

<b>Item No.</b> 12.	<b>Classification:</b> Open	<b>Date:</b> 6 February 2023	<b>Meeting Name:</b> Audit, governance and standards committee
<b>Report title:</b>		Review of complaints made under the Members' Code of Conduct in 2022	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Director of Law and Governance	

## RECOMMENDATIONS

1. That the committee notes this report.

## BACKGROUND INFORMATION

2. The Localism Act 2011 provided for local authorities to establish their own local arrangements for approving a members' code of conduct, and for dealing with any complaints about the code. There was also a statutory requirement for local authorities to appoint independent persons to advise the council on any complaints. The Act abolished the national standards regime that was in place at the time.
3. Following the implementation of the Act, Southwark Council formed a standards committee and appointed independent persons.
4. The responsibility for standards activity including the monitoring of the operation of the members' code of conduct passed to this committee in April 2016.

## KEY ISSUES FOR CONSIDERATION

5. The Act requires local authorities to have arrangements to investigate allegations of breaches of the code of conduct by members and make decisions on them. The current arrangements were last updated at the meeting of this committee on 22 November 2022. The arrangements have continued to include provision for the monitoring officer to agree local solutions to resolve complaints without formal investigations in appropriate cases and to determine at an initial stage in the process whether any further action is needed in any particular case.
6. Since 2012 the monitoring officer has agreed to analyse the complaints data and report this information to the appropriate committee annually. The data for 2022 is shown in appendix A alongside comparative data for the previous three years.

7. Where multiple complaints have been received about the same member on the same subject, these have been treated in the statistics as representing one complaint. Where a number of members have been included in a single complaint again this has been recorded as one complaint.

### **Commentary**

8. There was an increase in the number of complaints received in the last year with the highest number since 2016. As has usually been the case in previous years, the complaints have come from members of the public. The monitoring officer has dealt with all the complaints without requiring any formal investigations this year and no breach findings have been made in any of the cases. In five of the ten cases the monitoring officer has decided that no breach of the code has been identified from the evidence presented to her.
9. In appropriate cases the monitoring officer may seek to resolve the complaint informally, without the need for formal investigation. Such informal resolution may involve the member acknowledging that their conduct was unacceptable and offering an apology, or other remedial action by the authority.
10. Three of the complaints have been resolved in this way this year by the monitoring officer as a result of councillors providing apologies. It should be noted that where an apology is given there is no finding that there has been a breach of the code.
11. The complaints have been raised in a number of different contexts including alleged lack of engagement by councillors with members of the public, and complaints about inappropriate remarks made in correspondence, social media or in meetings. A number have related to differences of views between members of the public and councillors over locally contentious issues which invariably involve robust communication.
12. Where relevant the monitoring officer has sought the views of one of the independent persons prior to making her decision. Their views and consideration has been very valuable in assisting the monitoring officer in assessing complaints and finding solutions. One independent person stepped down at the beginning of the year. The remaining two independent persons have been in post for four years, and have had their appointments extended. This is for another three years in one case, and the other has agreed to continue until the end of March 2023. The recruitment of two new independent persons is underway and due to be finalised with a view to a decision being made at council assembly in March
13. The assistance of the Whips has also been helpful in producing local solutions or avoiding formal solutions.

### **Code of conduct training**

14. Following the elections in May last year, the induction training provided to

councillors included a session on the members' code of conduct and ethical standards. The training was provided by an expert external trainer together with our in-house team. The code of conduct training was attended by 23 members and a recording was also made available for members to watch in the event that they could not attend. The training looked at the provisions of the code and gave some case examples to assist members in avoiding any possible breaches.

### **Code of Conduct review**

15. The Local Government Association published a suggested updated model code of conduct in 2020, amended in 2021, for councils to consider whether to adopt. The monitoring officer intends to consult members during the year on whether any changes should be made to Southwark's current code which has been in place since 2012. A report will be brought to a future meeting of the committee with options for members to consider.

### **Policy framework implications**

16. This report is not considered to have direct policy implications.

### **Community and equalities (including socio-economic) impacts**

17. The council has an open and transparent process for anyone to make a complaint against a member when they consider that the code of conduct has not been maintained. Information about the process is accessible on the council's website and there are arrangements in place for members of the public to make complaints in writing, or orally if necessary due to any disability or language difficulties.

### **Health Impacts**

18. There are no specific identified health impacts resulting from the matters addressed in this report, so a health impact statement is not considered necessary.

### **Climate change implications**

19. There are no specific climate change issues arising from the matters dealt with in this report. .

### **Legal implications**

20. The specific legal implications relating to this report have been included in the report.

### **Financial implications**

21. The resources needed for dealing with the complaints process have been maintained within current budgets

## Consultation

22. There has not been any consultation in relation to this report.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Members' code of conduct and complaints procedure	<a href="https://www.southwark.gov.uk/council-and-democracy/councillors-and-mps/your-councillors?chapter=2">https://www.southwark.gov.uk/council-and-democracy/councillors-and-mps/your-councillors?chapter=2</a> 160 Tooley Street PO Box 64529, London, SE1P 5LX	Constitutional team; constitutional.team@southwark.gov.uk

## APPENDICES

No.	Title
Appendix 1	Code of Conduct Complaints 2019-2022

## AUDIT TRAIL

<b>Lead Officer</b>	Doreen Forrester-Brown Director of Law and Governance		
<b>Report Author</b>	Allan Wells, Specialist Governance Lawyer		
<b>Version</b>	Final		
<b>Dated</b>	24.1.23		
<b>Key Decision?</b>	No		
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>			
<b>Officer Title</b>		<b>Comments Sought</b>	<b>Comments included</b>
Director of Law and Democracy		Yes	Incorporated
Strategic Director of Finance & Governance		No	No
<b>Cabinet Member</b>		N/a	N/a
<b>Date final report sent to Constitutional Team</b>			25 January 2023