

Corporate Governance & Standards Committee Report

Ward(s) affected: All

Report of the Monitoring Officer

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Annual Report of the Monitoring Officer regarding Standards Allegations

Executive Summary

This report is to inform and update members of the Committee about decisions taken on standards allegations against borough and parish councillors for the 12-month period ending 31 December 2016.

Recommendation to Committee:

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

Reason(s) for Recommendation:

- To ensure members of the Committee and others to whom the report is circulated are kept up to date;
- To consider learning points for the future; and
- To seek to promote and maintain high standards of conduct amongst Members.

1. Purpose of Report

- 1.1 The purpose of this report is to inform and update members of the Committee about decisions taken on standards allegations against borough and parish councillors throughout the year ending 31 December 2016.

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. Relevant Government Policy

- 3.1 The relevant government policies with regard to the ethical framework are contained in the Department for Communities and Local Government Guidance "Openness and Transparency on Personal Interests: A guide for Councillors."

4. Relevant Council Policy

- 4.1 The Council's policy is contained in 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. Strategic Priorities

- 5.1 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.

6. Background

- 6.1 The Act made fundamental changes to the system of regulation of standards of conduct for elected and co-opted councillors. The new provisions came into force on 1 July 2012.
- 6.2 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. Sections 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.
- 6.3 Following the full council meeting on 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 Code of Members' Conduct;
 - Appointed 3 Independent Persons;
 - 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 Localism Act and regulations made thereunder;
 - Made all necessary changes to the Constitution.
- 6.4 After four years of operation, the Arrangements for dealing with misconduct complaints have recently been reviewed by the Council with assistance from this Committee and the Standards 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 new Arrangements were approved by this Committee and came into force on 24 November 2016.

- 6.5 The Appendix attached lists decisions taken by the Monitoring Officer using delegated powers under the Arrangements adopted by the Council on 5 July 2012.

7. Details

- 7.1 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 under the Council's Arrangements for dealing with Allegations of Misconduct adopted on 5 July 2012 for the year ending 31 December 2016.

- 7.2 **Number of allegations.** Throughout this period there have been two complaints regarding parish councillors and seven regarding borough councillors.

Action taken. Six resulted in no further action being taken by the Monitoring Officer following initial assessment. Two resulted in a local settlement and one case is still pending.

Type of complainant. Six complaints were made by members of the public and three by councillors.

Response times. The time taken for consideration and determination of a complaint is set out in Appendix 1. Where a local resolution was secured, the calculation includes the time taken to secure the local resolution.

- 7.3 The identity of all councillors complained of has been anonymised. It is felt that such information should remain confidential unless and until any complaint results in a formal determination following a hearing before the Hearings Sub-Committee. This view is backed up by a recent case considered by the First Tier Tribunal¹ which upheld the requirement to maintain confidentiality of the investigation process in relation to code of conduct complaints.

- 7.4 There is no common theme that the Monitoring Officer would like to draw to the attention of Members.

- 7.5 However, Members are invited to consider whether there are any areas of concern upon which they would like further information and/or further work done.

8. Consultations

- 8.1 The Lead Councillor for Infrastructure and Governance has been consulted on this Report. Corporate Management Team and the Deputy Monitoring Officer have also been consulted.

¹ Michael Thompson v Information Commissioner & Cheshire East Council (Freedom of Information Act 2000) [2016] UKFTT 2016_0044 (GRC)

9. Next steps

- 9.1 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.

10. Other courses of action considered but rejected

- 10.1 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.

11. Equality and Diversity Implications

- 11.1 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".

12. Financial Implications

- 12.1 None

13. Legal Implications

- 13.1 None, other than those implicit within this Report and Appendix

14. Human Resource Implications

- 14.1 None

15. Conclusion

- 15.1 Members are asked to note the cases referred to in Appendix 1; and to advise the Monitoring Officer of any areas of concern upon which they would like further information and/or further work done.

16. Background Papers

- 16.1 As referred to in this Report & Appendices.

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

17. Appendices

Appendix 1: Allegations against Councillors & Parish Councillors under the Arrangements for dealing with Allegations of Misconduct – 1 January 2016 – 31 December 2016