

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**JOINT STANDARDS COMMITTEE**

**12 October 2020**

**Report of the Monitoring Officer**

**Part 1- Public**

**Matters for Information**

**1 UPDATE – CODE OF CONDUCT COMPLAINTS**

**Executive Summary**

**This report updates Members on the complaints made to me as Monitoring Officer that a Member may have failed to comply with his/ her authority's Code of Conduct.**

**1.1 Introduction**

1.1.1 In accordance with the arrangements adopted by the Borough Council for dealing with complaints that a councillor has breached their authority's code of conduct, complaints are subject to an initial assessment by me in consultation with the Independent Persons and the Chairman and Vice-Chairman of the Joint Standards Committee. In advance of that assessment I invite the Councillor against whom the complaint is made to submit their initial views to me so that these may be taken into account in our deliberations.

1.1.2 Our adopted procedure requires that complaints are assessed against the following preliminary criteria –

**The legal jurisdiction test** - this contains 6 elements, including

- was the person complained of acting in an official capacity at the time of the alleged conduct?

- If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct? ;

If a complaint fails one or more of the jurisdiction tests, no further action will be taken and the complaint will be rejected;

**The local assessment criteria test** - if a complaint passes the legal jurisdiction test, I am then required to apply the local assessment criteria test. There are 12 elements to this test, including

-The complaint is relatively minor and dealing with the complaint would have a disproportionate effect on both public money and officers' and Members' time;

-The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter

If one or more of the local assessment criteria applies to the complaint, no further action will be taken by me and the complaint will be rejected.

1.1.3 If a complaint passes the above tests, the next stage is then to consider whether the complaint merits investigation, or if it is more appropriate for it to be resolved on an informal basis. In certain cases it may also be appropriate to take no action, notwithstanding the fact that a complaint has passed the initial tests.

1.1.4 As previously agreed by this Committee, personal details of Complainants or Subject Members are not published unless a complaint leads to investigation and public hearing before the Hearing Panel.

1.1.5 I have received an unprecedented number of complaints during 2020. In total, I have determined 19 complaints since 1 April 2020. Details of these complaints are set out in the table attached at **Annex 1**. One further complaint currently remains undetermined.

## **1.2 Legal Implications**

1.2.1 The Borough Council is required under s28(6) of the Localism Act to have in place arrangements under which allegations can be investigated and decisions on allegations can be made.

## **1.3 Financial and Value for Money Implications**

1.3.1 Nil arising from this report.

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Monitoring Officer