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| This report is public | |
| Monitoring Officer's Annual Report 2023/24 – Complaints, Conduct & Ethics. | |
| Committee | Accounts, Audit and Risk Committee |
| Date of Committee | 25 September 2024 |
| Portfolio Holder presenting the report | Portfolio Holder for Corporate Services, Councillor Chris Brant |
| Date Portfolio Holder agreed report | 12 September 2024 |
| Report of | Assistant Director Law and Governance and Monitoring Officer, Shiraz Sheikh |

Purpose of report

To provide the Committee an annual report on matters relating to standards and conduct of Members within the Cherwell District at District and Parish level, complaints made to the Local Government Ombudsman and other matters for the municipal year of 2023/2024.

1. Recommendations

The Accounts, Audit and Risk Committee resolves:

- 1.1 To note the content of the report, which will also be circulated to all Town and Parish Councils in the district for information.

2. Executive Summary

- 2.1 The report is the annual report from the Monitoring Officer to this Committee in relation to standards and conduct of members within the district.
- 2.2 The Key findings identified in the report are:
 - a) standards of ethical conduct across the district remain good.
 - b) the number of gifts and hospitality declared by officers and members are very low and there needs to be periodic reminders to both officers and members on this.
- 2.3 The report also includes the Annual Review Report from the Local Government and Social Care Ombudsman (LGSCO). The LGSCO reports the decisions that they have made on complaints received to them from April to March. The report is attached at Appendix 1.

Implications & Impact Assessments

Cherwell District Council

| Implications | Commentary | | | |
|--|--|----------------|-----------------|-------------------|
| Finance | There are no financial implications arising from this report however, costs associated with external investigations may lead to a budget pressure. Rachel Ainsworth, Financial Business Partner, 30/8/24 | | | |
| Legal | There are no legal issues arising from this report. Matters covered in the report regarding code of conduct complaints are general requirements in the Localism Act 2011 and its supporting regulations. Shahin Ismail, Interim Head of Legal and Deputy Monitoring Officer, 3 September 2024 | | | |
| Risk Management | Having good practice and following procedures means that the Council's credibility stays good and ethical behaviour is well managed. Adherence to the requirements of the Code of Conduct mitigate the risks of the descent of standards and the Council's decisions being subject to legal challenge. Celia Prado-Teeling, Performance Team Leader, 29 August 2024 | | | |
| Impact Assessments | Positive | Neutral | Negative | Commentary |
| Equality Impact | | | | Not applicable |
| A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality? | | x | | |
| B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users? | | x | | |
| Climate & Environmental Impact | | x | | |
| ICT & Digital Impact | | x | | |
| Data Impact | | x | | |
| Procurement & subsidy | | x | | |
| Council Priorities | Not applicable | | | |

| | |
|--------------------------------------|------|
| Human Resources | N/A |
| Property | N/A |
| Consultation & Engagement | None |

Supporting Information

3. Background

- 3.1 Under the Localism Act 2011, Councils have the responsibility of regulation of the standards of conduct of elected and co-opted members of Councils and, in the case of district councils, Town and Parish Councils in their district. To demonstrate how the Council is regulating conduct, an annual report will be produced by the Monitoring Officer and presented to the Accounts, Audit and Risk Committee to inform Members of the activity taking place around the code of conduct and other functions of the Monitoring Officer.

4. Details

The Monitoring Officer

- 4.1 The Council has a statutory duty to appoint a Monitoring Officer under Section 5 of the Local Government and Housing Act 1989 as one of its designated officers. The Council's Monitoring Officer (Shiraz Sheikh) has appointed one deputy (Shahin Ismail). The functions and duties of the Monitoring Officer are set out in legislation. These include promoting and maintaining standards of conduct of elected and co-opted members. The Monitoring Officer also has a statutory responsibility to establish and maintain a register of interests for members and co-opted members of the authority as well as Town and Parish Councils in the district.

A number of home addresses that have been declared by Members have been withheld from publication where the Monitoring Officer has been satisfied that the interest is a sensitive interest in accordance with the provisions of section 32 of the Localism Act 2011.

The Standards Committee

- 4.2 The role of the Standards Committee is to promote and maintain high standards of conduct by members and co-opted members of the Council and the Town and Parish Councils in the Cherwell district and make recommendations to Council on the adoption, revision or replacement of a code of conduct for members and co-opted members.
- 4.3 The Committee approves and administers the arrangements under which allegations of breach of the code of conduct for members and co-opted members can be investigated and decisions on such allegations can be made. The

arrangements set out the process for dealing with complaints of alleged breach of the adopted Code of Conduct by Members at District and Parish level. The Standards Committee has not had to convene to consider any formal investigations for breaches of the Code of conduct this year.

- 4.4 The Committee Membership comprises 8 members based on proportional representation, with unnamed substitutes.
- 4.5 Independent Persons, appointed by Council, have standing invitations to attend Standards Committee meetings. They have an advisory role and have no voting rights. Independent Persons also play a key role during the process of dealing with complaint of alleged breaches. The Independent Person is consulted by the Monitoring Officer during the procedure of complaints as a second opinion regarding complaints.
- 4.6 The Council currently has two Independent Persons, Tom Edwards and Dr Sadie Reynolds, for Standards who were appointed at Full Council in 2021 and 2022 and their terms of office expires in December 2025. The IPs are consulted on allegations of breaches of the Code of Conduct, at an Initial Assessment stage. The Ips have provided high quality and invaluable input in the last year in this respect.

Local Assessment of Complaints against Councillors

- 4.7 Under Section 28 of the Localism Act 2011, Council's must have in place arrangements to deal with allegations that an elected or co-opted member of the authority or of a town or parish council within the principal authority's area has failed to comply with the authority's Code of Conduct. The arrangements must set out how allegations are considered and decisions made.
- 4.8 The arrangements for Cherwell District Council were reviewed and amended by the Monitoring Officer in late 2023. Following consideration by the Standards Committee on 31 January 2024, they were agreed by Council meeting on 26 February 2024. These arrangements are included in the Council's constitution under part 11a.
- 4.9 The Members' Code of Conduct governs the standards of conduct expected of elected Councillors and this is part 11 of the Council's constitution. Training on the Code of Conduct is provided to Members at the start of the municipal year and is available on the Members' Teams channel.
- 4.10 Town and Parish Council's must have an adopted Code of Conduct. Many Parish Council's in the Cherwell District have adopted the Oxfordshire Councils' model Code of Conduct 2022. This code was drafted by the Monitoring Officers of the principal authorities in Oxfordshire in 2022. It was adopted at the Annual Council meeting on 18 May 2022 as the Code of Conduct for Cherwell District Council Member.
- 4.11 In 2023/24 municipal year, 26 complaints of alleged breach of Code of Conduct were received by the Monitoring Officer. 20 complaints were made against Councillors at Town/Parish Council's and six complaints were made against Councillors of Cherwell District Council. These complaints were assessed at the Initial Assessment stage in accordance with the Council's adopted arrangements.

| Type of Council | Number of complainants | Number of complaints no breach of the code found so no further action | Number of complaints informal resolution suggested | Number of complaints not proceeded with/withdrawn |
|-----------------|------------------------|---|--|---|
| District | 6 | 6 | 0 | 0 |
| Town/Parish | 20 | 14 | 2 | 4 |

- 4.12 In comparison to the previous years, see table below. The number of complaints at Parish level have increased significantly. This is due to a couple of significant planning related activities that has generated multiple complaints on the same issues. None have progressed beyond the Initial Assessment process.

Comparison on the number of District and Town/Parish Council complaints received 2019/20 – 2023/24

| Type of Council | 2019/20 | 2020/21 | 2021/22 | 2022/23 | 2023/24 |
|-----------------|---------|---------|---------|---------|---------|
| District | 0 | 0 | 3 | 5 | 6 |
| Town/Parish | 2 | 2 | 3 | 4 | 20 |

Learning points arising from complaints received

- 4.12 In relation 2023/24, the two complaints where informal resolution was recommended, the complaints were made against the same Councillor about the same breach and the informal resolution recommended was that the subject Councillor make an apology at the next meeting of the Council. This was duly complied with by the subject Councillor.

Comparison on action taken on complaints received 2019/20 – 2023/24

| Action | 2019/20 | 2020/21 | 2021/22 | 2022/23 | 2023/24 |
|--|---------|---------|---------|---------|---------|
| Withdrawn/not progressed with | 0 | 0 | 3 | 3 | 4 |
| No further action | 2 | 3 | 3 | 5 | 20 |
| Informal resolution | 0 | 0 | 0 | 1 | 2 |
| Councillor had resigned before assessment so no further action | | | | | |
| Investigation | 0 | 0 | 0 | 0 | 0 |

- 4.15 The 20 complaints where no further action was taken, the majority of complaints were related to posts on social media. Although the complaints have not been upheld, this is a helpful reminder to Members to think about posting on social media. When posting on social media, they should think about how posts can be interpreted by local residents and if a Member is using social media as a resident, be mindful on how social media is used. Certainly at District level a member training programme will address this point.

Register of Interests

- 4.16 Following scheduled elections, all elected Members of Cherwell District Council and Members of Parish Councils are required to complete and submit their Register of Interests form within 28 days of taking up office. These have been received for the May 2024 elections and are published on the Council's website.
- 4.17 District Councillors are reminded to review their interests on a regular basis and to notify the Democratic Services Manager of any amendments.
- 4.18 Town and Parish Councillors are reminded via their Clerks to advise the Monitoring Officer of updates to their Register of Interest forms in order that compliance with the Localism Act 2011 is maintained. Clerks also ensure that councillors elected or co-opted outside of the scheduled election cycle complete and return to the Monitoring Officer's Register of Interest form within 28 days' of taking up office.

Gifts and Hospitality

- 4.19 The Gifts and Hospitality Protocol is incorporated into the Members Code of Conduct and is set out in Part 11 of the Constitution (Code of Conduct).
- 4.20 The Code states that a Councillor must register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt and register with the Monitoring Officer any significant gift or hospitality that they have been offered but have refused to accept.
- 4.21 In the municipal year 2023/24, two declarations of gifts or hospitality by Officers were received by the Monitoring Officer. Members have been reminded of the need to declare any gifts or hospitality received in accordance with the adopted Code of Conduct.
- 4.22 Officers are also subject restrictions on those Gifts and Hospitality that are deemed to be acceptable under the revised employee Code of Conduct Policy effective 1 February 2023 following approval by the Personnel Committee on 31 January 2023.
- 4.23 The employee Code of Conduct, as well as the Council's anti-bribery policy, sets out that it is a criminal offence to offer, give, receive, or solicit something of value for the purpose of influencing the action of an official in the discharge of their public or legal duties.
- 4.24 The intention of the policy relating to gifts and hospitality is to ensure that the Council can demonstrate that no undue influence has been applied or could be said to have been applied by any resident, service user, supplier or anyone else dealing with the Council and its stewardship of public funds.

Local Government and Social Care Ombudsman (LGSCO) Complaints

- 4.25 The Monitoring Officer is responsible for the administration of complaints made to the Local Government and Social Care Ombudsman.
- 4.26 The LGSCO is the final stage for individual complaints about councils, all adult social care providers (including care homes and home care agencies) and some other organisations providing local public services. They are a free service provided to people who have completed all stages of the Council's own complaints procedure and remain unhappy with the outcome. The LGSCO have guidelines regarding what

they can investigate. Complainants must have complained to the Council within 12 months of becoming aware of the matter and been directly affected by the matter resulting in 'personal injustice'. Not all complaints will be investigated, for example if the Ombudsman does not feel they will find fault regarding the Council. Further information is available at: lgo.org.uk

- 4.27 Each year, the LGSCO issues an Annual Review Report about each Council. This report attached at Appendix 1 details the complaints that were considered by the Ombudsman up to 31 March 2024.
- 4.28 For the period 1 April 2023 to 31 March 2024, ten complaints and enquires against Cherwell District Council were submitted to the LGSCO, the compares to 13 for the period 1 April 2022 to 31 March 2023 and 16 for the period 1 April 2021 and 31 March 2022.
- 4.29 The number of complaints received by service area as categorised by the LGSCO for the period 1 April 2023 to 21 March 2024 are as follows:

| By LGSCO Category | Number of complaints received by the LGSCO |
|---|---|
| Planning & Development | 5 |
| Environment Services & Public Protection & Regulation | 3 |
| Benefits & Tax | 1 |
| Housing | 1 |

- 4.30 The LGSCO returned decisions on all 10 complaints against Cherwell District Council for the period 1 April 2023 to 31 March 2024. It should be noted that decisions may relate to complaints made in the previous year 2022-2023, investigations may not have been completed on all complaints received during the 2023-2024 period therefore a decision would not have yet been received. The number of complaints received, and decisions made in the one-year period will not always correspond.
- 4.31 The complaint decisions received against Cherwell District Council were categorised by the LGSCO as follows:

| By LGSCO Category | Number of complaint decisions by LGSCO |
|--|---|
| Upheld | 1 |
| Referred to the Council for resolution | 3 |
| Incomplete/invalid | 1 |
| Closed after initial inquires | 5 |

- 4.32 The complaint that was upheld was categorised by the LGSCO as Housing. The LGSCO decided that the Council's policy on additional bedrooms was poorly worded and recommended a procedure or policy change/review which has been complied with.
- 4.33 As detailed in sections 4.28 and 4.29, the LGSCO received ten complaints and enquiries against Cherwell District Council during 2023-2024. For information and

comparison, the table below sets out the number of complaints and enquiries received by the LGSCO in the four preceding years.

| LGSCO Category | 2023/24 | 2022/23 | 2021/22 | 2020/21* | 2019/20* |
|---|----------------|----------------|----------------|-----------------|-----------------|
| Planning and Development | 5 | 2 | 8 | 5 | 6 |
| Corporate Complaints (i.e. non-social care) | 0 | 1 | 1 | 3 | 0 |
| Environment Services & Public Protection & Regulation | 3 | 2 | 2 | 2 | 6 |
| Benefits & Tax | 1 | 7 | 2 | 0 | 5 |
| Highways & Transport | 0 | 0 | 0 | 0 | 1 |
| Housing | 1 | 1 | 3 | 0 | 1 |

(* LGSCO stopped accepting new complaints between March and June 2020)

- 4.34 For information, the following table sets out comparative data on the number of decisions in the preceding years.

| LGSCO Decision | 2023/24 | 2022/23 | 2021/22 | 2020/21* | 2019/20* |
|--|----------------|----------------|----------------|-----------------|-----------------|
| Complaints upheld | 1 | 1 | 0 | 0 | 3 |
| Complaints not upheld | 0 | 1 | 1 | 3 | 2 |
| Referred to the Council for resolution | 3 | 4 | 4 | 1 | 2 |
| Closed after initial Enquiries | 5 | 7 | 9 | 6 | 11 |
| Incomplete/Invalid | 1 | 0 | 1 | 0 | 0 |
| Total decisions | 10 | 13 | 15 | 10 | 18 |

(* LGSCO stopped investigating existing cases between March and June 2020)

5. Alternative Options and Reasons for Rejection

- 5.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Not to note the report and not to produce a report. There is no duty to produce this report however this report provides transparency regarding the functions of the Monitoring Officer.

6 Conclusion and Reasons for Recommendations

- 6.1 This report provides the Committee with information and relevant updates from the Monitoring Officer, including the Members Code of Conduct. It is imperative that members and officers set the ethical tone within the Council and model the behaviours that they expect of themselves and others.
- 6.2 Whilst there has been a higher number of complaints made against Members alleging a breach of the adopted code of conduct, less than a fifth were assessed to find a breach and this demonstrates that the standard of conduct is very good in the district.

6.3 The report also provides Members with information with regard to the number of complaints received by the Local Government and Social Care Ombudsman against the Council and the decisions regarding complaints.

Decision Information

| | |
|---|-----|
| Key Decision | No |
| Subject to Call in | No |
| If not, why not subject to call in | N/A |
| Ward(s) Affected | All |

Document Information

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|--------------------------------------|---|
| Appendices | |
| Appendix 1 | Local Government and Social Care Ombudsman Annual Report 2023/2024 |
| Background Papers | None |
| Reference Papers | Arrangements for Local Determination of Allegations of Alleged Breached of the Councillors' Code of Conduct |
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