

# COUNCIL

9 SEPTEMBER 2014

## REPORT OF THE MONITORING OFFICER

### A.1 SIX MONTH REVIEW OF CONDUCT ARRANGEMENTS

(Report prepared by Lisa Hastings)

#### PART 1 – KEY INFORMATION

##### **PURPOSE OF THE REPORT**

To report the outcome of the Standards Committee and Monitoring Officer's 6 month review requested by the former Conduct Committee and Council in November 2013, when approving the proposals for the new standards arrangements.

##### **EXECUTIVE SUMMARY**

In November 2013, the Council's former committee dealing with conduct arrangements requested that after six months of operation of the new framework, the Monitoring Officer undertake a review to ensure that previous concerns both from the public and members have been addressed.

During the first six months, the Council has received 14 actual complaints, which had been dealt with as at June 2014, a summary is provided in the attached **Appendix A** and although it has not been necessary to hold a hearing there has been considerable activity in this area with a range of outcomes. Council will note that there are an additional 11 instances whereby contact has been made with the Monitoring Officer however, the Code of Conduct route has either not been pursued or was not appropriate to do so.

Feedback has been received from some Councillors (District and Parish), that they do not feel it is appropriate to be notified or respond unless a complaint form is received. The Monitoring Officer considers that by acting in an open and transparent manner, by notifying a Member once correspondence was received about them, a simple explanation or resolution of the complaint could then result. Through discussion the Standards Committee suggested that the Councillor concerned should be informed that a letter of complaint had been received and that the contents would be made available to them on request.

Under Section 3.3 of the Complaints Procedure, individuals are requested to complete the Council's Complaints Form, there have been a couple of occasions where this has not been done and the Standards Committee were requested to consider, whether this should be mandatory together with the requirement to identify the relevant paragraph of the Code of Conduct, which is alleged to have been breached. This information is sought by the Monitoring Officer and in a couple of instances has not been provided, which has resulted in the Monitoring Officer deciding not to take further action. This decision has been informally challenged and it would assist if the Complaints Procedure addressed the requirement specifically. Through discussion the Standards Committee suggested that there should be a degree of flexibility however, it would be for the Monitoring Officer to exercise discretion, if the original format of the complaint identified relevant information and therefore completion of the form would not be necessary. If however, the complainant did not provide the relevant information it was difficult for the Monitoring Officer to make

the appropriate decision on the next step.

The Standards Committee has not had to hold a hearing, as the only matter involving a District Councillor which was the subject of an investigation, was dealt with informally after a breach of the Code of Conduct was found. The outcome was reported to Committee in March 2014, when Members expressed their disappointment in the fact that Councillor Mayzes, subsequent to the breach being found by the Independent Investigator and accepted by Councillor Mayzes, he chose not to issue an apology at Council. Councillor Mayzes was offered a further opportunity to apologise to Council, at its meeting to be held on 25 March 2014. Councillor Mayzes provided a written apology to the Members of Council at its meeting on 1 July 2014.

The Committee debated and resolved that if, in future, an apology was offered as part of the informal resolution stage or recommended by the Committee, that the Member issue an apology to Council, the said Member be requested to do so, in person, at the next available meeting of the Council, demonstrating openness and transparency and promoting high standards

It is suggested by both the Standards Committee and the Monitoring Officer, that under Section 7.1.1 of the Complaints Procedure (Informal Resolution) the following is included:

- If the Member concerned accepts that their conduct was unacceptable and offers an apology and so long as the complainant does not object, the apology will be read out by the Councillor at the next Council meeting.

The Council's first hearing under the revised arrangements will be held by the Town and Parish Standards Sub-Committee on 22<sup>nd</sup> September 2014, after considering the outcome of an External Investigation Report into the conduct of a Parish Councillor. The Standards Committee approved in March 2014, formal hearing procedures to be followed and these are provided to all parties in advance of the committee.

Due to the level of complaints received and the Monitoring Officer's involvement to try and ensure that appropriate and proportionate action is taken with each complaint, the Standards Committee agreed with the request that the timescale under Section 3.5(a) and (b) is extended to 10 working days, this is in compliance with the Council's standard timescales for responding to correspondence. It was also considered appropriate and an effective use of resources for the Monitoring Officer to utilise the administrative support within the legal team to acknowledge complaints and request information from councillors for the Monitoring Officer to consider the content and make decisions accordingly. The support can also be used to respond to queries on the procedure.

The Standards Committee was pleased to note that external endorsement had been received in respect of the improved conduct arrangements and procedures. After receiving a Decision Notice confirming that the Monitoring Officer had decided to take no further action in respect of a particular complaint, the individual proceeded with the matter to the Local Government Ombudsman, who was satisfied that the Council had robust procedures in place to deal with complaints against Councillors, which had been followed.

Whilst the Monitoring Officer is working proactively to avoid referring complaints for investigations in accordance with the agreed procedure, it has been necessary to instruct an external independent investigation on three occasions in six months. It is acknowledged that there is a cost to undertaking investigations for which there is no

specific budget. This will be reviewed as part of the current financial strategy and budget setting process for 15/16.

At the date of this Report, External Audit has not provided feedback on the new arrangements, however the Annual Governance Report is due to be received later in the municipal year.

At its meeting on 6<sup>th</sup> May 2014, Council received a report on the proposals for the Independent Person recruitment and extended John Wolton's appointment pending the outcome. Unfortunately, the Council did not receive any further applications consequently, it is suggested that a paid newspaper advertisement is required to attract a wider audience to the new role. In the circumstances, whilst the recruitment is repeated, Council are requested to approve the extension of John Wolton's appointment to the end of the municipal year.

## **RECOMMENDATION**

**That Council:**

- (1) Note the contents of the Report;**
- (2) Approve the suggested changes to the Complaints Procedure as set out in the content of this report;**
- (3) That the appointment of John Wolton, as the current Independent Person be extended until 6 May 2015.**

## **APPENDICES**

- Appendix 1 – Update of Members' Complaints (June 2014)