

Standards Committee



SOUTH
KESTEVEN
DISTRICT
COUNCIL



Wednesday, 6 March 2024 at 2.30 pm
Council Chamber - South Kesteven House, St. Peter's Hill,
Grantham. NG31 6PZ

Committee Members: Councillor Harrish Bisnauthsing (Chairman)
Councillor Sarah Trotter (Vice-Chairman)

Councillor Ashley Baxter, Councillor Richard Dixon-Warren, Councillor Zoe Lane,
Councillor Chris Noon, Councillor Max Sawyer, Councillor Vanessa Smith,
Councillor Peter Stephens, Councillor Lee Steptoe and Councillor Mark Whittington

Agenda

This meeting can be watched as a live stream, or at a later date, [via the SKDC Public-I Channel](#)

1. **Apologies for absence**
2. **Disclosure of interests**
3. **Minutes of the previous meeting** (Pages 3 - 8)
4. **Councillor Code of Conduct Complaints - Overview of Cases** (Pages 9 - 18)
To provide the Standards Committee with an overview of Councillor Code of Conduct complaints received and processed for this municipal year, to date.

To formally report to the Standards Committee the outcome of a formal investigation relating to a complaint against a District Councillor.
5. **Code of Conduct Training Update** (Verbal Report)
6. **Any other business, which the Chairman, by reasons of special circumstances, decides is urgent**

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Meeting of the Standards Committee

Wednesday, 6 September 2023,
2.30 pm



SOUTH
KESTEVEN
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COUNCIL

Committee Members present

Councillor Sarah Trotter (Vice-Chairman)
Councillor Ashley Baxter
Councillor Richard Dixon-Warren
Councillor Zoe Lane
Councillor Charmaine Morgan
Councillor Chris Noon
Councillor Max Sawyer
Councillor Vanessa Smith
Councillor Lee Steptoe
Councillor Mark Whittington

Other Members present

Councillor Phil Dilks
Councillor Tim Harrison
Councillor Penny Milnes

Independent Members Present

Mr Fred Mann

Officers

Graham Watts, Assistant Director of Governance (Monitoring Officer)
Debbie Mewes, Paralegal
James Welbourn, Democratic Services Manager

1. Introductions and welcome

The Vice-Chairman, Councillor Sarah Trotter commenced the meeting, and sent warm wishes on behalf of the new Standards Committee to the Chairman, Councillor Harrish Bisnauthsing as he recovered from an operation.

Prior to the start of the formal agenda, a minute's silence was held to mark the recent passing of Councillor Ray Wootten, who had served the St. Wulfram's Ward.

The Assistant Director of Governance and Monitoring Officer advised Members of the location of the Terms of Reference for the Standards Committee at Article 10 of Part 2 of the Constitution. The main role of the Standards Committee would be to promote and maintain high standards of conduct between Members, as well as Town and Parish Councils within the District. In addition the Committee would strive

to develop a culture of openness, transparency, trust and confidence between Members and in Member and Officer relationships and embed a strong culture of ethical and corporate governance at all levels of the authority.

2. Apologies for absence

Apologies for absence had been received from Councillor Harrish Bisnauthsing, and he was substituted at the meeting by Councillor Charmaine Morgan.

3. Disclosures of interests

There were no declarations of interests.

4. Councillor Code of Conduct Complaints – Overview of Cases

The Monitoring Officer introduced the report, outlining that it covered the municipal years 2021-2022, 2022-2023, and 2023 to date. The Code of Conduct complaints were broken down into those involving District Councillors, and those that involved Parish and Town Councillors.

Prior to the Standards Committee being re-established at South Kesteven District Council, these complaints would not necessarily have been reported anywhere, although they were all recorded by the Monitoring Officer and his team. Reporting Code of Conduct complaints directly to the Standards Committee facilitated a useful interaction between the Committee and the Independent Person(s).

There were many reasons why complaints were submitted to the Monitoring Officer. For example, where committee debates between Councillors became heated, there could be complaints submitted around disrespect. However, debate in the Council Chamber between Members was considered by the Local Government Association to warrant a higher level of tolerance in the promotion of robust political debate.

Many complaints received did not necessarily require formalising, but sometimes discussion and mediation on the part of the Monitoring Officer was necessary.

In the future, case studies could be brought before the Standards Committee subject to no individuals being identified, and where there were significant studies in the media they could also be used.

The following points were raised during debate:

- A motion had been tabled at Full Council early in 2023 requesting that a Standards Committee be formed, to ensure the highest standards of integrity and probity were followed. The motion had asked that the Local Government Association (LGA) guidelines on Standards were followed in full.
- Whilst it was key that the Council looked forwards in terms of Standards, there were lessons to be learned from past cases.

- The Standards Committee had the power to determine the outcome of a complaint. The procedure being proposed later in the agenda was an assessment of complaints; as part of this if, following consultation with the Independent Person(s) the Monitoring Officer deemed an investigation necessary, then this would proceed. The Standards Committee would normally appoint a Hearing Review Panel to determine an alleged breach of the Councillor Code of Conduct, however, the Committee could agree to sit itself and consider any case if deemed appropriate.
- The Monitoring Officer would only utilise the services of external providers if he or his deputy were conflicted in any way, or where specialist training was required as part of any sanctions imposed by a Review Panel or Committee.
- There had previously been a culture of sending out Code of Conduct complaints to external legal providers, which of course had a cost attached. This had not been the case since June 2021, unless a conflict had arisen. Presently, every complaint was dealt with by the Monitoring Officer and his team.
- Every complaint was subjected to an assessment process; there could sometimes be a pattern emerging where complaints occurred closely together.
- The Monitoring Officer did not need to receive a complaint to investigate a perceived breach of the Code of Conduct and could undertake investigations himself if he deemed it necessary.
- The cost of any sanctions, training and external advice was borne by the Council.
- The Monitoring Officer and his team intended to visit Town and Parish Councils over the course of the current municipal year to facilitate further sessions on the Councillor Code of Conduct.
- Although there were a number of Code of Conduct complaints contained within the report related to the subject of 'equality and diversity', it was confirmed that a number of these related to the same incident.
- Whilst it was true that there were always subjective cases, there were two Independent Persons to consult with who would provide their views on the subject. If there was any element of doubt after consulting with the Independent Persons, then the case would proceed to the next stage, which would be to undertake a formal investigation. This did not mean that a hearing would be absolutely necessary, rather the opportunity to investigate further before reaching a conclusion.
- If Members acted honourably then there should be nothing to fear from Code of Conduct complaints. Conversely, if defamatory language was used against other Members or individuals then there could be consequences as a result of the complaints process.
- Both Independent Persons serving South Kesteven served on a number of other Local Authorities. It was reported that the number of complaints considered by South Kesteven District Council over the reporting period was large compared to these other authorities, particularly those submitted by District Councillors.
- Parish Council complaints involved issues amongst Parish Councillors, and sometimes the clerks, which could mean that employment legislation was

involved. It could sometimes be difficult to arrive at a final decision on a matter, and a great deal of officer time was involved with each issue. There was also the issue of the cost of investigations, although if a case merited a full investigation, then of course this should take place.

Members **NOTED** the Code of Conduct Complaints review.

5. Procedure for dealing with complaints against Councillors

When introducing the item, the Monitoring Officer outlined that the complaints procedure against Councillors was not currently part of the Constitution, and it was suggested that any approved procedure should form part of Part 5 of the Constitution, Codes and Protocols.

The Local Government Association Guidance was extremely comprehensive, and this had been factored in when re-writing the complaints procedure. The latest version of the LGA guidance would always be read alongside South Kesteven's complaints procedure when considering complaints involving Councillors.

The 'new' first assessment stage before Councillors gave more clarity for people reading the procedure. For example, this stage would make clear whether a Councillor was acting in that capacity, or whether they were just going about their business as a resident, meaning that the Code of Conduct was not engaged. In all cases, the Monitoring Officer would share these complaints with the Independent Persons.

The second assessment stage dealt with the complaint after it had been determined that the Councillor was acting in such a capacity, and that the Code of Conduct was engaged. This stage would also determine whether the complaint merited further investigation.

Decision notices had not been used for all complaints previously, but decision notices would now be issued for any Code of Conduct complaints, including those where no breach had been found. Decision notices for any hearings would be placed online, whereas currently those issued to individuals and relevant parties involved in a complaint as part of the assessment stages were not.

The following points were highlighted during debate:

- For the Code of Conduct to be engaged in social media disputes, a Member would have to post something online that had a direct link to their role as a Councillor, or the authority that they were a Member of. If a Councillor was posting something on a private account but the material posted was linked to Council business, then then the Code of Conduct would still be engaged.
- Councillors were still entitled to freedom of speech; the Code of Conduct could not supersede the rights of individuals under the Human Rights Act

1998. However, it was advocated that Councillors use their freedom of speech in a respectful manner.

- The Monitoring Officer, under the proposed procedure would be entitled to dismiss a complaint relating to an incident that occurred over six months prior to the date of the complaint, and in the opinion of the Monitoring Officer was not serious enough to justify further investigation.
- The training that Members received on Standards confirmed that pre-hearings should take place well in advance of any formal hearing, and as often as required.
- Any advice on excluding the public and press from a Hearing Panel would be specific to the case in question. Ultimately it would be the decision of the Panel on the day as to whether the use of exemptions in place was correct.
- Any amendment to the Code of Conduct Complaints Procedure would be within the gift of the Standards Committee.
- There was no right of appeal through the complaints process, and it was important to distinguish between the Code of Conduct complaints process and court proceedings. If an individual believed that the process had not been followed correctly, then this could be explored through the Member/Officer Protocol. This would be reported to the Chief Executive, and beyond this stage, to the Local Government Ombudsman. The Code of Conduct process would not affect any other rights an individual had, which included Judicial Review and referrals to the Local Government Ombudsman.
- Where there was any conflict between the Council's adopted procedure and the LGA guidance, then the latest LGA guidance would take precedence. This distinction would be added into point 9 of the procedure. However, it was noted that the LGA guidance was lengthy, and it would be problematic to adopt the LGA guidance in its entirety as it was aimed at all Local Authorities and was not specific to South Kesteven District Council.

Note: The meeting adjourned at 4:20pm and reconvened at 4:31pm.

- Any sanctions placed on a Group Leader were only recommendations. However, it could be considered a further breach of the Code of Conduct if these recommendations were not met.

Two amendments had been suggested to form part of the formalised Complaints Procedure:

- Any complaint about the process not being followed correctly would form part of paragraph 8, under 'Appeals'.
- An addition to paragraph 9 in relation to the LGA guidance to say that in the event of any conflict between this guidance and the South Kesteven District Council Code of Conduct Complaints procedure, the LGA guidance would take precedence.

The recommendation, encompassing the above amendments was duly moved, seconded, and following a vote it was **AGREED**:

DECISION:

That the Standards Committee approves the revised procedure for dealing with complaints against Councillors and recommends to Full Council that this document forms part of the Constitution under Part 5 (Codes and Protocols).

6. Training

Members considered a verbal update on Member training.

Training for Members was an expectation; some sessions, such as Equality and Diversity were billed as 'mandatory', but officers could not compel Members to attend. However, mandatory training sessions such as those offered for Licensing, Planning and Governance and Audit Committees were essential for relevant committee members in order to be able to sit on those committees. It was also a requirement as part of the Councillor Code of Conduct to attend training on the Code.

Over the previous year the Monitoring Officer had held sessions on the model Code of Conduct in Grantham, Bourne, Market Deeping and Stamford. These sessions were well received and it was hoped that they could be run again in the future.

Standards Committee training was offered as part of the Member Training Programme following the May 2023 election. The session was run by an experienced Monitoring Officer who was part of a legal firm. Any opportunity for further Standards Committee training would be signposted to Members by officers.

Independent Persons also had training options, and the two South Kesteven District Council Independent Persons attended a training day once a year. Attempts were being made to form an Independent Person group within Lincolnshire.

7. Any other business, which the Chairman, by reasons of special circumstances, decides is urgent

None.

The meeting closed at 4:50pm.



SOUTH
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COUNCIL



Standards Committee

6 March 2024

Report of Graham Watts, Monitoring
Officer

Councillor Code of Conduct Complaints – Overview of Cases

Report Author

Graham Watts, Assistant Director (Governance and Public Protection) and Monitoring
Officer

 Graham.watts@southkesteven.gov.uk

Purpose of Report

To provide the Standards Committee with an overview of Councillor Code of Conduct
complaints received and processed for this municipal year, to date.

To formally report to the Standards Committee the outcome of a formal investigation
relating to a complaint against a District Councillor.

Recommendations

That the report be noted.

Decision Information

Does the report contain any
exempt or confidential
information not for publication?

No

What are the relevant corporate
priorities?

Effective Council

Which wards are impacted?

All

1. Implications

Taking into consideration implications relating to finance and procurement, legal and governance, risk and mitigation, health and safety, diversity and inclusion, safeguarding, staffing, community safety, mental health and wellbeing and the impact on the Council's declaration of a climate change emergency, the following implications have been identified:

Finance and Procurement

1.1 There are no financial implications arising from this report.

Completed by: Alison Hall-Wright, Deputy Director (Finance and ICT) and Deputy Section 151 Officer.

Legal and Governance

1.2 There are no significant legal or governance implications not already referred to in the body of this report.

Completed by: Graham Watts, Assistant Director (Governance and Public Protection) and Monitoring Officer

2. Background to the Report

2.1 The Monitoring Officer at South Kesteven District Council is responsible for considering complaints against Councillors where allegations of a breach of the Code of Conduct are made. This means that any complaints against any of the 56 District Councillors will be assessed and processed by the Monitoring Officer in accordance with the agreed procedure for dealing with complaints against Councillors. The Council's procedure is included as part of the Council's Constitution and can be viewed via the following link:

<https://moderngov.southkesteven.gov.uk/documents/s40111/Part%2053%20Procedure%20for%20dealing%20with%20complaints%20against%20Councillors.pdf>

2.2 As the designated Principal Authority for the District, the Monitoring Officer at South Kesteven District Council is also responsible for considering complaints against any Parish or Town Councillors where allegations of a breach of the Code of Conduct are made. These complaints are treated in the same way in accordance with the agreed procedure for dealing with complaints against Councillors.

3. Key Considerations

- 3.1 This report provides the Standards Committee with an update on the complaints submitted against District Councillors and Parish/Town Councillors since the beginning of the 2023/24 municipal year.

Complaints against District Councillors

- 3.2 Since 4 May 2023, 16 complaints have been received against District Councillors of South Kesteven District Council. Details relating to these complaints are set out below:

Table 1

Date received	Reason for complaint	Outcome
19.05.2023	Respect	Stage Two Assessment – no breach of the Code
05.06.2023	Equality and diversity	Stage One Assessment – Code not engaged
16.06.2023*	Respect	Stage Two Assessment – no breach of the Code
16.06.2023*	Respect	Stage Two Assessment – no breach of the Code
16.06.2023*	Respect	Stage Two Assessment – no breach of the Code
16.06.2023*	Respect	Stage Two Assessment – no breach of the Code
20.06.2023**	Publication of confidential or exempt information	Stage Two Assessment – breach of the Code Apology issued by Subject Councillor and social media post withdrawn
20.06.2023**	Publication of confidential or exempt information	Stage Two Assessment – breach of the Code Apology issued by the Subject Councillor and statement made to recipients of information
02.09.2023	Integrity, openness and transparency	Stage Two Assessment – no breach of the Code
01.11.2023***	Disrepute	Stage One Assessment – Code not engaged
01.11.2023***	Disrepute	Stage One Assessment – Code not engaged
23.11.2023	Respect	Formal investigation – breach of the Code Censure notice on the Councillor's profile on the Council's website until May 2025

Date received	Reason for complaint	Outcome
01.12.2023	Impartiality and objectivity	Stage Two Assessment – no breach of the Code
30.01.2024	Respect	Assessment in process of being undertaken
02.02.2024	Respect	Stage Two Assessment – no breach of the Code
13.02.2024	Conflict of interest	Stage Two Assessment – malicious and vexatious

* the four complaints on 16 June 2023 were from the same complainant about the same issue, but were submitted against four separate Councillors.

** the two complaints on 20 June 2023 were not complaints submitted by members of the public or other members of the Council, but were instances whereby the Monitoring Officer undertook an assessment based on information he had received.

*** the two complaints on 1 November 2023 were submitted from the same complainant about the same issue, but were submitted against two separate Councillors.

- 3.3 Of the 16 complaints received, during the period, three were found to have breached the Councillor Code of Conduct. One complaint is still in the process of being assessed, the outcome of which remains outstanding.

Complaints against Parish/Town Councillors

- 3.4 Since 4 May 2023, 10 complaints have been received against Parish or Town Councillors in the District of South Kesteven. Details relating to these complaints are set out below:

Table 2

Date received	Reason for complaint	Outcome
03.05.2023	Respect and bullying	Stage Two Assessment – no breach of the Code
06.06.2023	Misuse of position	Stage Two Assessment – no breach of the Code
11.07.2023	Misuse of position	Stage Two Assessment – no breach of the Code
07.08.2023	Misuse of position	Stage Two Assessment – no breach of the Code
10.11.2023*	Respect	Stage One Assessment – Code not engaged

Date received	Reason for complaint	Outcome
15.11.2023*	Respect	Stage One Assessment – Code not engaged
15.11.2023*	Respect	Stage Two Assessment – breach of the Code Apology issued by the Subject Councillor
19.11.2023*	Respect	Stage One Assessment – Code not engaged
13.12.2023	Disrepute, respect and misuse of position	Stage Two Assessment – no breach of the Code
03.01.2024	Respect	Stage Two Assessment – no breach of the Code

* these four complaints all relate to the same Subject Councillor from four individual complainants regarding the same meeting of a Parish Council

Outcome of formal investigation

- 3.5 As included within the table at paragraph 3.2 of this report, a complaint was received on 23 November 2023 which, having been assessed against the procedure for dealing with complaints against Councillors, required formal investigation.
- 3.6 The formal investigation was undertaken by the Monitoring Officer who provided the Subject Councillor, complainant and the Council's Independent Persons with copies of a draft and final report. The final report was also shared with the Chairman and Vice-Chairman of the Standards Committee, for information. All parties agreed with the outcome of the investigation, as set out in the report, which determined that the Subject Councillor had breached the Councillor Code of Conduct. The sanction of a censure notice being placed on the Subject Councillor's profile on the Council's website until May 2025 was also agreed by all parties, including the Subject Councillor.
- 3.7 Consequently, it was agreed that there would be no requirement to consider the investigation report at a formal hearing given that there would not be any further significant sanctions such a process could apply over and above those already accepted by the Subject Councillor. In consultation with the Chairman and Vice-Chairman of the Standards Committee, and the two Independent Persons, a Decision Notice was published and the censure notice placed on the Subject Councillor's profile on the Council's website with immediate effect. A copy of the Decision Notice is attached to this report at **Appendix A**.

- 3.8 The details relating to this complaint, and any other complaint referenced in the report, cannot be the subject of discussion at this meeting as they have already gone through a formal process and have been determined, or are currently in the process of being assessed, investigated or determined. The report is for information only.

4. Other Options Considered

- 4.1 No other options are highlighted for consideration as the report is for noting only.

5. Reasons for the Recommendations

- 5.1 To provide the Standards Committee with an overview of information associated with complaints against District and Parish/Town Councillors where allegations of a breach of the Councillor Code of Conduct are made.

6. Appendices

Appendix A – Formal Investigation Decision Notice

Decision Notice



SOUTH
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OUTCOME OF FORMAL INVESTIGATION INTO AN ALLEGED BREACH OF THE COUNCILLOR CODE OF CONDUCT

1 FEBRUARY 2024

Summary of complaint:

The complaint relates to an outburst at the meeting of Full Council on 23 November 2023. During this outburst, it is alleged that Councillor Mark Whittington misrepresented the comments of other Councillors during debate of a motion and failed to show respect towards the Chairman of the Council.

At a later point of the same meeting, during a motion by another Councillor and subsequent to the complaint having been received which was emailed to the Monitoring Officer during the meeting, Councillor Whittington is alleged to have instigated a further angry outburst towards another Councillor as well as referring to the motion under debate as a derogatory term. This additional aspect of behaviour was included as part of the complaint under investigation which alleges breaches of the Code of Conduct during the same meeting.

An accusation was also made during the meeting that Councillor Whittington referred to another Member of the Council as a derogatory term. This claim was also investigated as part of this complaint.

Alleged breach of the Councillor Code of Conduct:

Councillor Whittington is alleged to have breached the following general principles of South Kesteven District Council's Councillor Code of Conduct:

- Treating all persons fairly and with respect
- Leading by example and acting in a way that secures public confidence in the role of Councillor

Councillor Whittington is alleged to have breached the following specific paragraphs of South Kesteven District Council's Councillor Code of Conduct:

Respect:

1.1 *I treat other Councillors and members of the public with respect.*

Bullying, harassment and discrimination:

1.2 *I do not bully any person.*

Disrepute:

5.1 *I do not bring my role or local authority into disrepute.*

Summary of response from the Subject Councillor:

Councillor Whittington immediately submitted an apology in writing to all Members of the Council.

In correspondence with the Council's Monitoring Officer, Councillor Whittington accepted that his behaviour was completely unacceptable, represented a breach of the Councillor Code of Conduct and that he intended to accept any sanctions imposed upon him.

Councillor Whittington agreed with the contents of the final report into this investigation, including the findings, conclusion and decision to issue him with a Censure Notice.

Information considered:

The Council's Monitoring Officer was present at the meeting of Full Council on 23 November 2023 and witnessed the behaviour exhibited by Councillor Whittington.

Additionally, the following information was relied upon as part of the formal investigation:

- A visual and audio recording of the meeting of Full Council held on 23 November 2023
- Hand written notes made by the Monitoring Officer during the meeting of Full Council held on 23 November 2023
- The content of the original complaint submitted by the complainant
- The content of email correspondence submitted by Councillor Whittington as the Subject Councillor
- A position statement by the complainant
- Records of interviews held with seven other Members of the Council
- Details of previous Councillor Code of Conduct complaints made against Councillor Whittington whereby he has exhibited similar behaviour
- Feedback from an externally facilitated training session attended by Councillor Whittington which he agreed to attend as part of an informal resolution associated with a previous Code of Conduct complaint made against him

Findings:

Taking into account the evidence available, particularly the recording of the meeting, the statement from the complainant and interviews held with other Members of the Council, Councillor Whittington is found to have breached the following general principles of South Kesteven District Council's Councillor Code of Conduct:

- Treating all persons fairly and with respect
- Leading by example and acting in a way that secures public confidence in the role of Councillor

Councillor Whittington is also found to have breached the following specific paragraphs of South Kesteven District Council's Councillor Code of Conduct:

Respect:

1.3 *I treat other Councillors and members of the public with respect.*

Bullying, harassment and discrimination:

1.4 *I do not bully any person.*

Disrepute:

5.1 *I do not bring my role or local authority into disrepute.*

With regard to the allegation that Councillor Whittington used a derogatory term against another Member of the Council, there are inconsistent accounts associated with such a claim. Interviews with Councillors who were sat in close proximity to Councillor Whittington did not hear him say the words that he is alleged to have used and neither did the Chairman of the Council, or the Monitoring Officer, in attendance at the meeting. However, two Councillors interviewed confirmed that they did hear him use a derogatory term against another Member of the Council. There are clearly conflicting accounts in this respect, meaning that there is reasonable doubt as to whether Councillor Whittington used the phrase he is accused of making. It is therefore not possible to make a determination in relation to this aspect of the complaint one way or another and this aspect of the investigation is not upheld.

Independent Person considerations:

Both Independent Persons have been consulted as part of this investigation and agree with the findings and decision set out in this notice.

Monitoring Officer Decision:

- (1) **That Councillor Mark Whittington is found to have breached South Kesteven District Council's Councillor Code of Conduct, as outlined in this Decision Notice.**

- (2) That a Censure Notice be placed on Councillor Mark Whittington's Councillor profile on South Kesteven District Council's website until 1 May 2025.**

Right of Appeal:

Subject to judicial review or a decision of a Local Government Ombudsman, there is no right of appeal against this decision.

Graham Watts
Monitoring Officer
South Kesteven District Council