investigated an Ashfield complaint in the past and this has been reciprocated. This is as part of an informal arrangement and can only be provided is time pressures/resources allow which as set out above are limited.

The Committee has agreed to support a discussion which is already taking place between Nottinghamshire Monitoring Officers to develop somethings suitable and acceptable. The Committee took the view that a pre-requisite would be to recharge.

14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

Progress:

No relevant separate bodies currently.

15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

Progress:

CEO and Monitoring Officer discussions currently take place on an ad hoc basis regarding specific issues when required.

The Committee were concerned that quarterly meetings were too frequent, could become a drain on resources when not necessarily needed; they were happy with the CEO and Monitoring Officer using their discretion to have ad hoc meetings when considered necessary/helpful.

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Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	9 DECEMBER 2020
Heading:	QUARTERLY COMPLAINTS MONITORING REPORT		
Portfolio Holder:	NOT APPLICABLE		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

This report provides an update in respect of Members' Code of Conduct complaints.

Recommendation(s)

The Committee is requested to:

- 1. Note the updated position in respect of Members' Code of Conduct complaints as set out in the Appendix;**
- 2. Consider the recommendations of the Investigator in respect of various Member Code of Conduct complaints as detailed in the report.**

Reasons for Recommendation(s)

To reflect good practice. To enable Members to monitor the volume and progress of complaints.

Alternative Options Considered

Members are asked to consider and comment on the recommendations of the Investigator in relation to the complaints detailed in the report.

Detailed Information

Complaints Update

This report outlines in the Appendix the number of complaints of alleged Member misconduct which remain outstanding and a summary overview of the status of ongoing complaints.

Since the last update to the Committee:

- 2 complaints relating to District Councillors has been concluded with summary details contained in the report;
- There have been 3 new formal complaints in this period. These are detailed in the Quarterly Complaints Schedule attached as appendix 1.

The Committee is requested to note the updated position in respect of Members' Code of Conduct complaints.

COMPLAINTS ADC2019-04 – 2019-10

The outcome of complaints ADC2019-04 to 2019-10 were reported to the Committee in July. At that meeting the Committee resolved that:

“consideration of the recommendations of the Investigator in respect of Member Code of Conduct complaints ADC2019-04 – 2019-10, as presented, be deferred to enable more detailed discussions to take place and to allow Members to seek the views of the Director of Legal and Governance (and Monitoring Officer) prior to any decisions being taken” (SP.3(c)refers).

To remind Members, Complaints ADC2019-04 – 2019-10 were investigated by an External Investigator due to their inter-relationship and complexity. The complaints all related to behaviours at a Council meeting on 4 March 2019.

In summary, the Investigator recommended that no further action be taken on any of the complaints made and her full reasoning was contained in a detailed report. The report has been discussed with the Independent Person and he and I have agreed to accept the report findings in accordance with the Complaints Process.

I invited the Investigator to make suggestions/recommendations on changes to the Constitution or any other issues which might help prevent similar issues arising in the future. Once the Committee has considered and approved a course of action in relation to the following recommendations, all interested parties will be informed of the final outcome and have access to the Investigator's report.

Suggestion 1

In future, no one is permitted to Chair any formal meetings of the Council without having undergone some training in Chairing skills. It is further suggested that, in the case of the Chair and Vice Chair of the Council, this training is undergone on a 1-2-1 basis. The Investigator explained the reasoning for this suggestion as follows:

In all Authorities Full Council meetings are usually the most difficult meetings to chair. It is the opportunity for all Members of the Council, regardless of the roles they hold or the parties or positions they represent, to have their say on the issues affecting their areas and their constituents. Inevitably, this can lead to disagreements and more. An excellent Chair can

prevent situations from escalating and it is vital that all Authorities, including Ashfield, train their Chairs appropriately in order to equip them to deal with meetings effectively.

Suggestion 2

All Members receive training on behaviours and the effect behaviours can have on others and themselves. It is suggested this is not a classroom-based approach but rather an interactive role-play session. It is recommended that all new Members undertake such training within their first year in office and that continuing Members undertake such training every four years. The Investigator explained the reasoning for this suggestion as follows:

We live in a changing world and behaviours that were acceptable a few years ago are no longer acceptable. In most cases individuals do not set out to cause offence to others by the way they behave but sometimes unwittingly that is what they do. It would put Ashfield at the forefront of innovative practices in respect of member training and it could hold itself up as an exemplar of good practice in this area.

Suggestion 3

At the start of all Full Council meetings the Chairman reminds Members of the need for basic respect. In the event that it appears that that basic respect is not being shown between Members, then the Chairman should adjourn the meeting to allow a brief cooling off period. During this time he/she should speak, along with the Chief Executive, to the unruly Members. The Investigator explained as follows:

It was noted that the right of the Chair to adjourn the meeting is already present in the Constitution at Ashfield. The suggestion is simply that Chairs should be strongly encouraged to use this power in the event of difficulties in a meeting. A brief adjournment can prevent a meeting escalating into the problems which occurred in the March Council meeting at Ashfield. In my experience some Chairs are reluctant to use this power but in the long run it can prevent challenging occurrences similar to those seen on the 4th March. If it is coupled with a short discussion with the relevant Members during the adjournment it can prove effective as a managing meetings tool.

Suggestion 4

Any other tools which can be provided to the Chairman of the meeting to make his/her role easier should be provided. The Investigator expanded further as follows:

Some Authorities produce flow charts for all eventualities within meetings so that the Chair can easily refer to these during the meeting and take the appropriate action. Flash cards can be similarly useful. Whilst I am aware that some of these tools are already in use at Ashfield I would suggest action is taken to review these tools and see if anything in addition could be useful or if these need refreshing in any way.

Suggestion 5

The fifth suggestion relates to the intervention by officers during Council meetings. The detailed suggestion is as follows:

[Intervention by officers] is always difficult, and I have heard during my investigations a number of different positions on this issue. There are some I have spoken to who feel that officers intervene too often at Council meetings and others who are of the view that they do

not intervene enough. These are Member meetings and they should be conducted and managed by Members but there are occasions when either behaviours or comments are such that it is vital that either the Monitoring Officer or the Chief Executive speaks up and either stops the proceedings or states that action is required by the Chair. Such occasions would be rare but either within the Constitution or simply as accepted practice, Members need to be clear with officers that they support such interventions.

Suggestion 6

The sixth suggestion relates to the Code of Conduct itself and the specific issue of unfair treatment. It is suggested that consideration is given to including within the Code of Practice a very specific requirement regarding treating people with respect. The Investigator explained that currently the Code simply says:

“Do treat others with respect” It is unspecific in nature and for the reasons outlined in the recommendations earlier in the case of member to member requires a high threshold to breach. My suggestion is that this is amended to read:

“Do treat others with respect in particular do not make any personal comments to any individual about themselves, their appearance, their gender, sexuality, religion or belief that may cause offence to them or to others present.”

I suggest this only as starting point for discussion and not as a version for adoption as thought needs to be given as to how such a change would be managed within Ashfield.

Suggestion 7

This suggestion relates to actions that can be taken by the Standards Committee in the event that a Member is found to be in breach of the Code. The Investigator explains as follows:

Since the abolition of the Standards Board and more recently local determination the powers available to Standards Committees have been reduced. Some may say that they have been removed all together and there is a good case for this view. One action that the Standards Committee could consider adopting is to name and shame Councillors who breach the code. My suggestion is that in the event of Standards Committee finding a Member in breach, they may, in the most serious cases, not only publish their findings on the Council website but also within local papers and the Ashfield Council newsletter. This would not be an action to be taken lightly but where a Member has been found, by his/her peers, to be in breach of the Code it is not unreasonable for members of the general public to be made fully aware of the breach. There are potential issues with this and clearly any such action would require checks and balances to be in place to ensure it was not abused politically but it is worthy of consideration. Again, to my knowledge few Councils have such a process in place formally. (Some breach cases do reach the local press via public hearings and the attendance of a local reporter.) Ashfield could place itself at the forefront of good practice on this issue.

Suggestion 8

This final suggestion relates to the makeup of the Standards Committee itself. The Investigator made this suggestion for two reasons:

Firstly, because of the current political makeup of the Council and secondly, as part of the checks and balances required in the event that suggestion seven is considered.

Following the May [2019] election, the Council is currently one party dominated. The Ashfield Independents command a huge majority on the Council. The Council Leader himself said to me in interview that he was conscious how few opposition members there now were at the Council and that he wanted them to play an active role and had appointed one of them to a committee to ensure this happened.

It is very problematic for there to be a true and proper balance in dealing with Standards issues when a Council is so one party dominated. This is particularly so if there is a Standards problem with one of the few opposition Members as they may claim prejudice in any complaint on political grounds. The opposite can also apply for complaints about major party members when allegations of cover-ups can be made.

I acknowledge that in accordance with legal requirements Ashfield has appointed Independent Persons who offer advice and support in any standards issues. I understand that the Independent Persona may also attend meetings of the Standards Committee but only as an observer. My suggestion is that the Council appoints three independent members to its Standards Committee. These members should be recruited, interviewed and appointed for a four-year term renewable once. They should be remunerated appropriately and as agreed by the Independent Remuneration Panel. I would suggest that one of these independent appointees be appointed as Chair of the Committee; although this may well be unacceptable politically I would suggest it as good practice. For clarity these are not the same as the currently legally required Independent Persons and these appointees would act as full members of the Standards Committee. They would in effect be the balancing element to provide surety and to prevent claims of political bias in any Standards related decisions.

There is a question mark over the ability of the Council to give non-elected members a vote. I have spent some time researching this issue and it is far from clear. The general assumption made by most Authorities is that co-opted members cannot be given the right to vote. I think there is however a possibility that they can. It is clear that non-elected members of Overview and Scrutiny Committees can be given voting rights. Section 11 of The Local Authorities (Committee System) (England) Regulation 2012 allows local authorities to permit co-opted members to vote if the Authority have in place a scheme making provision for such voting rights. The terms of reference of the Standards Committee could be amended to include Overview and Scrutiny powers and as such, subject to the terms of any scheme, co-opted members could be given voting rights. If this option was not acceptable then a form of informal voting could be agreed at Standards Committee itself in order that co-opted members could clearly express their views. The Monitoring Officer will need to advise further on this issue if it is to be pursued.

Committee is therefore asked to consider the recommendations of the investigator as detailed above.

Implications

Corporate Plan:

The Council will strive to ensure effective community leadership, through good governance, transparency, accountability and appropriate behaviours.

Legal:

There are no legal implications associated with this monitoring report

Finance:

Budget Area	Implication
General Fund – Revenue Budget	The Authority incurs costs in investigating complaints of alleged Member misconduct if investigations are carried out externally, and these charges are borne by the General Fund. The Council investigates complaints in house as far as possible to reduce costs. Where complaints need to be investigated externally these costs are expected to be contained within existing budgets. One investigation is currently being carried out externally as set out in the Appendix.
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

Risk:

Risk	Mitigation
<p>The Council has recognised the following Corporate Risk:</p> <p>Ethical Governance – failure/delay to implement changes to the Members' Code of Conduct and recommendations of the Committee on Standards in Public Life (CSPL) and Peer Challenge (CR003)</p> <p>Significant resource to deal with implications of proposed Code of Conduct changes.</p> <p>Significant resource to deal with implications of implementing the recommendation of the CSPL</p> <p>Potential for negative perception of the Council which impacts upon the Council's reputation</p> <p>Potential for adverse impact upon the workings of the Council</p>	<p>Ongoing work by the Standards and Personnel Appeals Committee in relation to the Committee on Standards in Public Life – report on Local Government Ethical Standards</p> <p>Present Quarterly Complaint Monitoring reports to Standards and Personnel (Appeals) Committee</p> <p>Members received training regarding the Code of Conduct, their behaviours and roles and responsibilities as part of the induction in May 2019. In line with the Corporate Peer Challenge recommendation further training will be organised.</p> <p>Responding to the LGA's consultation on its draft Model Code of Conduct</p>

Without new legislation does not provide holistic response to the recommendation of the CSPL	
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Human Resources:

There are no HR issues relating to this monitoring report

Environmental/Sustainability

There are no environmental/sustainability issues relating to this monitoring report.

Equalities:

There are no equalities issues relating to this monitoring report.

Other Implications:

None

Report Author and Contact Officer

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Appendix 1

QUARTERLY UPDATE OF COMPLAINTS – 1 DECEMBER 2020

REFERENCE	DATE COMPLAINT RECEIVED BY MONITORING OFFICER	COMPLAINANT TYPE	COMPLAINT ABOUT A DISTRICT OR PARISH COUNCILLOR	ALLEGED BREACH	PROGRESS UPDATE	OUTCOME
ADC2019-01	6 January 2019	District Councillor	District Councillor x 3	3.2 Use of Council resources for political purposes	Referrals Sub-Committee considered the complaint on 18 March 2019. Investigation report complete, to be discussed with the Independent Person.	Investigation
ADC2019-12	14 June 2019	Public	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	Investigation commenced. Interviews underway.	
ADC2020-01	8 January 2020	Public	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	Assessment commenced. Clarification of evidence regarding social media and interviews underway.	

REFERENCE	DATE COMPLAINT RECEIVED BY MONITORING OFFICER	COMPLAINANT TYPE	COMPLAINT ABOUT A DISTRICT OR PARISH COUNCILLOR	ALLEGED BREACH	PROGRESS UPDATE	OUTCOME
ADC2020-03	26 June 2020	Public/District Councillor	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.5 Confidentiality	Part of complaint dismissed. Assessment in respect of part of the complaint is ongoing.	
ADC2020-04	26 June 2020	Public/District Councillor	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.5 Confidentiality	Assessment underway. Interview with subject Member to be held.	
ADC2020-05	2 October 2020	Public	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	Complaint relates to the same incident already being investigated (ADC2020-01)	
ADC2020-06	3 October 2020	Public	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	Complaint dismissed. A Councillor is elected to carry out a public duty and is not an employee of the Council. The Council will not comment on activities outside of the role of a Councillor.	Dismissed
ADC2020-07	18 November	Officer	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	Assessment underway	

REFERENCE	DATE COMPLAINT RECEIVED BY MONITORING OFFICER	COMPLAINANT TYPE	COMPLAINT ABOUT A DISTRICT OR PARISH COUNCILLOR	ALLEGED BREACH	PROGRESS UPDATE	OUTCOME
SPC2020-01	6 May 2020	District Councillor	Parish Councillor	2.1 Respect 2.2 Contrary to high standards of conduct.	Assessment underway	
SPC2020-02	10 July 2020	Public	Parish Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	Assessment underway	
SPC2020-03	1 August 2020 9 August 2020 11 August 2020	Public District Councillor	Parish Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	Assessment underway – Some clarification needed in terms of evidence of social media posts referred to and also regarding a report made to the police in respect of elements of this complaint before able to proceed.	
SPC2020-04	9 August 2020 11 August 2020	Public District Councillor	Parish Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.7 Disrepute	Assessment underway – Some clarification needed in terms of evidence of social media posts referred to before able to proceed.	

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