

Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	3 JULY 2017
Heading:	QUARTERLY COMPLAINTS MONITORING REPORT		
Portfolio Holder:	N/A		
Ward/s:	N/A		
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 note the updated position in respect of Members' Code of Conduct complaints as set out in the Appendix for the period commencing on 17 March 2017 to 23 June 2017.

Reasons For Recommendation(s)

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

Alternative Options Considered (With Reasons Why Not Adopted)

No alternative options are considered appropriate.

Detailed Information

This report outlines in the Appendix the number of complaints of alleged Member misconduct which have been received since the last update, how many are outstanding and a summary of those closed since the last update.

The complaint ADC2016-01 has been investigated and a draft report has been sent to the Independent Person for his consideration before sending to the relevant parties for comment.

Since the last update there have been 9 new complaints. Two of these relate to District Councillors, 7 related to Selston Parish Councillors. These are all awaiting assessment.

Since the last update, 2 complaints have been concluded with no action being taken and 3 have been dealt with by taking other action.

There have been a high number of parish related complaints over the past 6 months. Work is underway with Selston Parish Council to understand the root cause of this and to identify ways the District Council can assist the Parish. A number of these complaints relate to issues or perceived issues with the use of Facebook by Parish Councillors.

The Committee previously asked the Monitoring Officer to consider if the District Council can seek to recover the costs of dealing with the Parish complaints from the Parish Council. Having researched this, it is clear from section 28(6)(b) of the Localism Act 2011 and the judgment in *John Taylor v Honiton Town Council [2016] EWHC 3307 (Admin) (21 December 2016)* that a principal authority is under a duty to investigate and decide upon alleged breaches of a parish council's code of conduct for members. Ashfield District Council is the principal authority in relation to Selston and Annesley & Felley Parish Councils.

Although local authorities have a specific power to charge for discretionary services under section 93 of the LGA 2003, the power does not apply where there is a duty to provide a service. The funding for these duties generally comes from local and national taxation unless there is an express power to charge in other legislation (e.g. fees for planning applications under s303 TCPA 1990). Chapter 7 of the Localism Act (Standards) does not provide any such power to charge. Given this, the District Council does not have the power to charge the Parish Council for the time taken dealing with Member Complaints about Parish Councillors.

Implications

Corporate Plan:

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

Legal:

Legal issues are dealt with in the body of the report.

Finance:

This report is effective from 23/06/2017 and has the following financial implications:

Budget Area	Implication
General Fund – Revenue Budget	The Authority incurs costs in investigating complaints of alleged Member misconduct, 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.
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

Human Resources / Equality and Diversity:

There are no HR or Equality and Diversity implications associated with this monitoring report.

Other Implications:

None

Background Papers

None

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