

<b>Report to:</b>	Standards Committee	<b>Date:</b>	30 January 2018
<b>Report title:</b>	Operation of the Code of Conduct		
<b>Report from:</b>	Jessica Crowe, Monitoring Officer		
<b>Ward/Areas affected:</b>	Borough Wide		
<b>Chair of Committee/Lead Member:</b>	Tony Hazeldine, Independent Chair of the Standards Committee		
<b>Author(s)/Contact Number(s):</b>	Jessica Crowe, Monitoring Officer, 020 8770 6519		
<b>Corporate Plan Priorities:</b>	<ul style="list-style-type: none"> <li>• An Open Council</li> <li>• A Fair Council</li> </ul>		
<b>Open/Exempt:</b>	Open		
<b>Signed:</b>		<b>Date:</b>	19 January 2018

## 1. Summary

- 1.1 A function of the Council's Standards Committee is to receive reports on the operation of the member Code of Conduct at Sutton. The purpose of this report is to update the committee on complaints which have been received and dealt with since the last meeting held on 21 June 2017.

## 2. Recommendations

The Standards Committee is recommended to:

- 2.1 To note and comment on the action taken by the Monitoring Officer in dealing with complaints.
- 2.2 To make any recommendations relevant to the committee's role and function in promoting high ethical conduct by members.

## 3. Background

- 3.1 The Localism Act resulted in changes to the process for dealing with Code of Conduct complaints made against Councillors. The Monitoring Officer is required to review every complaint received and consult with the Independent Person as to whether the complaint requires formal investigation. The Monitoring Officer will consider the following in determining whether a complaint requires investigation:



1. It is against a councillor or co-opted member.
2. The councillor or co-opted member was in office at the time of the alleged conduct.
3. If proven, the complaint would be a breach of the Code of Conduct in force at the time of the alleged misconduct.
4. The complainant has provided sufficient information for referral for investigation or any other action.
5. The complaint is about someone who is no longer a member of the Council, but is a member of another relevant authority.
6. The complaint has already been the subject of an investigation or other action relating to the Code of Conduct.
7. The complaint is about something that happened so long ago that there will be little benefit in taking action now, or it is not feasible to investigate for any other reason.
8. The complaint is too trivial to warrant further action or not in the public interest.
9. The complaint appears to be simply frivolous, vexatious, politically motivated or tit-for-tat.

**4. Issues**

4.1 Complaints were received by the Monitoring Officer as set out in the table below:

Complaint from	Complaint about	Action
Members of staff	Volume and nature of member enquires from one particular member that the team are having to deal with causing team members to feel stressed. Staff feeling bullied and harassed by the aggressive tone and language used in emails by this member.	Complaint received before last committee but put on hold during purdah. Staff and Member interviewed. Attempts to reach agreement on form of words for an apology have not been successful. Alternative steps taken to minimise exposure of staff to this member. Independent Person consulted. Warning provided that further examples of sending aggressive and personalised emails to junior staff in particular may result in restriction of the member's email account, which has

		previously been used on a temporary basis to protect staff.
Member of public	Failure of Member to respond to 2 emails about new waste service	Complaint received before last committee but put on hold during purdah. Member checked emails and no record found in inbox or spam. Member wrote and apologised to resident for missing emails and asking if any action required on substantive waste complaints; no response received from resident. Independent Person consulted. Conclusion that criteria for further investigation not met and complaint resolved through member's action in apologising.
Member of public	Poor chairing by Local Committee Chair in apparently ignoring member of public who wished to speak on an item, request that member receives additional training.	Complaint received before last committee but put on hold during purdah. Committee proceedings recording listened to, member and committee clerk interviewed, Independent Person consulted. Conclusion that no breach of Code and Chair acted reasonably in fulfilling duties as Chair.
Member of the public	General complaint to Chair of Standards Committee about circumstances of a particular decision, may have turned into complaint about member who signed off decision but ultimately did not.	Chair of Standards and Monitoring Officer had several exchanges of correspondence with the resident, who also attended the last Standards Committee meeting. No formal complaint about member forthcoming.
Member of the public	Complaint that a member was harassing the resident over a planning enforcement matter and using their	Member interviewed, relevant officers asked to provide evidence of facts of planning case, emails and



	<p>influence as a councillor to further their interests as a private resident.</p>	<p>other correspondence reviewed. Independent Person consulted. Conclusion that issue was fundamentally a neighbour dispute and member had mostly acted appropriately to refer concerns of neighbours to ward councillor. However, on one occasion the member had emailed officers direct which was not appropriate given their personal interest. Conclusion that public interest would not be served by investigating further. No evidence of harassment or officers being asked to take inappropriate action. Member advised to maintain original approach of raising concerns via their ward councillor. Resident unhappy with resolution and alleged that ward councillor also directing officers to harass them. No evidence of this and resident advised that no further action would be taken.</p>
<p>Member of the public</p>	<p>Complaint that a member failed to properly declare their interest over a planning application and by remaining in meeting influenced committee to refuse the residents application. Also that member used derogatory and sexist language.</p>	<p>Recording of meeting reviewed and clerk consulted. Discussed with member and legal advice sought as to whether interest was disclosable pecuniary interest or a conflict - conclusion that it was not. Still need to finalise consultation with Independent Member but likely to conclude that member be written to to advise more care in declaring interests in the interests of transparency and to be more appropriate in their use of language and tone of debate.</p>

## 5. Options Considered

- 5.1 The Monitoring Officer has authority to decide whether there are grounds to initiate a formal investigation of a complaint made about a member, using the criteria above and the powers provided in the legislation. The Monitoring Officer must consult the Independent Person and this was done in all cases summarised above. In addition, legal advice was taken where necessary to inform the decisions.
- 5.2 The broad recurring themes in the above complaints are around language and tone used by members, and a potential mismatch between how local authority business is conducted and the expectations and understanding of the public. The first of these will be addressed as far as possible through the induction programme for new members, and all members will continue to be reminded of their personal obligation to behave in an appropriate way that brings credit to the authority rather than the opposite.
- 5.3 Standards Committee's views and comments on the above complaints and themes are welcomed to inform the approach going forward. The Committee will be aware that Sutton responded to the recent Government consultation on certain aspects of the standards regime requesting that a fuller review be carried out to restore some of the sanctions that were previously available to enforce good behaviour where members are not willing to take personal responsibility for it.

## 6. Impacts and Implications

### Financial

- 6.1 There are no financial implications arising directly from this report. If an investigation into member conduct were to be commissioned this would incur cost to the Council.

### Legal

- 6.2 The legal implications are set out in the body of the report



**7. Appendices and Background Documents**

<b>Appendix letter</b>	<b>Title</b>
N/A	None

<b>Background documents</b>
Complaint Forms and responses exempt by virtue of paragraph 1 of schedule 12A of the Local Government Act 1972

<b>Audit Trail</b>		
Version	Final	Date: 19 January 2018
<b>Consultation with other officers</b>		
Finance	No	N/A
Legal	No	N/A
Equality Impact Assessment required?	No	N/A