

Report Title: Monitoring Officer's Annual Report	
Report to: Governance and Audit Committee	
Date: 4 th October 2023	For: Noting
Key Decision: No	Decision Planner Ref No: N/A
Report Presented by: Kim Mayo, Head of Governance and Monitoring Officer	
Enquiries to: Kim Mayo, Head of Governance and Monitoring Officer (kim.mayo@braintree.gov.uk)	

1. Purpose of the Report

- 1.1 This report provides an update on the functioning of the Member Standards Framework for the period 2021/22 and 2022/23.
- 1.2 The Monitoring Officer is the Proper Officer for the discharge of the Council's functions under the Localism Act 2011, including the assessment and determination of complaints made in respect of the Code of Conduct (the Code) as adopted by Braintree District Council (the Council) and the Code of Conducts as adopted by all Parish and Town Councils in the Braintree District.

2. Recommendations

- 2.1 To note the content of this Report.

3. Summary of Issues

- 3.1 This is the Annual report of the Council's Monitoring Officer and covers the Civic Years 2021/22 and 2022/23. The purpose of the report is to review the functions of the standards framework and governance across the Council during this period.
- 3.2 A substantive review of the Council's Constitution and associated governance arrangements was carried out during 2020/21 before being approved by Council at its Annual General Meeting in April 2021.
- 3.3 In accordance with the Council's Constitution, the Monitoring Officer is required to monitor and review the operation of the Constitution and ensure that the aim and principles within it are given full effect. Minor changes and routine updating can be made as required by the Monitoring Officer. All other changes must be approved by full Council.

- 3.4 At the Council's Annual General Meeting on 25th April 2022, Council agreed changes to the public question time provisions to assist with the administration of this aspect of the meeting, ensuring that public questions are considered by the appropriate forum. Further minor changes were implemented in order to bring consistency to the document, ensure that cross referencing was accurate and updates following changes to officer roles and responsibilities.
- 3.5 At last Annual General Meeting on 25th May 2023, the Constitution was further updated to reflect changes made to the Committee structure, to re-order the items of business on the agenda for consideration by Council, brought in a new process for enabling Members to ask questions of the Leader and Cabinet Members during Council meetings and revised the allocation of Motions.
- 3.6 Under section 28(7) of the Localism Act 2011 it is a statutory requirement for the Council to have appointed an Independent Person (IP) to discharge the statutory role in relation to any complaints received by the Council under the Code. The Council's Independent Person is in post until April 2024. There is provision to extend this appointment for a further year if necessary. The Independent Person has been supporting the Monitoring Officer's consideration of Code of Conduct complaints.
- 3.7 The Monitoring Officer is the Proper Officer for receiving complaints in respect of Member conduct. This includes the conduct of District, Parish and Town Councillors. Under the Localism Act 2011, the Council are required to have in place arrangements for dealing with allegations that Councillors had failed to comply with the Code and also to investigate and determine those allegations. Those arrangements are published on the Council's website. The Council are aware that these arrangements have been in place for a while and will be reviewed as part of the governance work programme in 2023/24.
- 3.8 Complaints which relate to the failure to declare a Disclosable Pecuniary Interest, or a breach of a Councillor's requirement to register interests are referred to Essex Police. These matters are criminal offences under the Localism Act 2011 and the Monitoring Officer and the Council has no jurisdiction to consider these complaints. In 2021/22 and 2022/23, there were no such referrals made to Essex Police.
- 3.9 The assessment of complaints is treated confidentially by the Monitoring Officer until the completion of any investigation (where one is instigated) and therefore it is not appropriate to publish details of the complaints. Complaints which are still subject to the consideration of the Monitoring Officer are also excluded from this report. During the year 2021/22 and 2022/23, the Monitoring Officer received a number of formal complaints which have been considered and determined. Three Decision Notices against Parish or Town Councillors during this period have been issued on the Councils website. There were no decision notices issued against any District Councillor.

- 3.10 During the year 2021/22 and 2022/23 the key concerns raised through the Code of Conduct complaint process related to the behaviours of individual Councillors during meetings or through social media postings.
- 3.11 During this period, there were complaints which were rejected at the initial assessment stage as they:
- did not relate to a conduct issue that fell within the remit of the Code;
 - fell away as a result of the resignation of the Member whose conduct was the subject of the complaint; or
 - for were motivated by malice or tit for tat.
- 3.12 The Council has worked hard to resolve all historical Code of Conduct Complaints. There are now only two outstanding. These are under consideration by the Independent Person and the intention is to finalise the outcome as soon as possible.
- 3.13 Under the Code Complaints process, the Monitoring Officer may refer any complaint to the Standards Sub-Committee for them to make the initial decision on whether or not to investigate the matter. For the year 2021/22 and 2022/23 there has been no matters referred to the Standards Sub-Committee and no formal investigation has been commenced.
- 3.14 Following the National Model Code of Conduct being approved by the Local Government Association (LGA) in December 2020, small revisions were made by the LGA in January 2021 and May 2021. Following which detailed guidance was issued by the LGA in October 2021. The Council are now reviewing the Model Code of Conduct and will be bringing forward details for the Committees consideration in due course. The Committee will also be required to determine whether the Council wishes to adopt the new Model Code of Conduct, with or without local modification and will be required to make its recommendation to Council. It is expected that this will come forward for consideration in 2023/24.
- 3.15 Section 33 of the Localism Act 2011 enables a Councillor (District and Parish/Town Councillor) to make a written request to the Proper Officer of the Authority to seek a dispensation relieving them from the restrictions as set out in Section 31(4) of the Act, namely the participation in discussion and the vote of matter in which they have declared a Disclosable Pecuniary Interest or in the case of a District Councillor a substantive Non-Pecuniary Interest. No applications for dispensation by District or Parish Councillors were made to the Monitoring Officer for 2021/22 or 2022/23.
- 3.16 In accordance with the provisions of the Localism Act 2011, the Monitoring Officer is required to establish and maintain a Register of Interests for all District Councillors. In addition to this, the Monitoring Officer is required to obtain and publish copies of all Registers of Interests for Parish/Town Councillors. The Monitoring Officer discharges this function by publishing the Registers of Interests on the Council's website. Hard copies of the Registers are held by the Deputy Monitoring Officer.

3.17 Each District Councillor has their own webpage page which includes a tab for the Register of Interests and the Registers of Interests for Parish/Town Councillors are published as a single document on the webpage for each of the Parish/Town Councils.

3.18 It is the responsibility of Councillors to ensure that their Registers of Interests remains up to date. To assist Councillors with this duty, periodic reminders were sent to all District Councillors and the Parish Clerks to ensure compliance. There have been no reportable issues with District Councillors' Registers of Interests. The Deputy Monitoring Officer has worked with individual Parish Clerks and Parish Councillors where concerns have been identified.

4. Financial Implications

4.1 There are no financial implications arising out of the recommendations set out in this report.

5. Legal Implications

5.1 Under Article 9 of the Constitution, the Governance and Audit Committee shall receive reports from the Monitoring Officer concerning the members code of Conduct. This report satisfies that requirement.

6. Other Implications

6.1 No other implications arising out of the recommendations set out in this report.

7. Equality and Diversity Implications

7.1 The recommendations set out in this report do not require an Equality Impact Assessment to be undertaken at this time.

8. List of Appendices

8.1 None.

9. Background Papers

9.1 None.