

Guildhall Gainsborough  
Lincolnshire DN21 2NA  
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**AGENDA**

This meeting will be streamed live (web address below) and the video archive published on our website following the meeting

**Standards Sub-Committee**

Tuesday, 24th November, 2020 at 6.30 pm

Via Ms Teams at <https://west-lindsey.public-i.tv/core/portal/home>

**Elected Members:-**  
Councillor Mrs Anne Welburn (Chairman)  
Councillor David Cotton (Vice-Chairman)  
Councillor Mrs Tracey Coulson  
Councillor Mrs Diana Rodgers  
Councillor Mrs Mandy Snee  
Councillor Robert Waller

**Non Voting Members:-**

**Parish Council**

**Representatives:-** Bruce Allison  
Liz Hillman

**Independent**

**Persons:-** Madge Marshall-Brown  
Stephen Beard

**1. Register of Attendance**

**2. Declarations of Interest**

Members may make any declarations of interest at this point but may also make them at any time during the meeting

### 3. **Public Reports**

i) To Review the Number, Nature and Outcome of Complaints received during the Civic Years 2016/2017 - 2020/21 (to-date 31 October 2020) (PAGES 3 - 11)

ii) Brief Update on the LGAs New Model Code Conduct

The Monitoring Officer will provide the Committee with a brief update in respect of the LGA's work in developing a new Model Code of Conduct following the national consultation undertaken. (PAGES 12 - 27)

Attached is a slide presentation received at the recent Annual MO Conference.

Ian Knowles  
Head of Paid Service  
The Guildhall  
Gainsborough

16 November 2020



Standards Sub Committee

24 November 2020

**Subject: To Review the Number, Nature and Outcome of Complaints received during the Civic Years 2016/2017 – 2020/21 (to-date – 31 October 2020)**

Report by:

Director of Corporate Services

Contact Officer:

Alan Robinson  
Monitoring Officer  
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Purpose / Summary:

This report presents a data analysis of the number, nature and outcome of complaints received under the Code of Conduct regime for the civic years 2016/17 through to 2020/21 (to-date 31 October)

**RECOMMENDATION(S): that**

- (a) Members note the statistical data presented within the report; and**
- (b) Members give consideration as to whether there is any proactive work that should be undertaken.**

## **IMPLICATIONS**

**Legal:**

**None**

**Financial :**

**None**

**Staffing :**

**None**

**Equality and Diversity including Human Rights :**

**None**

**Risk Assessment :**

**None**

**Climate Related Risks and Opportunities :**

**None**

**Title and Location of any Background Papers used in the preparation of this report:**

## **1 Background and Introduction**

1.1 During the Civic Year 2016/17 the Standards Sub-Committee undertook a considerable amount of work in reviewing the Authority's Code of Conduct.

1.2 In support of the rationale for change the Committee were also provided with statistical information which covered the period 1 October 2015 – 30 September 2016.

1.3 As a result, a revised Code of Conduct was formally adopted by the District Council in May 2017, and incorporated provisions relating to

- Respect / Bullying and Harassment
- Confidential Information; and
- Use of Resources

1.4 On adoption of the New Code of Conduct, the Standards Sub Committee also resolved that Officers be requested to report regularly to this Committee the number, nature and outcome of complaints received under the Code of Conduct.

1.5 This report sets out statistical information for: -

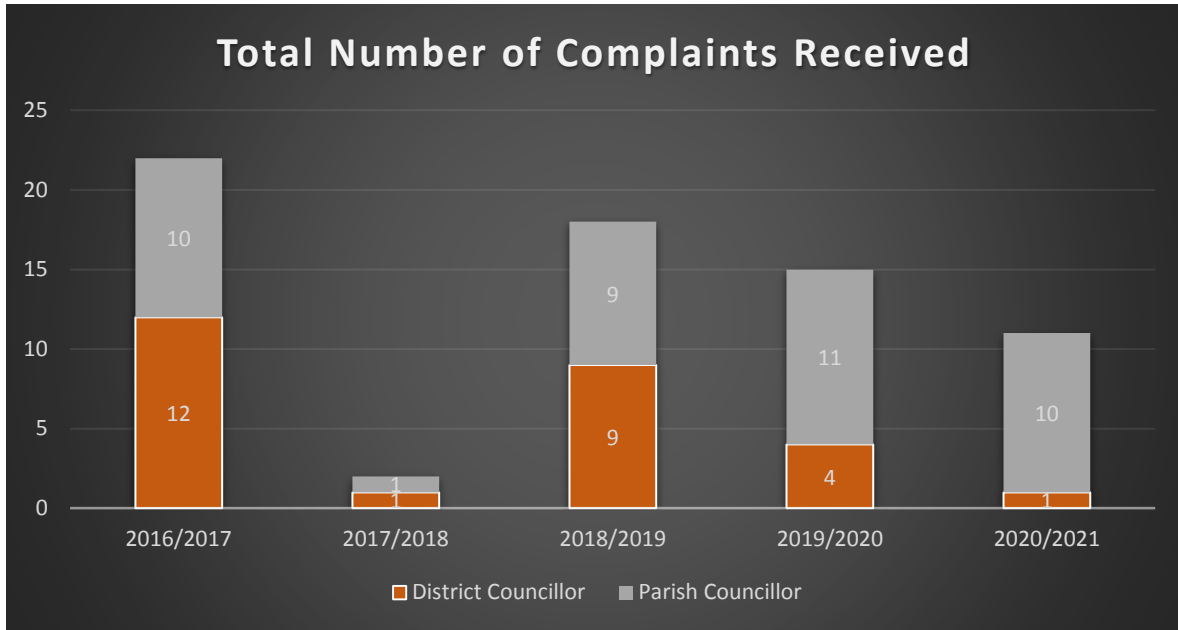
- the Full Civic year before the adoption of the new Code (2016/17);
- the Full Civic year after the adoption of the new Code (2017/2018) during which time proactive work was being undertaken with Parish Councils with a view to them also adopting the Code; and
- the Full Civic years of 2018/19; 2019/20
- the 2020/21 Civic year to date (31 October 2020).

1.6 The Committee last received a statistical report in November 2019, in which the data reported, cover the period up until August 2019.

1.7 It is hoped that by providing data for both pre and post adoption of the new Code, the Sub-Committee may be able to identify the impact, if any, the Code's adoption has had and determine whether undertaking further pro-active work around the standards of behaviour expected would be of assistance.

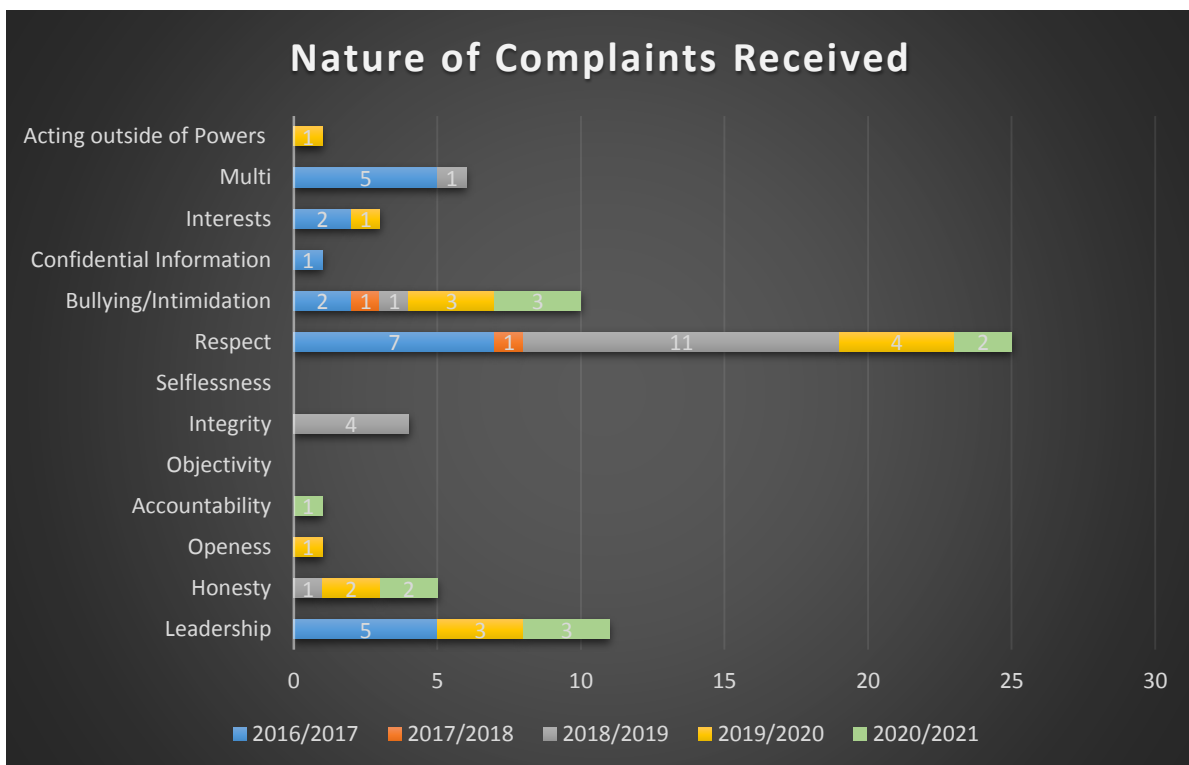
## **2. Summary of Number, Nature and Outcome of Complaints received during the Civic Years 2016/17, 2017/2018, 2018/19 and 2019/20 (to-date)**

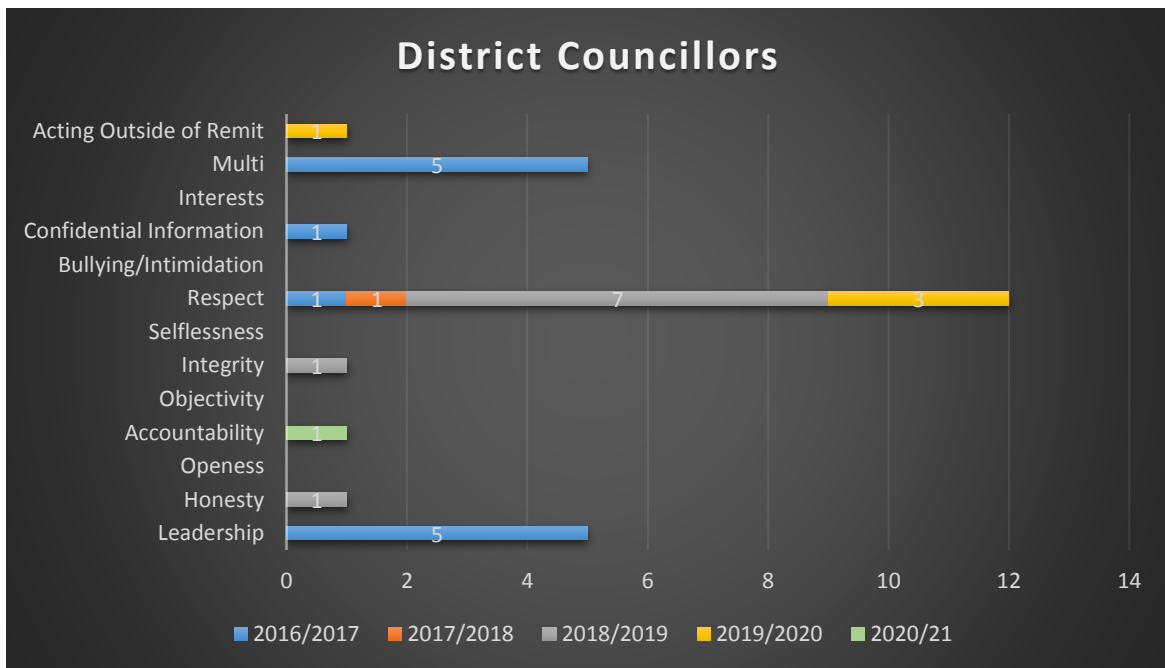
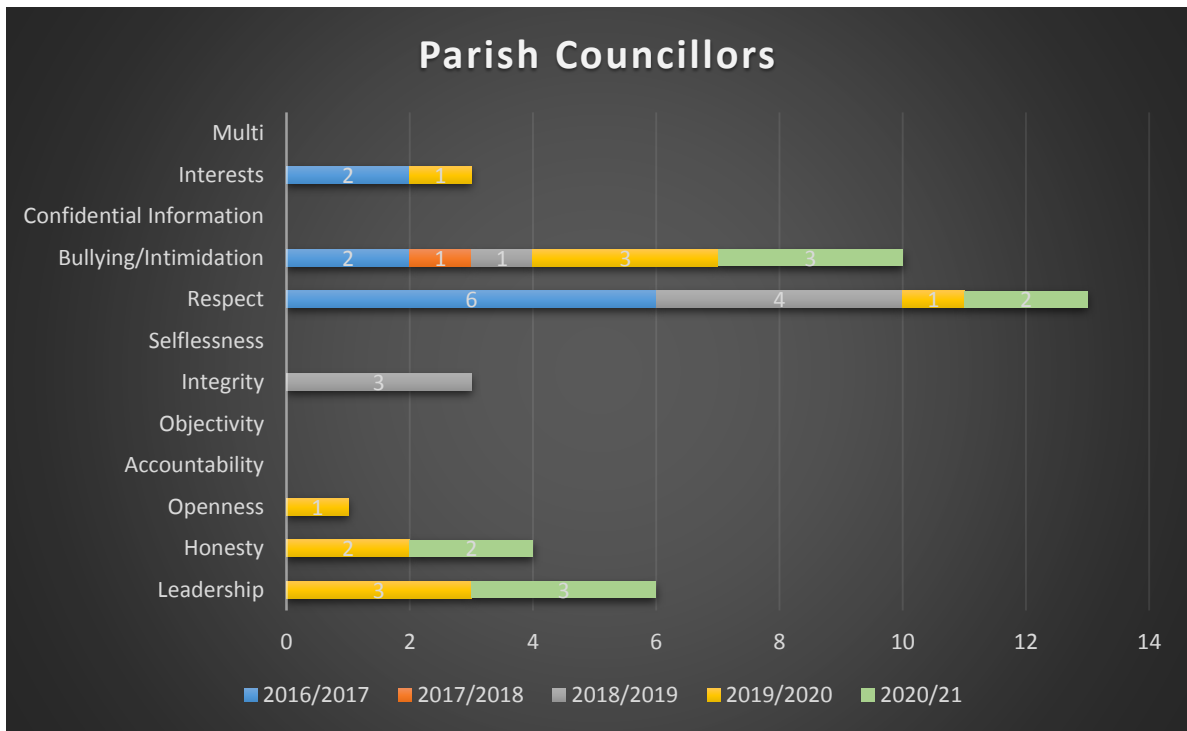
2.1 The graph below shows the total number of complaints received for each year and whether these were related to a Parish or District Councillor.



2.2 The charts below sets out:-

- a) the nature of the complaints received for each year as total.
- b) the nature of the complaints received for each year split between District Councillors and Parish Councillors.

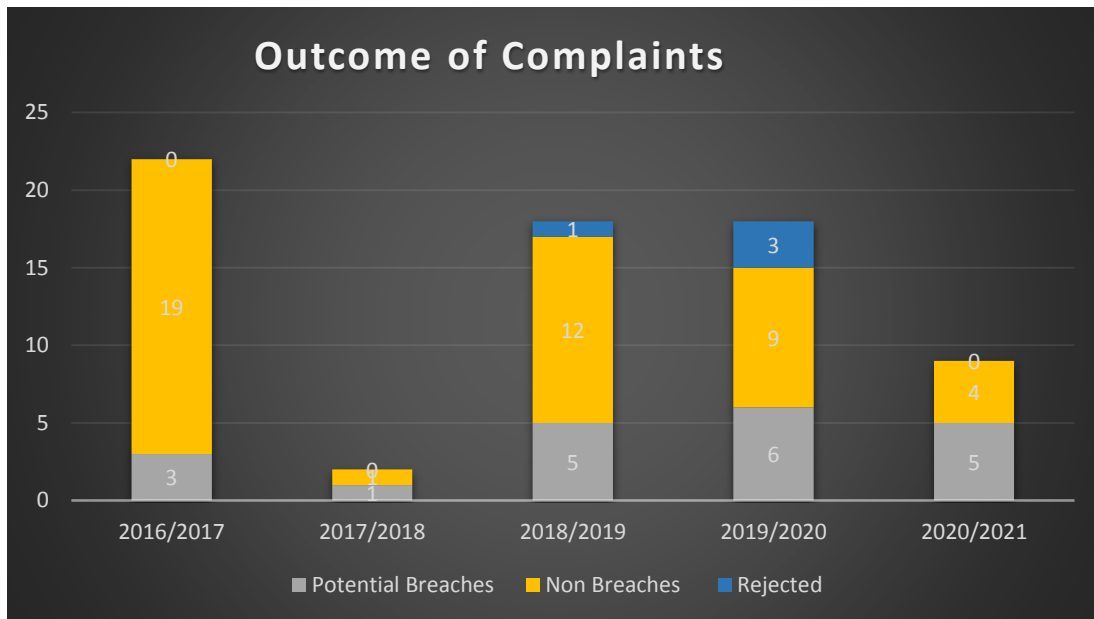




**Note:**

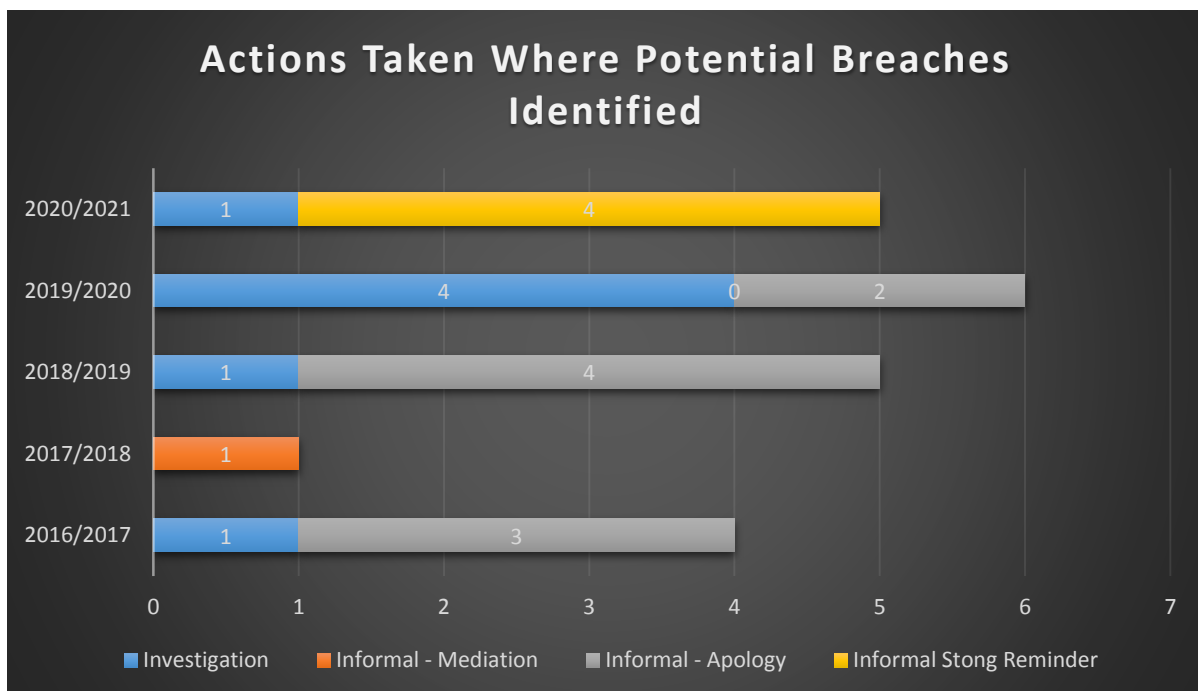
It should be noted that the way in which data is collated changed with the introduction of the new Code. It is difficult to make direct comparison and some Officer interpretation is used when categorising the complaints.

2.3 The Chart below sets out the outcome of each complaint received during each year



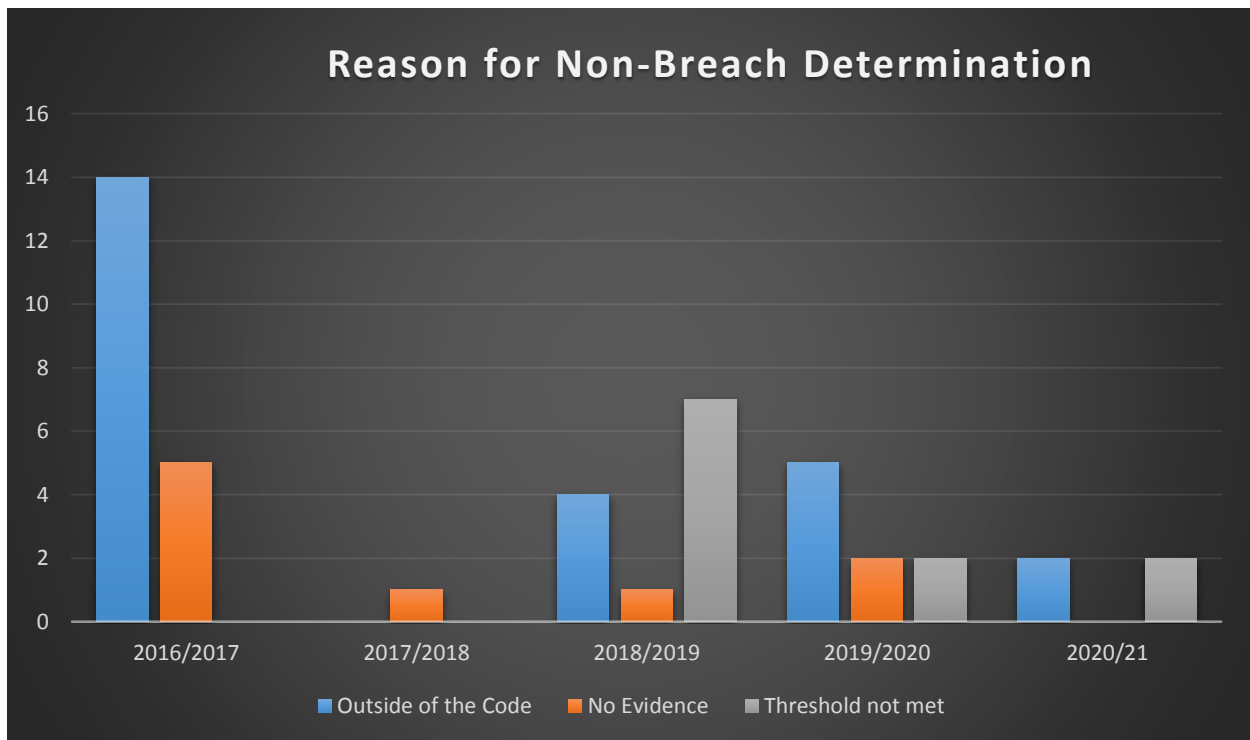
Note: These cases are deemed potential breaches as no formal investigation has been undertaken at this stage in the process.

2.4 The Chart below sets out the action taken in respect of each case where a potential breach of the Code was identified.





2.5 The final Chart sets out the reasons why those complaints deemed to have been a “non-breach” were so.



### 3. Current approach

3.1 As indicated on its adoption, the Code is enforced with the ethos of good governance, openness and transparency underpinning any decisions made. Local and informal resolution is always used wherever possible. This is particularly important due to the imposable sanctions being limited. Complaints are only to be released into the public domain, when all forms of local and informal resolutions have failed.

3.2 Complaints regarding respect, bullying and harassment, are considered within a threshold of tolerance, with less tolerance applied for complaints regarding behaviour towards the public or very public acts.

3.3 That being said, the Code is not intended to stifle the rough and tumble of political debate, nor to enable malicious, petty, politically or personally motivated complaints to be pursued.

This can be demonstrated by the limited amount of complaints being pursued to formal investigation.

3.4 The Code aims to respect a Councillor’s right to a private life, however, it is important to understand that the public, particularly in small communities, will never see their elected Members as off duty. In such cases elected Members are issued with polite reminders as to the impact their behaviour could have on the reputation of local democracy but no further action can legally be taken.

## 4. Summary

- 4.1 The number of complaints fell sharply following the introduction of the new Code for both Parish and District Councillors. However, in the civic year (2018/19) the number of complaints made rose, in particular against District Councillors. Arguably, this could be attributed to the pending election that year.
- 4.2 During 2018/19 In all cases, except one, where a potential breach was identified they were resolved with a local informal resolution such as mediation or an apology without the need for investigation. Guidance has also been issued on the use of social media, and friendly yet firm reminders issued regarding personal behaviour within communities which Councillors represent.
- 4.3 During 2019/2020 there were a total of 15 complaints made, 11 Parish and 4 District. Through the course of 2019/20 of the 6 potential breaches referred to above, 4 were referred for investigation. 2 relating to a District Councillor and 2 relating to Parish Councillors.
- 4.4 The two complaints against the District Councillor were proven and this matter was reported through to Full Council in November 2019, as part of a full public report, and sanctions were imposed.
- 4.5 One complaint against a Parish Councillor, following investigation, resulted in a finding of no breach. No further action was taken and this was not part of a public report. The outcome of the other investigation into a Parish Councillor has recently been returned with a finding of breach – this is currently going through the local resolution process.
- 4.6 The current civic year 20/21 (up to October) has seen 11 complaints to date and looks set to be an unusually high year. Anecdotally complaints across all sectors are up due to the very “different” year 2020 has been to date, with people again arguably have more time to pursue such matters.
- 4.7 We have also seen particular hotspots across the District resulting in a number of complaints concentrated on similar issues in the same area, thereby increasing the overall total number of complaints received, arguably “skewing” the data.
- 4.8 The main source of complaints continues to be respect, bullying and intimidation and Leadership. Leadership is often used to categorise complaints which cover multiple aspects of the code, and can be an early indication of wider or entrenched issues.
- 4.9 Social media continues to feature highly of a number of complaints.
- 4.10 The majority of complaints still result in a “no breach” determination being made at the initial assessment stage. This is primarily as result of

them relating to behaviour in a Councillor's private capacity, relating to procedural issues or having been deemed to not meet the threshold worthy of investigation. The scope of the Code is becoming a bigger issue, but legislative change would be required to encompass additional scenarios.

- 4.11 The number of complaints falling outside of the Code has reduced significantly, directly as a result of the additional provisions being included in the Code from May 2017 onwards. It is worthy of note that many of the "new" provisions being considered by the LGA that do not require legislative change are already included in WLDCs code as a result of the work undertaken in 2017.
- 4.12 Investigations are costly, and time consuming and with imposable sanctions being limited, this is arguably not a cost effective use of public funds. That being said costs would not prevent the most serious cases being further investigated and the public interest is also considered.
- 4.13 To-date in 2020/21 of the 5 potential breaches, 1 was referred for investigation relating to a Parish Councillor. The investigating officer's report has recently been returned to the Authority with a finding of breach – this is currently going through the local resolution process. The remaining 4, whilst not sent for investigation, did result in informal action being taken.
- 4.13 In recent months there has been a move to issuing strong reminders about behaviour and offering informal mediation, in recognition that a public hearing offers little resolution. In some cases it is evident neither an Investigation or a Hearing will offer any further resolution, and a pragmatic approach is adopted. The Authority is focussed on trying to achieve an outcome, and change in behaviour and will pursue this option over a hearing wherever possible. Resources are therefore being allocated to activities which it is hoped will result in outcomes.
- 4.14 The independent people will be present at the meeting and may wish to share their views of the assessment process and trends seen particularly in recent months

## **5 Moving Forward -**

- 5.1 The Committee are asked to consider whether any further informal actions should be undertaken by the Monitoring Officer at this stage.

Examples could include

- \* Issuing further guidance on social media and e-mail communications
- \* More training on the Code
- \* Encouraging Chairman – to make better use of the Standing Orders to manage behaviour in meetings

# Reflections on 2020

- Misconduct seems to be becoming a more serious issue again
- Social media dominating complaints
- The scope of the Code has become a big issue
- Onset of virtual meetings and lockdown cabin fever seems to be leading to even more complaints
- New Code won't be a panacea but may be a chance for new conversations
- Government silence on sanctions ever more problematic

# Reviewing the Code

- CSPL Report 2019 – LGA ‘to produce new Model Code’
- LGA appoint us November 2019
- Workshops with stakeholders - January 2020
- Recommendations to LGA - March
- Consultation on draft – Spring/Summer
- LGA Leadership Board approve Code – 22<sup>nd</sup> October
- Awaiting formal sign-off. Launch – December?

# Key questions

- Purpose of Code/audience
- Principles v rules
- Balance of Code to guidance
- Capacity
- Bullying and disrespect
- Social media
- Interests

# Consultation headlines

- First person or third person
- Respect vs civility
- Equalities
- Social media
- Acting as a councillor
- Disrepute
- Gifts and hospitality
- Compliance
- Guidance

# First person or third person

- Councillor 'ownership' of standards
- Concern over 'enforcement'
- Being told vs taking responsibility for



# Respect vs civility

- Research findings broadly positive – nobody said concept not important
- But civility unpopular – changed to respect  
Plain English and understood by members, officers and public
- Respect for office and role as well as individuals

# Equalities

- Representation on importance of equalities and the role of councillor – LGA very strong on need to comply with equalities duties
- Ensuring bullying isn't centred solely on protected characteristics
- Difference between bullying and harassment

# Social media

- Need to reflect more strongly in Code
- Virtual meetings
- Greater need for local protocols and guidance

# Acting as a councillor

- General view scope needs widening/putting beyond doubt
- But needs legislative change so take out of current version
- Expect LGA to support change to legislation
- Acting as councillor v purporting?
- Should any 'private matters' be regulated?

# Acting or purporting?

- A drunken councillor says I'm on licensing committee and will have your licence taken away if you don't let me in

Acting as councillor?

- Purporting to act as a councillor?
- Purely private matter?

# Acting or purporting?

- A councillor's twitter profile says 'councillor but all views are my own'
- Tweets *Britain withstood the Blitz and got up, had a cup of tea and got on with rebuilding the next day. We will stand against the tide of Islam*
- Acting as councillor?
- Purporting to act as a councillor?
- Purely private matter?

# Freedom of speech- the right to offend?

- If these tweets are 'policed' where is balance between offence caused and freedom of speech?
- Is it for the monitoring officer to enforce?
- Political parties?
- The police?

# Disrepute

- Positive overall support for inclusion in the code
- How can we better define this?
- Most examples cited were outside scope/private matters e.g. benefits fraud, criminal convictions



# Gifts and hospitality

- Presumption of refusal?
- National limit or determined locally?
- Register of gifts offered but refused?
- What is significant?

# Compliance

- Strong support for tougher sanctions but not a Code issue
- Lobbying of Government
- But LGA supportive of provisions around training and compliance

# Guidance

- Strong calls for guidance from councillors and officers
- Support for councillors – short Code but more consistent interpretation
- Sharing of caselaw
- Who produces it?
- Publishing of Code before guidance