

Corporate Governance & Standards Committee Report

Ward(s) affected: All

Report of the Monitoring Officer

Author: Stephen Rix, Interim Lead Legal Specialist and Monitoring Officer

Tel: 01483 444991

Email: stephen.rix@guildford.gov.uk

Date: 24 March 2022

## **Annual Report of the Monitoring Officer regarding Misconduct Allegations**

### **Executive Summary**

This report is to inform and update members of the Committee about decisions taken on allegations of misconduct against borough and parish councillors for the 12-month period ending 31 December 2021.

### **Recommendation to Committee:**

- (1) To note the cases referred to in Appendix 1.
- (2) To advise the Monitoring Officer of any areas of concern upon which the Committee would like further information and/or further work carried out.

### Reasons for Recommendation:

- To ensure members of the Committee and others to whom the report is circulated are updated as to complaints received and to enable them to consider learning points for the future.
- To seek to promote and maintain high standards of conduct amongst Members.

**Is the report (or part of it) exempt from publication? No**

### **1. Purpose of Report**

- 1.1 The purpose of this report is to inform and update members of the Committee about decisions taken on allegations of misconduct against borough and parish councillors during the year ending 31 December 2021.

### **2. Statutory background**

- 2.1 The statutory background can be found in the Localism Act 2011, Part 1 Chapters 6 and 7 ("the Act") and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 ("the Regulations") made thereunder.

### **3. Strategic Priorities**

- 3.1 The Committee's discussion in public about decisions taken on ethical standards allegations against borough and parish councillors and consideration of any learning points for the future is an important element of good corporate governance and reinforces the Council's commitment to be open and accountable to its residents.

### **4. Relevant Government Policy and Relevant Council Policy**

- 4.1 The relevant government policies with regard to the ethical standards framework are contained in the Department for Communities and Local Government Guidance "[Openness and Transparency on Personal Interests: A guide for Councillors](#)". The Council's policy is contained in Part 5 of its Constitution, in particular the Councillors' Code of Conduct and the Council's Arrangements for dealing with allegations of misconduct by councillors and co-opted members.

### **5. Background**

- 5.1 The Act made fundamental changes to the system of regulation of standards of conduct for elected and co-opted councillors and came into force on 1 July 2012.
- 5.2 Section 27(2) of the Act required the authority to adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. Section 28(6) and (7) of the Act required the Council to put in place Arrangements under which allegations that a councillor or co-opted member of the Council or of any of the 23 parish councils within the borough has failed to comply with the relevant code of conduct can be investigated and decisions made on such allegations.
- 5.3 Following the full council meetings on 8 May 2012 and 5 July 2012 the Council:
- Established this Committee with responsibility for a range of matters to include promoting and maintaining high standards of conduct by members and co-opted members of the authority;
  - Adopted a new Councillors' Code of Conduct;
  - Appointed an Independent Person;
  - Adopted Arrangements and procedures for dealing with misconduct complaints in relation to both borough and parish councillors;
  - Revised the Register of Members' Interests to reflect the new Disclosable Pecuniary Interests created under the Act and regulations made thereunder;
  - Authorised the making of all necessary changes to the Constitution.
- 5.4 After four years of operation, the Arrangements for dealing with misconduct complaints were reviewed by the Council with assistance from this Committee and a working group in light of local experiences of handling cases, to benchmark the Council's Arrangements against emerging best practice and to ensure greater efficiency in the process. The revised Arrangements were approved by this

Committee and came into force on 24 November 2016, and were further reviewed in spring of 2018 and more recently in October 2020 where some minor amendments were made.

## **6. Details**

- 6.1 Attached at Appendix 1 is a list showing the decisions taken by the Monitoring Officer in relation to allegations made against borough councillors and parish councillors in accordance with the Council's adopted Arrangements for dealing with Allegations of Misconduct for the year ending 31 December 2021.

### Number of allegations

- 6.2 Throughout this period, there have been 14 complaint decisions in total. They were all complaints regarding borough councillors, and none were regarding parish councillors.

### Action taken

- 6.3 Seven of the complaints failed the initial jurisdiction test, none proceeded to investigation; two were subject to no further action at initial assessment stage and five were subject to informal resolution. There are six ongoing complaints at the time of writing this report.

### Type of complainant

- 6.4 The origin of the complaints (whether member of the public, officers or elected members of the authority) is set out in Appendix 1.

### Response times

- 6.5 The time taken for consideration and determination of a complaint is set out in Appendix 1.
- 6.6 The identity of all councillors complained of has been anonymised. It is important that such information should remain confidential unless and until any complaint results in an open hearing before the Hearings Sub-Committee.
- 6.7 Two common themes that the Monitoring Officer would like to draw to the attention of Members are 1. the use of social media in relation to the complaints, there is a Social Media Guidance for Councillors adopted by the Council in 2020 which forms part of the Councillors' Code of Conduct; and 2. the use of inflammatory language being used by Councillors on social media and emails leading to complaints.
- 6.8 Members are invited to consider whether there are any areas of concern upon which they would like further information and/or further work done.

## **7. Next steps**

- 7.1 The Committee is asked to note the matters contained in this report and advise the Monitoring Officer of any areas of concern or further information/action required.

## **8. Other courses of action considered but rejected**

- 8.1 It is good practice to provide an annual update report of this nature. The requirement forms part of the Work Programme for the Committee. Failure to keep Members up to date could lead to a diminution of ethical standards amongst Members.

## **9. Equality and Diversity Implications**

- 9.1 There is a general obligation in the Councillors' Code of Conduct in which Members undertake "Not to do anything which may cause your authority to breach any of the equality enactments".

## **10. Financial Implications**

- 10.1 There is a financial cost to the Council if complaints are passed to external consultants for investigation/report. During the period referred to there have been no new investigations commissioned by the Monitoring Officer.

## **11. Legal Implications**

- 11.1 None, other than those implicit within this Report and Appendix 1.

## **12. Human Resource Implications**

- 12.1 There are resource implications in terms of Monitoring Officer and Deputy Monitoring Officer time spent on managing these complaints.

## **13. Conclusion**

- 13.1 The Committee is asked to note the cases referred to in Appendix 1 and the themes identified at paragraph 6.7; and to advise the Monitoring Officer of any areas of concern upon which they would like further information and/or further work done.

## **14. Background Papers**

As referred to in this Report and Appendix.

Case files referred to are exempt under the Local Government Act 1972 Part 1 of Schedule 12A paragraphs 1 and 2.

## **15. Appendices**

Appendix 1: Allegations against Councillors & Parish Councillors under the Arrangements for dealing with Allegations of Misconduct – 1 January 2020 to 31 December 2021.