

## **Review of Elected Member Complaints**

### **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 2021/22.

### **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 an extraordinary meeting of the Council on 25<sup>th</sup> June 2012. This has been updated since that date.
- 1.2 Under the arrangements for dealing with complaints the Monitoring Officer has been given delegated authority to manage every complaint brought against elected members under the Councillors Code of Conduct. The Monitoring Officer assesses 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. The only possible right challenge therefore in respect of this would be by way of judicial review of the monitoring officer's decision. Complainants are advised that they can complain to the Local Government Ombudsman if they wish to after any review. Any right of review or challenge would add more expense and complexity to the procedure. 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 of 9 complaints alleging that elected members have breached the Council Code of Conduct. These

complaints have been reviewed and there have been findings in relation to the cases that there was no breach of the code of conduct as alleged. In some complaints there were multiple complainants and because these complaints arose out of the same set of circumstances the complaints were consolidated. Two complaints were outsourced for assessment by an external investigator. On occasions this allows for a greater level of independent scrutiny, and provides a benchmark for internal assessments.

- 1.5 In 5 of the complaints lack of respect was referred by complainants. This appears to be a catch all complaint. Three of the complaints were submitted following in a committee meeting. As Monitoring Officer I would expect some complaints to arise out of committee meetings due to the adversarial nature of such meetings.
- 1.6 Whilst to date there has been no complaint about a lack of appeal against the Monitoring Officer's decision this part of the procedure should be kept under review. However this would add more expense and complexity to the procedure. 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.
- 1.7 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. These meetings can also be adversarial by their very nature which leads to increased tensions and heightened sensitivity. 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 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 four Independent Persons who assist the council with the complaints process. They are fulfilling their role of scrutinising the assessment process and are providing constructive criticism and challenge in relation to each complaint. Under the Localism Act 2011 the council has to consult with the Independent Person before making a decision in relation to each complaint.

1.09 Sometimes complaints increase around local election time when tensions are raised. I am pleased to say that I received fewer complaints in the last round of local remembrance. Councillor campaign in their personal capacity during the local elections so the role of the Monitoring Officer is limited. There are very few complaints between councillors, complaints that have been categorised in the past as “tit for tat” complaints. This is positive for the council. In general members seem to show respect for each other irrespective of their political differences.

1.10 Elected Member conduct remains of a high standard as the total number of complaints for 2021/22 would seem to indicate.

## **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.

## **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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