

<b>UPDATE ON COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT</b>	
<b>STANDARDS COMMITTEE</b>	<b>CLASSIFICATION:</b>
<b>MEETING DATE (2021/22)</b> 16 February 2022	<b>OPEN</b>
<b>WARD(S) AFFECTED</b> N/A	
<b>Director</b> Dawn Carter-McDonald, Director of Legal and Governance and Monitoring Officer	

## 1. SUMMARY

- 1.1 This report provides an update in relation to complaints received alleging a breach of the Council's Code of Conduct for Members and Voting Co-Optees ("the Code of Conduct").

## 2. RECOMMENDATION

**That the Standards Committee notes the report.**

## 3. BACKGROUND

- 3.1 At its meeting on 13 July 2021, the Committee received its Annual Report 2020/2021 which included reference to complaints received alleging a breach of the Code of Conduct until July 2021. This followed a report to the Standards Committee on 17 February 2021, which provided an update on complaints since July 2020.
- 3.2 Upon receipt of a complaint alleging a breach of the Code of Conduct, the Monitoring Officers carries out a preliminary review, called a jurisdictional assessment, to determine whether there is jurisdiction to accept the complaint. Examples of when a complaint will not pass this jurisdictional assessment are:
- Where the subject of the complaint is no longer an elected member or voting co-optee or was not such a person at the time of the alleged conduct;
  - Where the complaint does not relate to the conduct of the person as an elected member or voting co-optee; or
  - Where the complaint is a service complaint.
- 3.3 Assuming the complaint passes the jurisdictional assessment, the complaint moves to a threshold assessment phase to determine whether it should proceed to investigation. The Monitoring Officer may at this point seek clarification from the complainant. The Monitoring Officer will also notify the elected member or voting co-optee of receipt of the complaint. It is a

requirement of the Localism Act 2011 that the Monitoring Officer seeks the views of the Independent Person with regard to any complaint received against a Councillor, and this occurs at this stage. In deciding whether the assessment threshold is met, the Monitoring Officer takes into account factors such as:

- Whether the complaint contains sufficient evidence to demonstrate a potential breach of the Code of Conduct;
- How long ago the conduct complained of took place;
- Whether the complaint appears to be trivial, malicious, vexatious or politically motivated;
- Whether an investigation is in the public interest; or
- Whether there are alternative, more appropriate remedies.

3.4 The potential outcomes of the assessment phase are that no further action should be taken, that an informal resolution of the complaint ought to be sought, or that the matter be the subject of a formal investigation. Although decisions at this stage are usually taken by the Monitoring Officer, having sought advice from the Independent Person, the Monitoring Officer has the absolute discretion to refer matters to an Assessment Sub-Committee of the Standards Committee for a decision as to whether the assessment threshold has been met.

3.5 The Monitoring Officer will, having reached a decision on the course of action to be taken, advise the complainant and the elected member or voting co-optee of the outcome. The decision of the Monitoring Officer is final and there is no recourse allowed from either the subject member or complainant other than via a complaint to the Local Government Ombudsman or to the High Court on an application for judicial review.

3.6 If the matter proceeds to formal investigation, then an investigator is appointed by the Monitoring Officer to conduct that investigation. The scope of the investigation is a matter for the Investigator. Once the investigation has been concluded, a draft report is prepared which will be shared with the Monitoring Officer (so that they can satisfy themselves that it is to an appropriate standard) and the relevant parties for comment. The Investigator is under no obligation to accept comments made by the relevant parties. The final report must find either that there has been a failure to comply with the Code of Conduct or there has not been such a failure. If it is concluded that there has been no failure, the parties are notified and no further action is taken. If it is concluded that there has been a failure to comply, then the Monitoring Officer will determine whether to refer the matter to a Hearing Sub-Committee of the Standards Committee or seek a local resolution of the complaint.

#### **4. COMPLAINTS RECEIVED**

4.1 Since the Committee last received an update on complaints, 9 new complaints have been submitted to the Monitoring Officer, 1 of which was later withdrawn prior to conclusion of the assessment phase. Of the remaining 8 complaints, the allegations and outcomes were as follows:

- Alleged breach of the Code of Conduct in relation to the manner in which a Member responded to a tweet. The Monitoring Officer concluded that the matter did not reach the assessment threshold.
- Alleged breach of the Code of Conduct in relation to a Member not responding to correspondence from a member of the public. The Monitoring Officer concluded that the assessment threshold was not met but offered words of advice to the Member in question by way of a local resolution.
- Alleged breach of the Code of Conduct by three Members in relation to the manner in which complaints made to them were handled. The Monitoring Officer concluded that the matter did not meet the assessment threshold.
- Alleged breach of the Code of Conduct in relation to a Member ignoring the wishes of the public with regards to a topic under consultation and in holding unofficial meetings and stating incorrect facts. The Monitoring Officer concluded that the matter did not meet the assessment threshold.
- Alleged breach of the Code of Conduct in relation to a Member only replying to certain people and blocking the complainant and others on Twitter. The Monitoring Officer concluded that the matter did not meet the assessment threshold.
- Three separate complaints each alleging a breach of the Code of Conduct in relation to a personal photo shared by a Member on Twitter. The Monitoring Officer concluded that the matter did not meet the assessment threshold.

## **5. COMMENTS OF THE GROUP DIRECTOR, FINANCE AND CORPORATE RESOURCES**

5.1 There are no financial implications arising from this report.

## **6. COMMENTS OF THE DIRECTOR OF LEGAL AND GOVERNANCE SERVICES**

6.1 In accordance with the Localism Act 2011, and as provided for in the Council's Constitution, it is the duty of the Standards Committee to receive updates from the Monitoring Officer with regard to complaints received alleging a breach of the Code of Conduct and the outcome of those complaints. This report complies with those obligations.

## **APPENDICES**

None

## **BACKGROUND PAPERS**

None

<b>Report Author</b>	Louise Humphreys Head of Legal and Governance <a href="mailto:louise.humphreys@hackney.gov.uk">louise.humphreys@hackney.gov.uk</a> Tel 020 8356 4817
<b>Comments of the Group Director, Finance and Corporate Resources</b>	Jackie Moylan Director of Financial Management <a href="mailto:jackie.moylan@hackney.gov.uk">jackie.moylan@hackney.gov.uk</a> Tel 020 8356 3032
<b>Comments of the Director of Legal and Governance</b>	Dawn Carter-McDonald Director of Legal and Governance <a href="mailto:dawn.carter-mcdonald@hackney.gov.uk">dawn.carter-mcdonald@hackney.gov.uk</a> Tel 020 8356 6234