

<b>Report title:</b> Code of Conduct Complaints 2022-23	
<b>Report to:</b> Audit, Governance and Standards Committee	
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<b>Date:</b> 5 June 2023	<b>For:</b> Discussion
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<b>County Divisions affected:</b> 'All Essex'	

## 1. Executive Summary

- 1.1 This report informs members of the complaints received under the members Code of Conduct.

## 2. Recommendations

- 2.1 Members of the Committee are asked to note the findings of the review and make any recommendations they may have.

## 3. Summary of issue

- 3.1 Under the procedure adopted by the Committee for consideration of complaints, the Committee's main role is to have oversight of the complaints and to populate the sub-committee which makes decisions on cases which have been investigated and referred to the sub-committee by the monitoring officer.
- 3.2 All complaints are, as a minimum, considered by the monitoring officer and by an independent person. The Council has two independent persons and they are used in rotation. The independent persons have been in place since 2012 and are paid £500 per annum, a sum which also has not been reviewed since 2012..
- 3.3 In 2022-23 we received four complaints alleging a breach of the code of conduct:
- Three were allegations relating to responses to correspondence which a constituent found to be unsatisfactory. Whilst we hope that all members will respond to correspondence with a high standard of customer service, it is not generally considered be a breach of the code if a councillor makes an error, does not reply to every email or closes down a correspondence when

the Councillor considers that there is no more to say on an issue. Therefore these complaints were not investigated

- One was a complaint about the behaviour of a councillor, but this was not within the scope of the ECC code as the councillor concerned was acting as a member of another council and not as a member of ECC. It was decided that this complaint was not one which was within the scope of the ECC Code and could not be investigated since the Localism Act 2011 makes it clear that the code applies to 'members of the authority when they are acting in that capacity'.

- 3.4 In addition, there were a number of complaints made against another ECC member relating to a single incident at a meeting of another local authority. The complaints were withdrawn and redirected to the other authority as this was clearly not within the scope of the ECC code.

#### **4. Financial implications**

- 4.1 This report has no financial implications

#### **5. Legal implications**

- 5.1 The council can only consider complaints relating to breaches of the Code of Conduct which relate to councillors who were acting as a member of the County Council. Members acting in their private capacity unrelated to the council or members acting as a member of another local authority with its own code are beyond the scope of the ECC code. This is because of the way that section 27(2) of the the Localism Act 2011 is drafted and the Council has no choice about this.

#### **6. Equality and Diversity implications**

- 6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
  - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

6.3 This report simply presents the register of gifts and hospitality to the Committee.

**7. List of appendices**

7.1 None