
Monitoring Officer's Annual Report 2023/24 – Conduct and Ethics

Committee considering report:	Council
Date of Committee:	18 July 2024
Portfolio Member:	Councillor Jeff Brooks
Report Author:	Sarah Clarke
Forward Plan Ref:	C4559

1 Purpose of the Report

- 1.1 To provide the annual report on matters relating to standards and conduct and to bring to the attention of Members a summary of complaints or other problems within West Berkshire. The report highlights that standards of conduct by councillors in West Berkshire remains high.

2 Recommendation

- 2.1 Members are requested to note the content of the report, which will also be circulated to all Parish/Town Councils in the District for information.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	There are no financial issues arising from this report. However the costs associated with external investigations may lead to a budget pressure.
Human Resource:	None
Legal:	There are no legal issues arising from this report. The matters covered by this report are generally requirements of the Local Government Act 2000 in so far as appropriate and the Localism Act 2011 and its supporting regulations.
Risk Management:	The benefits of this process are the maintenance of the Council's credibility and good governance by a high standard

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	of ethical behaviour. The threats are the loss of credibility of the Council if standards fall. Adherence to the requirements of the Code of Conduct also reduce the risk of the Council’s decisions being subject to legal challenge.			
Property:	None			
Policy:	None			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
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		
Environmental Impact:		X		
Health Impact:		X		
ICT Impact:		X		
Digital Services Impact:		X		

Council Strategy Priorities:		X		
Core Business:		X		
Data Impact:		X		
Consultation and Engagement:	Finance & Governance Group			

4 Executive Summary

- 4.1 This report is the Monitoring Officer's annual report for the Governance Committee, which will be presented to Full Council on July. The report will also be circulated to all Town and Parish Councils.
- 4.2 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 is on a par with pre-Covid numbers, although there has been a reduction in the number of gifts declared by Members.

5 Supporting Information

Introduction

- 5.1 The Localism Act 2011 made fundamental changes to the system of regulation of the standards of conduct for elected and co-opted members of Councils and Parish Councils.
- 5.2 In order to ensure that the process was working effectively locally, Council agreed that the Monitoring Officer should produce an annual report which would be presented to Council and the Governance Committee. The report would set out the number and nature of complaints received and inform Members of any other activity that was taking place around the Code of Conduct regime.

Background

- 5.3 During the Municipal Year 2023/24 the Governance Committee was comprised of eleven members (nine District Councillors appointed on a proportional basis and two co-opted non-voting Parish/Town Councillors).
- 5.4 The Advisory Panel initially comprised ten Members: two from the Liberal Democrat party, two from the Conservative Party, two from the Green Party, two parish/town
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councillors and two Independent Persons. This was updated following the formation of a Minority Opposition Group.

- 5.5 Details of the membership of the above for 2023/24 was agreed at the Annual Council meeting and details are available at: [\(Public Pack\)To Follow - Minutes, Allocation of Seats and Outside Bodies Agenda Supplement for Council, 25/05/2023 19:00 \(westberks.gov.uk\)](#).
- 5.6 The Members Code of Conduct governs the standards of conduct expected of elected Councillors, and this is supported by a number of documents including:
- Terms of Reference for the Governance Committee and Advisory Panel;
 - Gifts and Hospitality Protocol;
 - Complaints procedures for breaches of the Code of Conduct;
 - Dispensations procedure;
 - Social Media Protocol.

Further details can be found in the Constitution at: [Council Constitution - West Berkshire Council](#).

Independent Persons

- 5.7 Under Section 28 of the Localism Act 2011 the Council has a duty to ensure that it has appointed at least one Independent Person who is consulted before it makes a decision on an allegation it has determined to investigate. It was agreed by Council that the Independent Person may be consulted directly either by the person who has made the complaint or the person the complaint has been made about. Three Independent Persons have therefore been appointed in order to ensure that a conflict situation does not arise.
- 5.8 A person is not considered to be "independent" if:-
- They are or have been, within the last five years, an elected or co-opted Member or officer of the Council or of any Parish Councils within this area. This also applies to committees or sub-committees of the various Councils.
 - They are a relative or close friend of a current elected, or co-opted, Member or officer of the Council or any Parish Council within its area, or any elected or co-opted member of any committee or sub-committee.
 - The definition of relative includes the candidate's spouse, civil partner, grandparent, child etc.
- 5.9 Council appointed Mike Wall MBE, Alan Penrith and Lindsey Appleton as the Council's Independent Persons for the 2023/24 Municipal Year. All three Independent Persons have agreed to remain as Independent Persons for the 2024/25 Municipal Year.
- 5.10 The Council is asked to recognise the significant contribution of the Independent Persons and thank them for their ongoing contributions.
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Governance Committee

- 5.11 The overall purpose of the Governance Committee is to provide effective challenge across the Council and independent assurance on the risk management and governance framework and associated internal control environment to members and the public, independently of the Executive. The Governance Committee is also responsible for receiving the annual Audit Letter and for signing off the Council's final accounts.
- 5.12 The Committee is also charged with promoting and maintaining high standards of conduct throughout the Council. They promote, educate and support Councillors (both District and Parish) in following the highest standards of conduct and ensuring that those standards are fully owned locally. The roles and functions of the Governance Committee are set out in the Constitution (Part 2 Articles of the Constitution).
- 5.13 The Governance Committee has a special responsibility regarding the 55 Town and Parish Councils within the District. It is responsible for ensuring that high standards of conduct are met within the parishes and that all Parish and Town Councillors are aware of their responsibilities under their Codes of Conduct.
- 5.14 The District Councillors are therefore supported on the Governance Committee by two co-opted Parish Councillors who are appointed in a non-voting capacity, along with substitute councillors. During 2023/24 the Governance Committee included the following Parish Councillors:
- Bill Graham (co-opted non-voting Parish Councillor)
 - David Southgate (co-opted non-voting Parish Councillor)
 - Anne Budd (substitute co-opted non-voting Parish Councillor)
- 5.15 The Council is asked to recognise the contribution of the Parish Councillors and thank them for their contributions.

Advisory Panel

- 5.16 The Advisory Panel is responsible for dealing with complaints where evidence of a breach of the Code has been investigated by an independent investigator. The Advisory Panel considers the investigators report. The views of the Advisory Panel are reported to the Governance Committee, which makes the formal decision in respect of any allegations which have been investigated where it is considered that a breach of the relevant code of conduct has occurred.
- 5.17 The District Councillors on the Advisory Panel were representatives of all three political groups within the Council and are not appointed in accordance with the proportionality rules. During 2023/24 the Advisory Panel comprised the following District Councillors:

Liberal Democrats (2 Members)	Lee Dillon, Geoff Mayes
Conservative Group (2 Members)	Jane Langford, Jo Stewart
Minority Opposition Group (2 Members)	Carolyne Culver, David Marsh

5.18 During the 2023/24 Municipal Year the following Parish Councillors were appointed to the Advisory Panel:

- Anne Budd

5.19 The Council is asked to thank the Parish Councillor for agreeing to be a member of the Panel and their contribution for the one occasion it met.

The Monitoring Officer

5.20 The Monitoring Officer is a statutory post and in West Berkshire rests with the Service Director Strategy & Governance. The Monitoring Officer (Sarah Clarke) in 2023/24 was supported by three deputies (Nicola Thomas, Leigh Hogan (part year), and Sharon Armour (part year)). The Monitoring Officer has a key role in promoting and maintaining standards of conduct. 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. The Monitoring Officer acts as legal adviser to the Governance Committee and Advisory Panel.

5.21 The Monitoring Officer, under delegated authority, granted a dispensation to all West Berkshire Councillors in 2023/24 to speak and vote on any items pertaining to Council Tax.

Local Assessment of Complaints against Councillors

5.22 Quarter 1 – 2023/24

During this period one complaint was received and processed by the Monitoring Officer. The complaint (NPC10/23) pertained to a Parish Councillor. Following the initial assessment, it was agreed that no further action should be taken on the complaint.

5.23 Quarter 2 – 2023/24

During this period three complaints were received and processed by the Monitoring Officer. All of the complaints (NPC11/23, NPC12/23 and NPC13/23) pertained to Parish Councillors. Following the initial assessment, it was agreed that no further action should be taken on two of the complaints, and one complaint was referred for informal resolution.

5.24 Quarter 3 - 2023/24

During this period no complaints were received.

5.25 Quarter 4 - 2023/24

During this period eight complaints were received and they have all been processed by the Monitoring Officer. Six of these complaints (NDC01/24, NDC02/24, NDC03/24, NDC06/24, NDC07/24 and NDC08/24) pertain to District Councillors. The initial assessment has been held for all of the complaints and it was agreed that no further action should be taken on four of the complaints, with the other two referred for informal resolution. However, one of these complaints is being progressed to an independent investigation.

There were two complaints (NPC04/24 and NPC05/24) submitted about Parish Councillors. Following the initial assessments, it was agreed that no further action should be taken on one of the complaints, with the other complaint referred for informal resolution.

Year on Year Comparison of Complaints

Table 1 – The Number of District and Parish Council Complaints received 2018/19 – 2023/24

Table 1	18/19	19/20	20/21	21/22	22/23	23/24
District Councillors	1	9	12	20	16	6
Parish Councillors	20	5	21	12	6	6
Co-Optees	1	0	0	0	0	0
Total	22	14	33	32	22	12

Table 2 - Action Taken on Complaints received 2018/19 to 2023/24

	18/19	19/20	20/21	21/22	22/23	23/24
Withdrawn/not progressed	4	5	7	0	2	0
No Further Action	14	7	24	28	16	8
Other Action	2	2	2	1	2	3
Investigation	2	0	0	3	2	1
Outcome Awaited	0	0	0	0	0	0
Total	22	14	33	32	22	12

5.26 Table 2 shows that, in respect of the complaints processed to date during 2023/24, in two thirds of the cases no further action was taken on the complaint, with the remaining third referred for informal resolution or investigation.

Learning Points Arising from Complaints

5.27 The number of complaints has reduced in the past year. However, to date, a higher proportion have resulted in the need for informal resolution and/or investigation than in previous years.

5.28 The complaints received arose from different circumstances, although many complaints alleged a lack of respect from the subject member. Although the complaints have not yet been upheld, this is a helpful reminder of the need to be respectful when communicating with others

Register of Interests

5.29 Following the election in May 2023 all elected Members of West Berkshire Council completed and submitted their Register of Interest forms, and updates have been received to a number of these since that time. These forms have been published on the Council's website. A number of interests 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.

- 5.30 District Councillors are reminded to review their interests on a regular basis and to notify the Democratic Services Manager of any amendments.
- 5.31 Parish Councils are reminded via their Clerks to complete and return Declarations of Interest forms to the Monitoring Officer in order that compliance with the Localism Act 2011 is maintained.

Gifts and Hospitality

- 5.32 The Gifts and Hospitality Protocol is incorporated into the Members Code of Conduct and is set out in Appendix H to Part 13 of the Constitution (Codes and Protocols).
 - 5.33 Officers are also subject to restrictions on those Gifts and Hospitality that are deemed to be acceptable under the Officers' Code of Conduct, which is set out in Part 13 of the Constitution. Like Members, Officers are required to declare gifts or hospitality received.
 - 5.34 The intention of the rules governing 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 service user, supplier or anyone else dealing with the Council and its stewardship of public funds. The rules therefore set out the obligations imposed on Members and Officers to declare relevant gifts and hospitality which have been offered to or received by them.
 - 5.35 It should be noted that in addition to the risk that there could be a perception of impropriety, the acceptance of a gift or hospitality could amount to an offence under the Bribery Act 2010.
 - 5.36 The Bribery Act 2010 creates a number of offences where a gift or other benefit is given or offered, which may amount to an offence of bribing another person, and/or of being bribed. Therefore, if Members or Officers are offered a 'gift' or other benefit by a third party, this could amount to an offence not just by the person offering the gift, but also by the Member or Officer concerned and by the Council. It is important to note that offences under this legislation can be committed by a person offering a gift or reward, even if the gift is not accepted.
 - 5.37 In view of the above, it is very important that both Officers and Members understand the potentially serious implications of accepting gifts when it is not appropriate to do so.
 - 5.38 There were 14 declarations of gifts or hospitality received by Members during the year 2023/24. This represents a decrease on the previous year although it should be noted that declarations are frequently made of gifts or hospitality received that is below the value that requires that to be declared (i.e. £25). Members have been reminded of the need to declare any gifts or hospitality received in accordance with the Gifts and Hospitality Protocol. This information is published on the Council website.
 - 5.39 There was also an increase in the number of gifts and hospitality declared by officers with 73 declarations made during 2023/24, which is a considerable increase from 45 declared in the previous year but is more closely aligned with pre-Covid numbers. The
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vast majority of gifts received were small token gifts with the total value of gifts declared being less than £1k, and the average value being £13. The highest value hospitality received was a £200 dinner at Newbury racecourse, which was received by the CEO.

5.40 The number of gifts or hospitality received by each directorate, and the number refused can be summarised as follows:

Directorate	Number of Declarations	Number refused
CEO	3	0
People - Adults	62	0
People - Children	2	0
Place	0	0
Resources	6	1
TOTAL	73	1

5.41 In the last municipal year, the majority of gifts and hospitality declared was in the Place Directorate, but that was due to the fact that Libraries and Culture were deemed to be in Place, but that Team is now located in People (Adults), which accounts for the difference.

Proposals

5.42 Members are asked to note the content of the report.

5.43 It is proposed that this report also be circulated to all Town and Parish Councils for information.

6 Other options considered

6.1 Not to produce a report. There is no duty to publish this report. However, it is important that public trust and confidence is maintained in public authorities, and it is considered that this report provides transparency regarding standards and conduct.

7 Conclusion

7.1 There have been a number of training sessions on the Code of Conduct over the 2023/24 municipal year, and these have been well attended, with Members very engaged with the sessions. This is a positive step by Members and should continue.

7.2 There has been a reduction in the number of complaints, and standards of Member conduct remain very good in West Berkshire. This is a credit to all councillors in the district, who should be applauded.
