

Audit, Risk and Governance Committee
Meeting to be held on Monday, 27 January 2020

Electoral Division affected: None;

Code of Conduct - Summary of Complaints
(Appendix A refers)

Contact for further information:
Josh Mynott, Tel: (01772) 534580, Democratic and Member Services Manager,
josh.mynott@lancashire.gov.uk

Executive Summary

This report presents a summary of all complaints received in 2019 against county councillors under the Code of Conduct.

Recommendation

The Audit, Risk and Governance Committee is asked to note the summary and comment as appropriate.

Background and Advice

Under the Localism Act 2011, the county council is required to have a Code of Conduct for Councillors ("the Code"). The Code has three elements:

- Behavioural expectations (principally aligned with the Nolan principles)
- Requirements around registering and declaring interests
- Requirements around Gifts and Hospitality

Complaints that a councillor has breached the rules around the registration and declaration of pecuniary (i.e. financial) interests are a criminal matter and complaints would be dealt with by the police. The county council is not aware of any allegations made to the police against Lancashire County Councillors in this regard.

All other complaints that a councillor has breached the Code are dealt with according to local arrangements, agreed by Full Council in 2012. There is a three stage process:

1. An initial assessment by the Monitoring Officer. The Monitoring Officer determines whether the complaint is within the remit of the Code and not vexatious. If the Monitoring Officer identifies that a complaint is legitimate, she will explore an informal resolution, such as an apology or explanation that will satisfy the complainant without unnecessary use of resources. At this stage,

whether a complaint is dismissed as being outside the Code, or not a breach, or upheld and resolved informally, a written response will be sent to the complainant. There is no right of appeal against the Monitoring Officer's decision at this stage.

2. Investigation. Where the Monitoring Officer is unable to resolve a complaint informally, she will undertake a full investigation, including interviews and examination of evidence. The Monitoring Officer will either determine that there has been no breach of the Code, in which case the matter is at an end, or that there has been a breach, in which case it will be referred to the Conduct Committee for determination.
3. Conduct Committee consideration. The committee will receive the report of the Monitoring Officer and determine what action to take. The councillor who is subject to the complaint will have the right to attend and make representations. The committee must take the views of the appointed "Independent Person" into account before reaching a decision.

The emphasis, in line with the government's initial intention in revising the Standards arrangements in the Localism Act 2011, is to reduce bureaucracy and seek informal resolutions where possible. This avoids lengthy and potentially resource intensive investigations into minor or vexatious complaints.

Independent Persons

Local authorities must also appoint an "independent person" whose views must be sought by the local authority before a decision is taken in relation to an allegation of misconduct and members who have had allegations made against them may, if they wish, also seek the views of the independent person. Lancashire has appointed three independent persons, to ensure that there can be appropriate separation between the roles of supporting the subject member and advising the committee, should it be necessary to do so. The Monitoring Officer has recently met with the Independent Persons, in recognition of the fact that greater involvement from the Independent Persons, even where complaints are dismissed or resolved informally, would provide significant benefits to the robustness of the process.

Complaints 2019

In general, Lancashire receives relatively few complaints about county councillors, and those received in 2019 were either found to be minor or with limited or no merit. A full summary of complaints received in 2019 is attached at Appendix A.

Key messages:

- No complaints have proceeded to formal investigation, and in only two cases has the councillor been found to have breached the code. Both were dealt with without the need for formal investigation, one with the councillor agreeing to make an apology at Full Council, and another with the Monitoring Officer meeting the councillor to set out expectations for future conduct.

- Around half of complaints were made by other county councillors or people involved in local politics (including district and parish councillors and candidates or agents at election). In other authorities, the proportion of complaints made by other politicians is even higher, and some have expressed the concern that the conduct regime has become little more than a political tool, with frequent "tit-for-tat" complaints. Lancashire has not experienced this problem.
- Where complaints are received from the public, in the main these relate to dissatisfaction with a councillor's response to an enquiry the individual has made. In general, councillors have been able to demonstrate that they have acted reasonably and / or sought to help, but have not been able to provide the resolution desired by the complainant. The council places no specific obligations on councillors in relation to how they deal with casework and local matters (such as timescales for responses) and takes the view that this is a matter purely between the councillor and their residents, as long as the wider provisions of the code are met.
- There have been fewer complaints about the use of social media than previously, which is positive. The council encourages councillors to make it clear on social media accounts that the views expressed are theirs alone, and has run training and awareness sessions for councillors on benefits and pitfalls of using social media.

The Audit, Risk and Governance Committee are invited to note the report and make any comments or observations about the complaints received or processes around managing complaints.

Standards – Future Issues

In January 2019, the Committee for Standards in Public Life (the "Nolan Committee") completed a review on standards in Local Government and presented it to government for publication. Key messages included:

- There were insufficient enforceable sanctions available to local authorities in dealing with serious breaches of the code. The power to suspend (though not disqualify) should be re-instated, with a right of appeal through the Local Government Ombudsman.
- There should be a presumption that all public activities of a councillor are undertaken in their official capacity, and therefore subject to the Code. This would include, for example, all public activity on social media and even attendance at events or public pronouncements made in other capacities, including as a member of another council, school governor or trustee of a local charity.
- The categories of interest currently in place should be replaced with an "objective test" – adopting the one currently in use in Wales, which says that an interest must be declared "if the interest is one which a member of the

public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest".

- There should not be a return to a pan-England system, as existed before 2012, but the Local Government Association should draft a new model code.
- The criminal offence of failing to declare a pecuniary interest should be abolished.

It is understood that government is currently working on its response, in consultation with representatives of local government. Should the government response lead to changes in the rules or provide further guidance to local authorities, a further report will be brought to the committee for consideration of the implications for the county council.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk Management

The county council is required to have a Code of Conduct for councillors under the Localism Act 2011.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Tel
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N/A

Reason for inclusion in Part II, if appropriate

N/A