

**Review of Elected Member Complaints 2017/18**

**Summary of report:**

The report is to provide information to Elected Members in respect of complaints received by the Monitoring Officer concerning allegations made about breaches of the Council Code of Conduct by Elected Members 2017/18.

**Background papers:**

None

**Recommendation:**

1. To note the content of the report

**1.0 Background**

1.1 The Arrangements for Dealing with Complaints against Elected Members was approved by Walsall Council at a meeting of the Council on 25th June 2012. The Arrangements have been amended slightly since that date and are kept under review.

1.2 Under the arrangements for dealing with complaints the monitoring officer has been given delegated authority to every complaint brought against elected members under the Council code of conduct. The monitoring officer will review every complaint, and after consultation with the councils Independent Person, will take a decision as to whether or not the complaint merits formal investigation. It is envisaged under the arrangements that this will normally take 20 working days to determine following receipt of a complaint.

1.3 There is no right of appeal against this decision, and to date no complainant has ever raised an issue regarding this part of the process. The only possible right challenge therefore in respect of this would be by way of judicial review of the monitoring officer's decision, or by complaint to the Local Government Ombudsman. There have been 2 complaints to the LGO about the review undertaken by the Monitoring Officer and on both occasions the complaints have not been upheld with the LGO commenting favourably on the review process. One of the reasons for the

abolition of the Standards Board for England and the changes to the standards regime was to streamline the process of investigating complaints, and save resources. The current regime is quicker and more efficient in dealing with complaints. There is therefore a balance that needs to be struck.

1.4 Over the past 12 months the Council has received in total 4 complaints alleging that elected members have breached the Council Code of Conduct. These complaints have been reviewed by the Monitoring Officer. In two of the complaints there has been agreed outcomes. One complaint by two members of the public were in circumstances where the council had no lawful power to investigate the complaints and appropriate advice was given to the complainants. In another complaint a councillor self-referred a matter to the Monitoring Officer where the councillor was concerned a complaint may be forthcoming in relation to the way in which they handled a constituent enquiry. No complaint ever materialised, and on the evidence the councillor concerned had acted entirely appropriately.

1.5 Two of the complaints arose out of the alleged misuse of Facebook. Appropriate advice was given in respect of these matters. A large proportion of the queries the Monitoring has to deal with arises out of the use of social media. The council do run a social media course for elected members on an annual basis and will continue to offer the same as part of the Member Development Programme. Nationally complaints about elected member use of social media would account for a large number of complaints.

1.6 The Independent Person role has kept an element of independence to the complaints process and provided effective challenge and scrutiny to the decision making process. The Independent Person is crucial to the review of complaints. The council has one Independent Persons who assist the council with the complaints process. One of the council's Independent Persons resigned during the year and the council is now advertising for a new Independent Person.

1.7 Elected Member behaviour in meetings remains good. It has to be remembered that council meetings are open to the public, apart from a few limited circumstances, and in some meetings such as planning and licensing members of the public may have an active role to play. It is therefore important that elected members maintain a high standard behaviour in meetings. If they fall below the standards of behaviour expected it is for the chair of the meeting to deal with such behaviour in the first instance. However if behaviour is persistent or serious the matter should be dealt with under the council code of conduct should a complaint be made. Passion is an integral part of politics and debate can sometimes be heated and vigorous however there is still a line that should not be crossed. Whilst the Standards Board for England has been abolished regard should still be had to the case reviews it produced and the guidance it has given on standards matters. The Standards Board for England gave a wider margin for elected member behaviour in debate and did not

want standards to fetter the passion of politics. Elected Members have consistently fully cooperated with investigations, and the Group Leaders of parties have fully supported the Monitoring Officer in his role.

1.8 In Walsall with the narrow numerical margins between the political groups there is probably more tension in council meetings, which can lead to heated debate in the chamber. It is also a feature in campaigning for election to the office of councillor. It is noticeable that the volume of complaints and queries to the Monitoring Officer occur around the annual local elections. It has to be remembered that an elected member campaigns for office in a personal capacity therefore their actions in relation to campaigning will normally fall outside of the scope of the standards regime under the Localism Act 2011.

1.9 Elected Member conduct remains of a high standard as the total number of complaints for 2017/18 would seem to indicate. The nature of the complaints made have also not been of significant gravity even if proven. There has also been a significant reduction in the total number of official complaints.

## **2.0 Resource and legal considerations:**

2.1 None directly related to this report. The complaints procedure is being managed within Legal and Democratic Services from existing resources. If there is a considerable increase in complaints or the council receives a very serious and complex complaint, consideration may need to be given to outsourcing some work if the demand cannot be met from existing resources.

## **3.0 Performance and Risk Management issues:**

3.1 Performance and risk management are a feature of all council functions. It is important that council policies and procedures are reviewed and updated on a regular basis. If the council fails to do this there is an increased risk that the council will be subject to legal challenge or litigation.

3.2 In terms of performance it is important that both Elected Members have a clear framework of standards to follow in delivering services to the community. These frameworks provide accountability and transparency in respect of the way in which the council delivers services. The council has approved an amended Code of Conduct for Elected Members at annual council 23<sup>rd</sup> May 2018

#### **4.0 Equality Implications:**

4.1 In maintaining up to date policies and procedures the council will ensure that services are delivered fairly in an open and transparent manner. There are specific requirements in both codes that elected members and officers observe equalities. It is important that complaints are dealt with in a fair and transparent manner.

#### **5.0 Consultation:**

5.1 There is no requirement to consult on this report.

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