

# Audit Governance & Standards Committee

19 September 2016

Is the final decision on the recommendations in this report to be made at this meeting?

N/A

## Complaints received under the Members Code of Conduct

<b>Final Decision-Maker</b>	Audit Governance & Standards Committee
<b>Lead Head of Service</b>	John Scarborough – Head of Legal Partnership
<b>Lead Officer and Report Author</b>	Donna Price – Team Leader Corporate Governance
<b>Classification</b>	Public
<b>Wards affected</b>	All

### This report makes the following recommendations to this Committee:

1. The Committee are asked to note the contents of the report

### This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all
- Securing a successful economy for Maidstone Borough

Promoting the Code of Conduct and dealing with complaints effectively and efficiently is essential in ensuring high standards of conduct amongst members are upheld as this is an integral part of the decision making processes and delivery of the council's priorities.

### Timetable

<b>Meeting</b>	<b>Date</b>
Audit Governance & Standards Committee	19 September 2016

# Complaints received under the Members Code of Conduct

## 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This is the third report by the Monitoring Officer updating the committee on complaints received under the Member's Code of Conduct. This report provides an update for the period 12 November 2015 to 31 August 2016.
  - 1.2 The committee are asked to note the contents of the report.
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## 2. INTRODUCTION AND BACKGROUND

- 2.1 It is a requirement under the Localism Act 2011 that all Councils adopt a Code of Conduct and that the Code adopted must be based upon the Nolan Principles of Conduct in Public Life. The current Members' Code of Conduct ("the Code") for Maidstone Borough Council is set out in the Constitution adopted in May 2015 (and is unchanged from the previous Code of Conduct).
- 2.2 The Localism Act 2011 requirement to adopt a Code of Conduct also applied to all the Parish Councils. Consequently, all the Parish Councils in the Maidstone area adopted their own Codes of Conduct with the majority adopting the Borough Council's Code of Conduct.
- 2.3 Under the Localism Act 2011 Maidstone Borough Council is responsible for dealing with any complaints made under the various Codes of Conduct throughout the Maidstone area.
- 2.4 At the Full Council meeting in May 2015 the Council adopted arrangements for dealing with all complaints received under the Code of Conduct. In addition it was resolved that oversight of Code of Conduct complaints would fall under the terms of reference of the Audit Standards and Governance Committee.
- 2.5 As part of the committee's oversight function it is agreed that the Monitoring Officer provide reports on complaints to the Audit Standards and Governance Committee. It should be noted that the Localism Act 2011 repealed the requirement to publish decision notices; therefore in providing the update to the committee the names of the complainant and the councillor complained about are both kept confidential in accordance with the Data Protection Act 1998.
- 2.6 Since the last report to this Committee on 23 November 2015 there have been ten new complaints against sixteen subject members.
- 2.7 Of the ten complaints received three related to borough councillors and seven related to parish councillors.
- 2.8 As of 31 August 2016 two complaints are at the initial assessment stage, two have been concluded with a finding that there was no breach of the

Code of Conduct, four were not progressed as three failed the local assessment criteria and one failed the legal jurisdiction test. The remaining two complaints had been referred to independent investigation, however, following the resignation of both subject members the investigations have ceased and the matters closed.

- 2.9 The new Constitution provides for a Hearings Sub-Committee to meet to consider any complaint which remains valid after investigation and consideration by the Monitoring Officer in consultation (as required) with the Independent Person. To date the Hearings Sub-Committee has not yet been required to meet.

### 3. PREFERRED OPTION

- 3.1 That the committee note the update on complaints received under the Member's Code of Conduct.

### 4. CONSULTATION

- 4.1 Members of the Audit Standards and Governance Committee and the independent person in accordance with the relevant complaints procedure will be consulted with on individual complaints as and when necessary.

### 5. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	High standards of conduct are essential amongst members in delivering the council's priorities and the Code of Conduct and complaints procedure supports this.	Team Leader Corporate Governance
<b>Risk Management</b>	An effective Code of Conduct and robust complaints procedure minimises the risk of member misconduct and is part of an effective system of governance.	Team Leader Corporate Governance
<b>Financial</b>	Should it be necessary to appoint external Independent Investigators the cost of this will be met by the Borough Council	Team Leader Corporate Governance
<b>Staffing</b>	The complaints procedure is dealt within the remit of the Monitoring Officer with input from the Legal Team as	Team Leader Corporate Governance

	required.	
<b>Legal</b>	The requirements of the Localism Act 2011 with regards to the Code of Conduct and complaints procedure are set out within the report. The reporting process ensures that the committee continues it's oversight of the Code of Conduct as required by the Constitution.	Team Leader Corporate Governance
<b>Equality Impact Needs Assessment</b>	Any potential to disadvantage or discriminate different groups within the community should be overcome within the adopted complaints procedures.	Policy and Information Manager
<b>Environmental/Sustainable Development</b>	N/A	
<b>Community Safety</b>	N/A	
<b>Human Rights Act</b>	All complaints are dealt with in the context of the Human Rights Act	Team Leader Corporate Governance
<b>Procurement</b>	N/A	
<b>Asset Management</b>	N/A	

**6. REPORT APPENDICES**

None

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**7. BACKGROUND PAPERS**

None