

STANDARDS COMMITTEE

25 JUNE 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 Monitoring Officer's review requested by the Conduct Committee and Council in November 2013, when approving the proposals for the new standards arrangements. The Committee is requested to also provide its comments after six months of operation, so that a joint report can be presented to Council.

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 have been dealt with as set out 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. The Committee 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 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 openly and transparent, a Member is notified once correspondence is received about them, as there may be a simple explanation or resolution.

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 Committee is 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.

The 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, however this request was not followed.

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 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.

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, it is requested that the timescale under Section 3.5(a) and (b) is extended to 10 working days, this is in compliance with the Councils standard timescales for responding to correspondence. It is 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.

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. This demonstrates the Tendring District Council has improved its conduct arrangements, which have now also received external endorsement.

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.

Members are requested to provide their own thoughts on the operation of the new arrangements to form a joint report back to Council in September.

RECOMMENDATION

That the Standards Committee:

- (1) Recommend to Council that the suggested changes to the Complaints Procedure as set out in the content of this report are agreed together with those highlighted through Members' debate at the meeting and recorded within the minutes.**

APPENDICES

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

Tendring District Council Monitoring Officer update June 2014 (under new arrangements)

Council	Complainant	Current status	Final outcome	Comments
Parish	Employee	Closed	Matter did not proceed for insufficient information provided within timescales specified.	
Parish	Member of the public & resident	Referred for investigation – complaint relates to failure to declare interests and lack of consultation	Pending	IP consulted and agreed with the decision. Awaiting outcome of external investigation.
Town	Member of the public & resident	Closed	MO decided to take no further action, as satisfied the matter (cause of complaint) had been considered through open and transparent decision making.	Complainant appealed to the Local Government Ombudsman – no further action, LGO satisfied with the process followed.
Parish	Former Councillor	Closed	Matter did not proceed for insufficient information provided.	IP consulted and agreed with the decision.
District	Councillor	Closed	Dealt with through informal resolution to satisfaction of both Councillors.	
District	Member of the public & Ward resident.	Closed	No further action.	Matter did not relate to acting within official capacity
District	Member of the public & Ward resident.	Referred for investigation	Pending.	Informal resolution was not successful
District	Former Councillor	Closed	Information from complainant not provided to clarify relevant paragraphs of the Code	
District (x2)	Member of the public	Closed	Complainant failed to provide clarification	Content of the complaint not clear and when clarification

			information.	sought by the Monitoring Officer and upon request of Councillors – no further contact was received.
Parish	Members of the Public	Pending	No further action at this stage	A current investigation may reveal findings on the same subject matter. Await outcome of investigation at this stage. Both parties informed.
Parish	Clerk on behalf of Parish	Closed	No further action as tit-for-tat and not in the public interest to refer for investigation	Purely matters of dispute between Parish Councillors and Code of Conduct obligations not clear or possibly breached.
Parish	Member of the Public	Response requested form the Councillor concerned.	Pending	Relates to behaviour at meetings.
District	Member of the Public	Closed	No further action as relates to Councillor acting in his private capacity	
District	Member of the Public	Response requested form the Councillor concerned.	Pending	Relates to behaviour in respect of a planning matter

General Notes:

Also Monitoring Officer has attended and observed a Parish Council meeting and provided some feedback with regards to declaration of interests and general decision making.

There are a number of Parish Council complaints which affect just 2 Councils. One has been visited by the Monitoring Officer, and a visit in pending for the other Council. In both situations complaints are being received from different types of stakeholders giving evidence of a lack of understanding about required behaviours and decision making, whereby training might be required.

In addition to the list above, there have been six instances, where correspondence has been received from members of the public dissatisfied with a Councillor's behaviour and a Complaint Form and Procedure have been provided, but not returned.

There are five instances, whereby the Monitoring has had detailed discussions with members of the public when they have been concerned about certain decisions or actions of the Council as a whole, therefore it has not been appropriate for a complaint to proceed against a particular Councillor for breaching the Code of Conduct. Where this has happened general feedback has been provided to the Council.

Requests for dispensations

3 received, produced a pro-forma for each District Councillor to complete, providing the reasons in accordance with the legislative criteria. 2 of those related to the Coastal Protection works and was granted due to impact on the District. 1 related to a local matter of interest affecting a ward and a dispensation was granted. IP has been consulted on all 3 and each dispensation granted, has been recorded with a Decision Notice. Relevant DPI forms on the website have been updated to demonstrate openness and transparency.