

Wards affected:

General

Appeals and Standards Committee – 9 June 2020

Annual Review of Standards of Conduct and Complaints Handling

Report of the Monitoring Officer

1. Purpose of Report

To review experience of the conduct of Members of DDC and town and parish councils in 2019/20, the handling of complaints against them, and the handling of any appeals by DDC employees, all with a view to identifying future improvements.

2. Advice

That it be RESOLVED that:	<ol style="list-style-type: none">1. The annual review of standards of conduct and the handling of complaints is noted as a positive record.2. The occasional use of Members of the Committee as “mystery shoppers” continues.3. A 2019/20 Code of Conduct Key Messages summary is supplied by the Monitoring Officer to parish and town councils, based on experience of the past year, and copied to Members of the Appeals & Standards Committee.
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3. Introduction

This report is designed to serve as the Committee’s annual report to Council on its workings and performance, as required under DDC’s Constitution. It covers “2019/20” which, for the purposes of this annual report, is the period from 4 June 2019 to 29 May 2020 inclusive.

The Committee’s deliberations and decisions contribute to the Council’s promotion and maintenance of high standards of conduct, a duty required of it by the Localism Act 2011. The Monitoring Officer’s work is similar in intent.

This legal duty is in respect of the conduct of Members (including any co-opted Members) of the District Council. As agreed by Council, via DDC’s Constitution rather than the Act, the Committee is also required to promote good conduct generally by reviewing experience with parish and town council Members and their councils.

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The Monitoring Officer and the Committee have certain roles in respect of the registration of Members' interests and the handling of complaints about their conduct.

Under the Committee's terms of reference, Hearing Panels are able to be established for investigated complaints about Members and for appeals by Council employees.

A key purpose of the annual review is to determine the need for any development activities and any procedural changes, particularly in respect of the various Codes of Conduct for Members or of the complaint handling arrangements.

4. Information

4.1 Promotion of High Standards

National Context

Nationally, there have not been any changes to the standards regime in 2019/20. Members have previously been informed that a Government review of the effectiveness of sanctions for breaches of codes of conduct had been indicated and not materialised – which remains the position.

However, what is of potential national significance is the work of the Committee on Standards in Public Life. The Committee is a standing committee. It is an advisory non-departmental public body sponsored by the Cabinet Office.

In last year's update by the Monitoring Officer, it was reported that this Committee had published a report 'Local Government Ethical Standards' following a national investigation into conduct and, particularly, sanctions for breaches of Codes of Conduct. Frustratingly the recommendations made by the committee have not yet been considered by Government and the position on sanctions remains unchanged.

Appeals and Standards Committee, at its last meeting, supported four best practice suggestions identified by the Committee on Standards in Public Life; I can report that those have been put in place.

Local Context

Turning more locally, as always the Monitoring Officer's approach in 2019/20 continued to be one of encouraging contact from councils, Members, Officers and Clerks with the primary aim of giving them advice and preventing problems. As well as usual email and telephone contact, there were occasional face-to-face meetings when there was a hot local issue. Some complainants also sought information and advice. This overall approach was again useful, judging from feedback.

There were two 'mystery shopping' visits made during the 2019/20 by co-opted independent Members of the Committee.

The first of these was to a parish council where concerns had been raised about councillor behaviours. The mystery shopper reported that the meeting was

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conducted in a satisfactory manner, councillors were polite to each other and no signs of disharmony were apparent. The mystery shopper concluded that the meeting met the standards of behaviour expected.

The second mystery shopping occurrence was to visit a DDC Full Council meeting, this had been planned for 2018/19 but hadn't gone ahead then due to the resignation of an Independent Member. The meeting attended by the mystery shopper had a particularly heavy agenda and it was noted that it was professionally chaired and reports well presented with courtesy and consideration shown by all councillors. One or two good practice issues were identified particularly around the access to electronic version of the papers by councillors and the public. These are being considered by Officers.

A third mystery shopping exercise was planned for a parish council but this was postponed due to cancellation of the meeting following the Covid-19 outbreak.

Overall, mystery shopping remains useful for gauging and improving standards and is again recommended to continue. Given recent complaints history, again there are a couple of obvious parish council candidates.

Members will be aware that legislation is now in place, the Northamptonshire (Structural Changes) Order 2020, which confirms the arrangements for unitary councils to be in place from 1 April 2021. The Order was amended in following the outbreak of Covid-19 and the cancellation of the planned elections to the shadow authorities in May 2020. Shadow authorities were created on 11 May 2020 and the first meeting of the West Northamptonshire Shadow Authority is scheduled for 2 June 2020. All existing councillors from Daventry District Council, Northampton Borough Council, South Northamptonshire District Council and those councillors of Northamptonshire county Council representing West Northamptonshire electoral divisions are members of the West Northamptonshire Shadow Authority. A Code of Conduct for Members, drafted by Monitoring Officers, will be considered by the Shadow Authority at its first meeting.

As part of local promotion of high standards, a summary of the key messages arising from 2019/20 experience is recommended for issue to all clerks of town and parish councils.

4.2 Codes of Conduct and Registers of Interests

Under the Localism Act 2011, each individual county, district, parish and town council was able to adopt its own individual Code of Conduct. The DDC Local Code of Conduct for Members July 2015 version is current.

51 of 53 town/parish councils have adopted a Code that is essentially the same as the DDC Members Code, as last year. This proportion is excellent. Whilst 100% alignment would be ideal, this has not proved to be a hindrance in 2019/20.

There has been no need for the Monitoring Officer to review the DDC Members Code or its supplementary codes on housing, licensing and planning. As noted above, the prospect of local government reorganisation is leading to preparatory work on various governance issues. This includes a Code of Conduct for the shadow authority.

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Pursuant to the Localism Act and as captured in the DDC version of the Code of Conduct, a 'dispensation' can be sought by a Member in respect of a disclosable interest of theirs (allowing presence, participation and voting on a matter at a meeting related to that interest). One DDC Member applied for a dispensation and this was granted. A dispensation is recorded alongside registered interests.

Parish councils are legally obliged to have their own arrangements for handling dispensation requests, though neither the parish Member nor the parish council is obliged to inform the Monitoring Officer of any dispensations granted. However, it would be worth using the 2019/20 Code of Conduct Key Messages to remind parish councils of the sense in so informing and to encourage dispensations to be recorded on parish council registers of interests, as done for DDC, for transparency purposes.

The Localism Act allows for what are termed 'sensitive interests' to be withheld from publication. If a Member is concerned about the information on a particular interest being public, fearing violence or intimidation, they can ask the Monitoring Officer to agree that the interest be judged as 'sensitive'. The threshold and evidence test applied by the Monitoring Officer are high, as Members are in the public domain and to a large extent people expect them to fully disclose their interests in the spirit of open and transparent government. No applications were made during 2019/20.

4.3 Key Topics

The cancellation of elections in May 2020 as a consequence of the Covid-19 outbreak has naturally been a concern to Members as has the drafting of a new Code of Conduct for the shadow authority. Members have been given advice on request and training is planned on the Code of Conduct and governance arrangements as part of the shadow authorities' members training plan.

More conventionally, the Monitoring Officer was again asked to give advice and clarity on registration or disclosure of interests and on attendance at meetings. Most of these were made by Members themselves, which is positive recognition of the importance of disclosure. The Monitoring Officer gave guidance on the national General Principles of Public Life, the relevant Local Code of Conduct for Members and, in the case of DDC Members, its supplementary Codes as included in the Constitution.

4.4 Complaints Handling

The Council has adopted complaints handling arrangements in respect of Members of all councils alleged to have breached their Code of Conduct.

In 2019/20 only three Code of Conduct complaints were received. All related to parish councillors, in different parishes, and all were closed without the need for further action following the initial assessment of the case. It is pleasing that there were no complaints about DDC Members. A summary of cases is shown at Appendix 1.

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All three cases related to alleged disrespect and intimidating behaviour displayed by parish councillors to other parish councillors. The initial assessment in each case indicated it was unlikely that a breach of the Code of Conduct could be proved.

This recent low volume of complaints and their limited spread is similar to recent years and can again be regarded as positive to a large degree. This experience is akin to that in Northamptonshire as a whole it appears.

With all complaints, the Monitoring Officer writes up a decision notice with details of the complaint, the initial assessment undertaken and the reasoning for the decision on it, and provides that confidentially to the complainant, subject Member (and parish clerk if about a parish Member) - in the interests of fairness to all parties. Copies of those decision notices in 2019/20, suitably redacted so as not to identify subjects or their council areas, have been supplied to Committee Members and Independent Persons ahead of publication of this report. Such fuller information helps give a deeper sense of trends and issues than can be conveniently conveyed in the annual Committee report. This practice will continue.

All of the above narrative is in respect of complaints about Member conduct. The Committee also has completely separate remit for handling appeals against dismissal of DDC staff. This function is not handled by the Monitoring Officer, instead by the Governance and HR Manager. In 2019/20 there were no employee appeals.

4.5 Independent Persons

It is a legal requirement that the Council appoints at least one 'Independent Person' – which is distinct from an Independent Member of the Committee – and until recently the Council has three such voluntary positions. One Independent Person resigned in March 2020 leaving two. Given the Council will be abolished when the West Northamptonshire Council is created on 1 April 2020 and the infrequent call on Independent Persons it is considered that there is no current need to recruit a third. The Committee may note that the Committee on Standards in Public Life has recommended that councils appoint at least two Independent Persons, the Council's approach is in accord with that.

Again, the past year has been relatively quiet for the Independent Persons. It is good that, despite the limited number of cases, they were keen and committed.

The Monitoring Officer had the regular annual review meeting with all three Independent Persons to get their sense of any need for changes to Codes of Conduct, complaint handling arrangements or their roles. The Independent Persons support national adoption of a single Code of Conduct and strengthening of their role and of sanctions including re-introduction of suspension, (as suggested by the committee on Standards in Public Life) whilst acknowledging that stronger sanctions may affect councillor numbers; they support the Council's approach of not involving them at the initial assessment stage of complaint handling, so as to protect their independence for later on in proceedings; they agree also with their role in supporting the Member subject of complaint (unlike some other areas); they also highlighted the importance of parish council clerks being regularly trained and of parish council committees being properly established and managed.

5. Implications

5.1 Financial – Costs of the operation of the local standards regime are currently met from within existing budget. Additional costs are involved when an investigation is required, approximately £3,000 excluding VAT, but such costs have proved manageable to date and such cases are likely to remain very few.

5.2 Personnel – No implications.

5.3 Legal/Constitutional – Under the Localism Act 2011 the Council is required to promote high standards of conduct amongst its Members. This report serves to discharge the DDC Constitution requirement for an annual report of the Committee's activities.

5.4 Environmental – No implications.

5.5 Policy – No implications.

5.6 ICT – No implications.

5.7 Crime and Disorder – No implications.

5.8 Human Rights – No implications.

5.9 Equalities – No implications.

6. Conclusions

For DDC, all aspects of the standards regime introduced by the Localism Act 2011 were complied with in the past year – 4 June 2019 to 29 May 2020 inclusive. This report particularly helps towards promotion of high standards of conduct - one of the Act's imposed duties - and helps to inform the need for any further development. Experience over the year has once again been generally positive.

Members and employees of DDC and of parish and town councils again sought advice on the Code of Conduct in particular, which was duly given and should have helped prevent problems arising, or sought clarification on obligations and procedures. The supply of 2019/20 Code of Conduct Messages is recommended for parish councils, as done in previous years, to identify key topics, in the spirit of promoting high standards.

Complaints received were about parish council Members but continued at a low level. No cases in the past year required further action. The local complaint handling process again worked well.

The Independent Persons were again ready and able, notwithstanding it was another quiet year. They saw no need to alter arrangements locally ahead of any national review.

Government has still not considered the recommendations of 'Local Government Ethical Standards': A Review by the Committee on Standards in Public Life, it will be interesting to see the Government's response in due course and whether there

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will be changes to the current national standards regime as wished by the Committee previously, the Independent Persons and others (including many Monitoring Officers).

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Background papers:

Previous minutes:
Appeals & Standards Committee 13 June 2019

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