

Report to: Members' Code of Conduct Committee
From: Michael Graham, Monitoring Officer
Date: 10 June 2015

Politically motivated complaints

Background

1. The Arrangements made by the Council for dealing with complaints under the Member Code of Conduct were established in July 2012 and have been reviewed and amended since that time based on experience of the Committee in operating the procedures. Generally, the Arrangements are working well. These Arrangements have been appended to this agenda at pages 7 – 15.
2. One of the principles of the Arrangements is that decisions on investigations are made by councillors in an Assessment Sub-Committee. Councillors decide if complaints are serious enough to warrant investigation. This arrangement allows members to take the lead on dealing with conduct of other councillors. This arrangement has worked well since it was introduced in July 2012 as part of the Localism Act; the Council has proportionate and local procedures for dealing with complaints against councillors.
3. The Council has a static low level of complaints about councillors from members of the public. Those which were referred through the Monitoring Officer from July 2012 to May 2015 (totalling 4 in number) were all referred to the Assessment Sub-Committee and none of them were considered suitable for further investigation.
4. As part of the Arrangements, the Monitoring Officer has the power to strike out complaints which are vexatious, frivolous, or politically motivated. Please see Principles of the Arrangements para 4(e) and (f) and also para 25:
The Monitoring Officer has power to reject complaints which are vexatious, frivolous or malicious or which are politically motivated or in some other way an abuse of process. Where the Monitoring Officer has taken a decision that a complaint falls into one of these categories, he will inform the complainant of his decision and the reasons for that decision. There is no appeal from this decision, but the Monitoring Officer will report all such decisions to the next meeting of the Members' Code of Conduct Committee who are entitled to refer the matter for investigation if they feel that the Monitoring Officer has acted incorrectly.
5. Earlier this year, in the run up to the election, a number of complaints were received by me which were complaints by one councillor against another councillor. I have taken the view that all these complaints would not have been made but for the fact that there was an election pending and tensions were raised between councillors generally. I have therefore decided to strike out these complaints and I am reporting this fact to the Committee accordingly.

6. It is also worth bearing in mind that in order to keep the Arrangements free of damaging and timewasting “political tit-for-tat” complaints which have dogged some councils, this Council amended its original Arrangements in 2014 to introduce an amendment which is now contained in para 10 of the Arrangements. Cases of councillor complaints about other councillors, are now expected to be subject to informal resolution between Group Leaders:

Where a complaint concerns an issue between two Spelthorne Borough Councillors, the Monitoring Officer will initially refer the matter to the appropriate Group Leader(s) to resolve amongst themselves, if at all possible. Every effort should be made to resolve the matter within 28 days and if this is not possible the matter may be referred back to the Monitoring Officer.

7. One case has been referred under these Arrangements, although it was not successfully resolved and I am reporting that fact to the Committee although the Arrangements do not formally require me to do so.

Politically motivated complaints

8. All these complaints were received around March 2015 and on 17 March 2015 I wrote to the group leaders to advise them that I was not prepared to entertain these complaints and asked for their co-operation to ensure that the Members Code of Conduct Committee was not involved in the pre-election anxiety. This communication to group leaders is enclosed as **Annex 1**.

9. In summary these are the complaints:

Cllr Rough complaining about Cllr Watts and Cllr Forbes-Forsyth.

This complaint was historic and concerned Cllr Rough’s treatment in the Conservative group and dated back to events in 2012/2013. In itself the complaint offended the rule in the Arrangements that complaints should be made promptly and within 28 days unless there are exceptional circumstances. See para 8. Nonetheless in an attempt to resolve the matter, Cllr Watts agreed to meet with Cllr Rough under the informal arrangements. That meeting did not take place in the end. Cllr Rough contended that there were exceptional circumstances about the timing of the complaint and why she was not in good health to bring the complaint promptly. Notwithstanding this, my impression is that the background to the matter was political and bringing the complaint was also politically motivated in its timing. I have therefore decided to strike out this complaint.

Cllr Smith-Ainsley complaining about Cllr Ayers and all the SIP councillors. This complaint was about election material published by the SIP party and whether it accurately portrayed the work and policies of the Council. The subject matter of the complaint could not have been determined without examining these issues and at its heart the complaint was not about member conduct but about political viewpoints and how they were expressed in the election. For this reason the complaint should be struck out. The complaint also was misguided in

that the publishers of the material were the election agents for the SIP party – neither of whom were the councillors subject of the complaint.

Cllr Ayers complaining about Cllr Smith-Ainsley (and his complaint about Cllr Ayers). This was a complaint about the fact that a complaint was made (see above). Whilst the complaint was presented as an integrity issue – fundamentally this was a “tit-for-tat” response, the type which the Committee has sought to avoid.

Cllr Patterson complaining about Cllr Smith-Ainsley (and his complaint about Cllr Ayers). This was a complaint about the fact that a complaint was made (see above). Whilst the complaint was presented as an integrity issue – fundamentally this was a “tit-for-tat” response, the type which the Committee has sought to avoid.

Cllr Mrs Grant complaining about Cllr Smith-Ainsley (and his complaint about Cllr Ayers). This was a complaint about the fact that a complaint was made (see above). Whilst the complaint was presented as an integrity issue – fundamentally this was a “tit-for-tat” response, the type which the Committee has sought to avoid.

10. None of the complaints concerning Cllrs Smith-Ainsley and Ayers were subject to informal resolution between group leaders.

Recommendation

11. The Committee is asked to note this report. The Committee does have the power to refer these complaints back to me for investigation, but my advice is that this would not be in the public interest to progress matters where there is no fundamental issue concerning the conduct of councillors.

Michael Graham

10 June 2015