



Standards Sub Committee

15 July 2021

Subject: To Review the Number, Nature and Outcome of Complaints received during the Civic Years 2016/2017 – 2021/2022 (to-date – 30 June 2021)

Report by:

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 2021/22 (to-date 30 June 2021).

It also sets out a summary of trends noted in most recent years.

RECOMMENDATION(S): that

- (a) Members note the statistical data presented within the report; and**
- (b) Members support the approach to pro-active work detailed in Section 5.**

IMPLICATIONS

Legal:

No legal requirement to report the outcome of complaints. The Localism Act does require the Authority to have a process by which it should deal with complaints made under the Code of Conduct

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:

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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: -

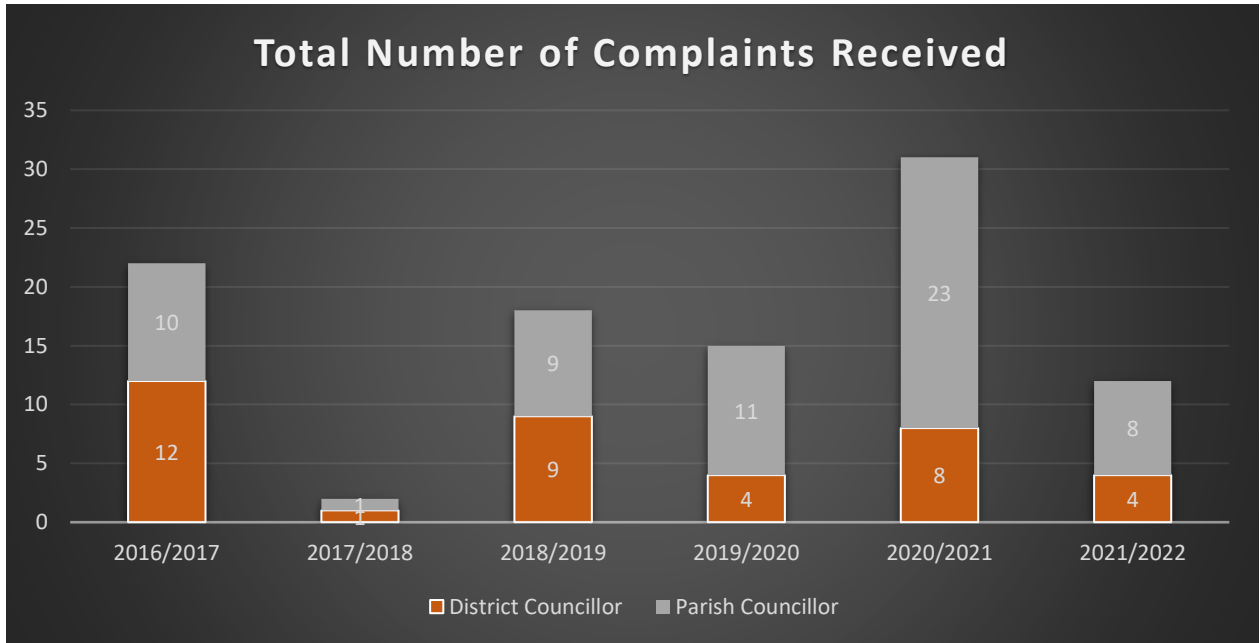
- the Full Civic year before the adoption of the new Code (2016/17);
- the Full Civic year after the adoption of the new Code (2017/2018) during which time proactive work was being undertaken with Parish Councils with a view to them also adopting the Code; and
- the Full Civic years of 2018/19; 2019/20 and 2020/21
- the 2021/22 Civic year to date (30 June 2021 (2 months)).

1.6 The Committee last received a statistical report in November 2020, in which the data reported, cover the period up until 31 October 2020.

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.

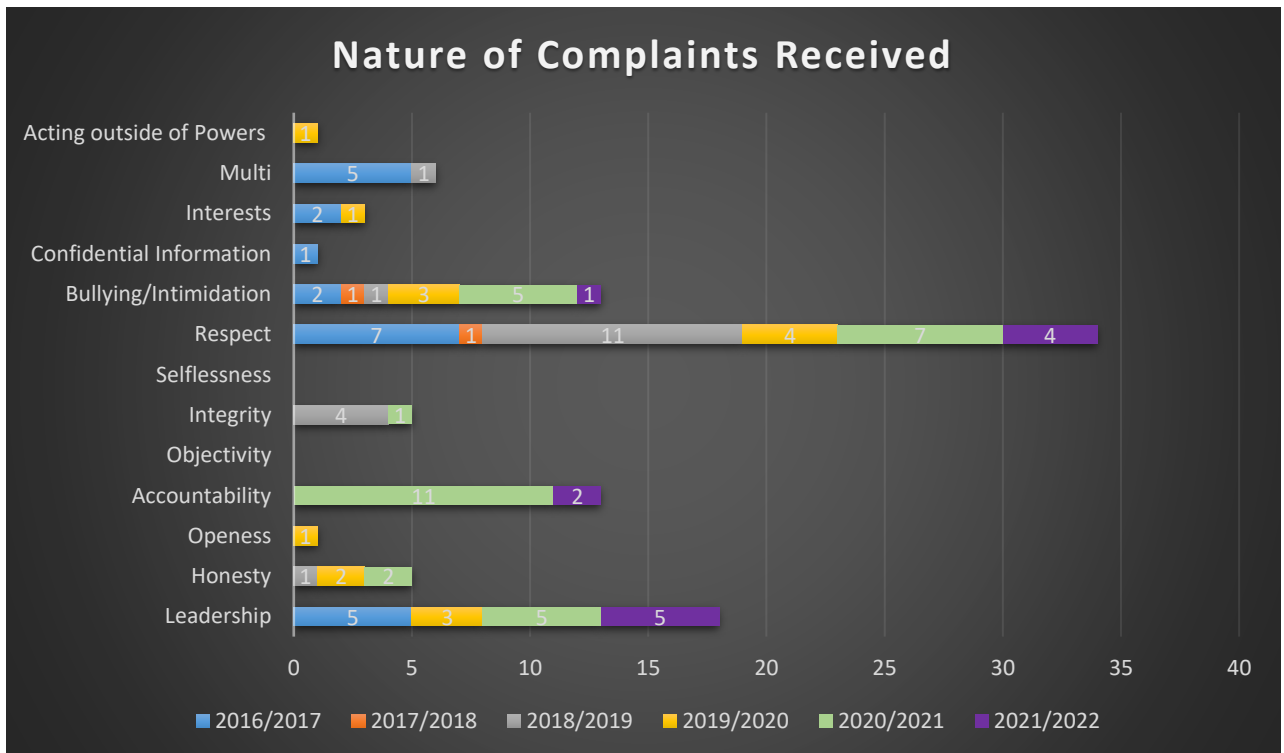
2. Summary of Number, Nature and Outcome of Complaints received during the Civic Years 2016/17, 2017/2018, 2018/19, 2019/20, 20/21 and 21/22 (to-date)

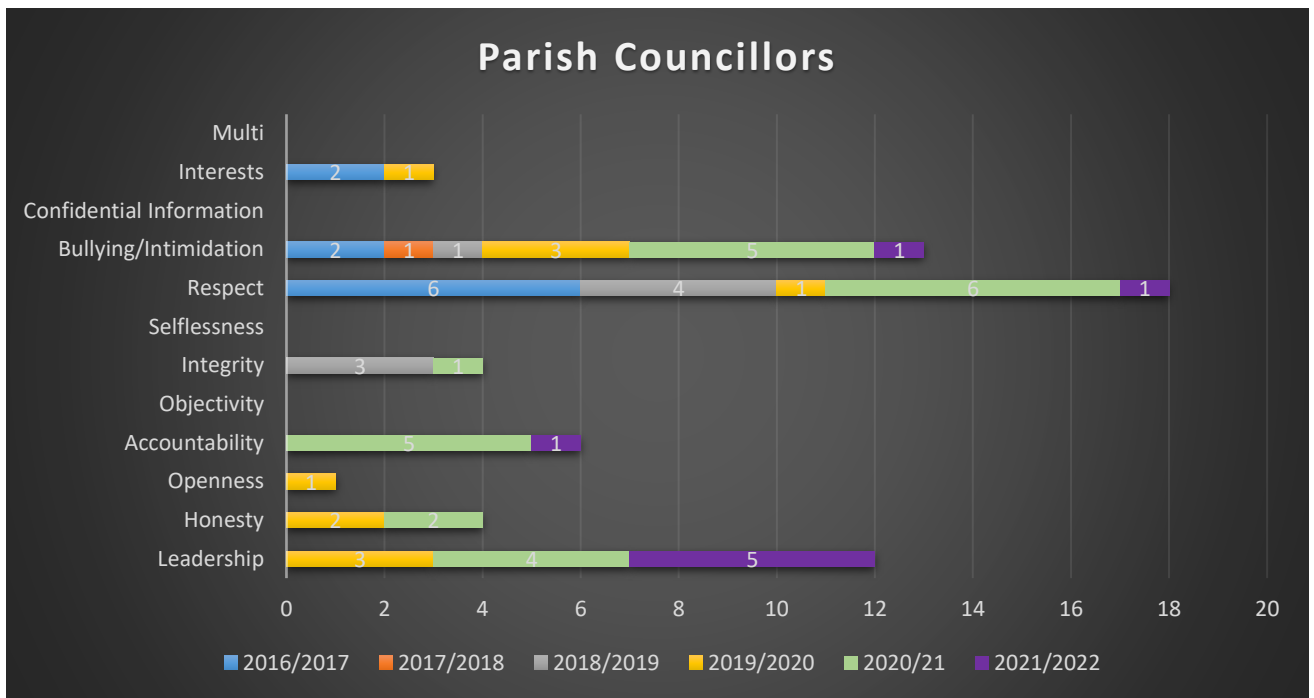
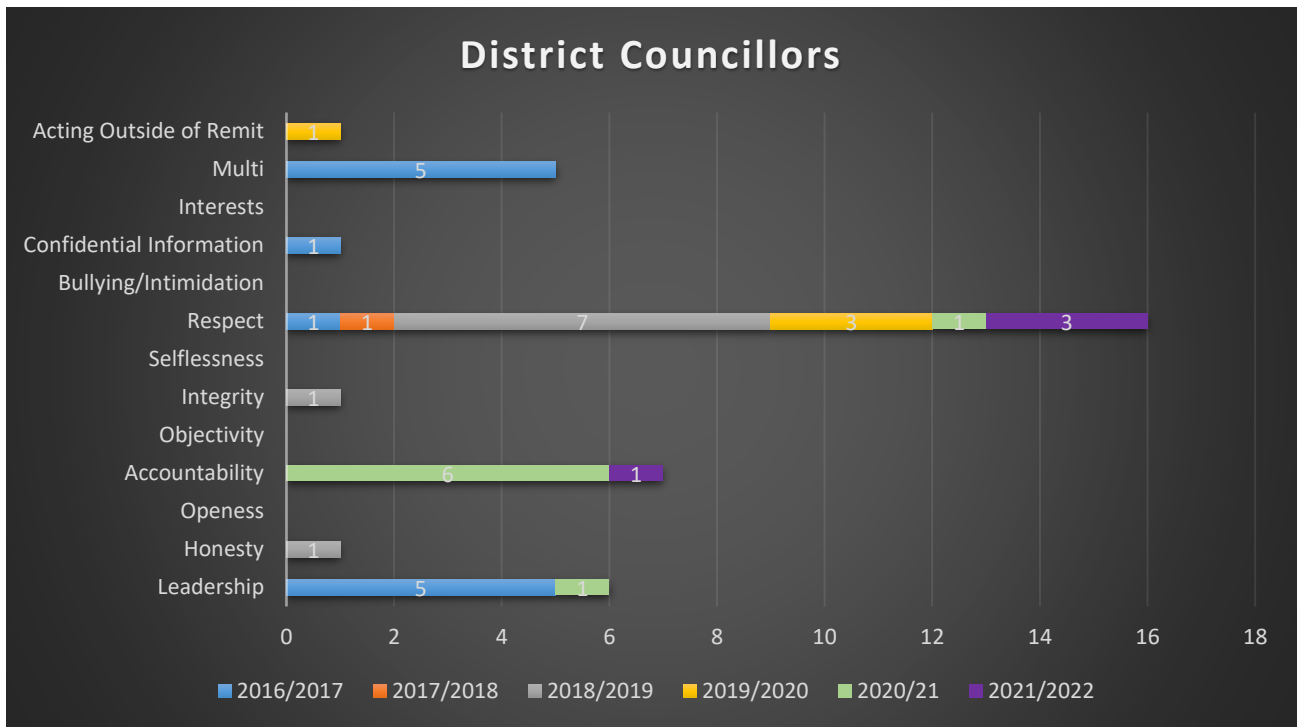
2.1 The graph below shows the total number of complaints received for each year and whether these were related to a Parish or District Councillor.



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.



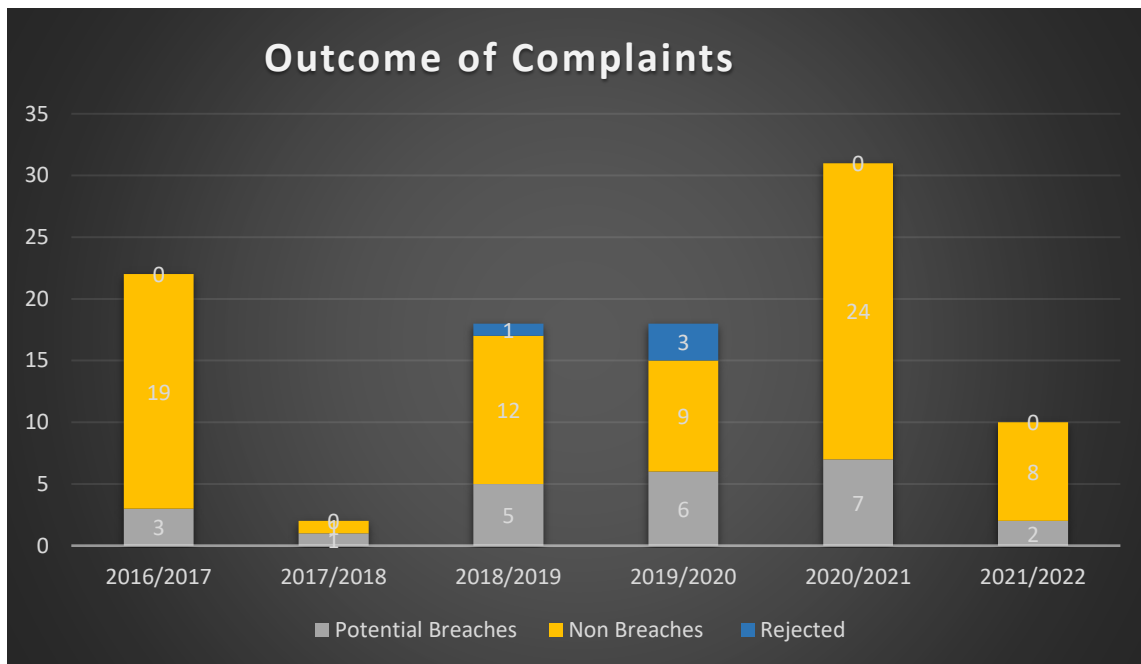


Note:

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.

This is an area of work that will need to be re-visited again, should the Council choose to adopt a new code – see section 5.

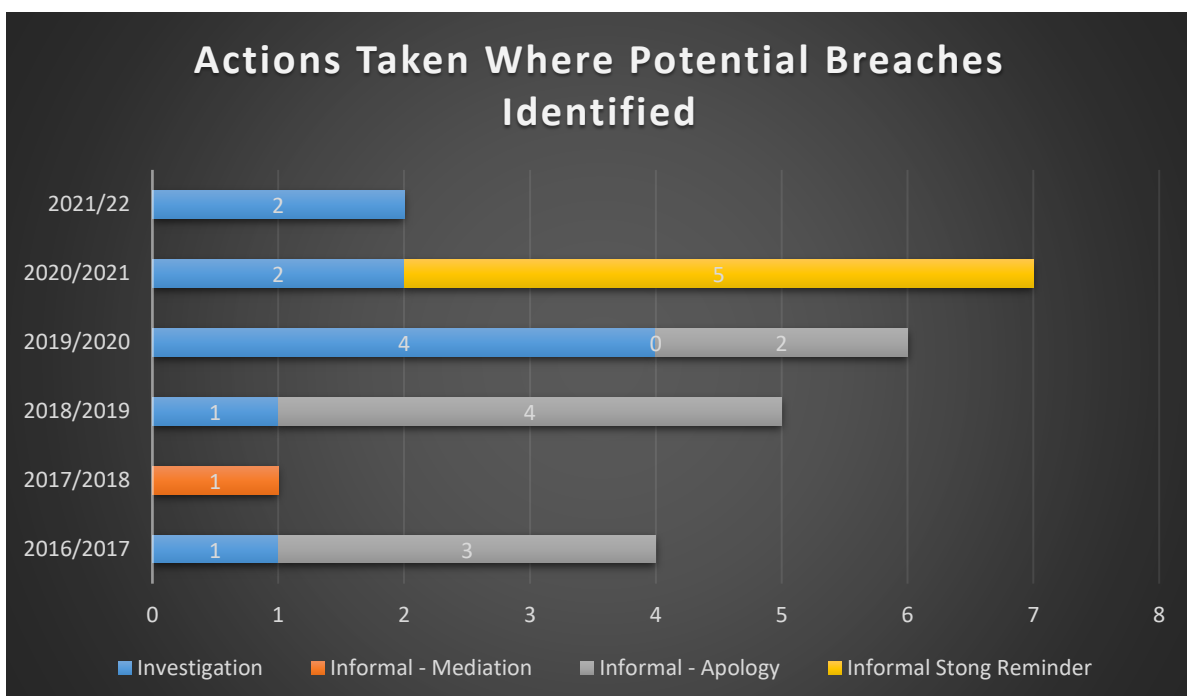
2.3 The Chart below sets out the outcome of each complaint received during each year



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

At the time of writing the report two complaints were yet to be determined.

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



Note: 1 case logged as investigation during 2020/21 went straight to the issue of sanctions

2 cases logged as investigation during 2021/22 went straight to the issue of sanctions

All related to District Councillors and action taken was supported by the relevant Group Leaders

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.

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

3.5 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.

3.6 With the ever increasing need to safeguard the spending of public funds since late 2019 when the Monitoring Officer has received complaints that outline behaviour which clearly is in breach of the Code, where the facts have already established on receiving the complaint, ie they are simple and the impact on democracy is considered great. Sanctions have been issued in the absence of an investigation, which would be at the cost of the taxpayer.

3.7 The Authority has in recent years also begun to publicise when a Councillor has failed to comply with a sanction issued by the Monitoring Officer. Complying with sanctions is a requirement of the new code of Conduct.

4. Summary of Trends for 2020/21 and emerging trends for 2021/22

- 4.1 The 2020/21 civic year saw our highest number of complaints received. With a total of 31. Double the amount seen in 2019/2020 and nearly as many as 2019/2020 and 2018/2019 combined.
- 4.2 We continue to receive more complaints about Parish Councillors as opposed to District Councillors, but this is to be expected given the greater number of parish councillors as opposed to District Councillors .
- 4.3 Anecdotally complaints across a large number of sectors were up due to the very “different” year 2020 was. Arguably people had more time to pursue such matters. With the move to on-line meetings and the need to broadcast live, Councillors particularly, Parish Councils, have been much more accessible to the Public. Their behaviour and operation scrutinised to a greater degree than usual.
- 4.4 Greater engagement in local democracy is always to be welcomed , but this does give rise to greater expectations and the need for improved standards as borne out by the total number of complaints received.
- 4.5 2021/21 also saw 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.
- 4.6 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. Accountability also features highly in recent complaints and could reasonably be as a result of the increased transparency virtual meetings brought about.
- 4.7 Social media continues to feature highly in a number of complaints. This will likely be the case going forward given its prominence now in society. Again the LGAs new code specifically mentions social media and guidance notes to help both Members and Officers are expected soon.
- 4.8 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. Some are simply not within the public interest The scope of the Code is becoming a bigger issue, but legislative change would be required to encompass additional scenarios.
- 4.9 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.
- 4.10 Investigations are costly, and time consuming and with impossible 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.

- 4.11 During 2020/21 of the 7 potential breaches, 2 were referred for investigation. One relating to a Parish Councillor and one to a District Councillor. One was fully investigated and in light of the investigating officer's report the local resolution process was utilised. The second was subject to the process detailed at Section 3.6 of the report and resulted in sanctions.
- 4.12 Both subject members were subsequently issued non compliance public censure notices
- 4.13 The remaining 5, whilst not sent for investigation, did result in informal action being taken.
- 4.14 Whilst this report only covers 2 months of the 2021/2022 civic year, Members will see clearly the trend seen in 2020/21, of an increased number of complaints, which appears to be continuing with 12 complaints already received, and 2 cases resulting in sanctions, with the need for an investigation.
- 4.15 Virtual regulations expired on 7 May and with complaints being made retrospectively it remains to be seen if the return to physical meetings will see complaints levels drop to pre-Covid levels or whether this trend is to continue
- 4.16 Over the past year and 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 a 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 positive outcomes.
- 4.17 Much work is undertaken in trying to improve people's understanding of the limitations of the Code of Conduct, and how the current regime does not have the powers the public often perceive it too. Outcome based advice is offered wherever possible and routes of redress with greater sanctions are often highlighted to complainants.
- 4.18 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
- 4.19 Trends for earlier years can be viewed in previous reports submitted to this Committee

5 Moving Forward -

5.1 The Committee when considering these reports are often 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

5.2 Members when they last considered this report made a number of suggestions, including the creation of videos and guidance sheets as detailed in the minutes of the meeting held on 24 November 2020.

5.3 With the launch of the LGAs new Model Code in January 2021 and with it the promise of supporting guidance notes and information sheets. With the agreement of the previous Monitoring Officer, the work suggested at the last meeting has not progressed. The rationale being that this could have resulted in duplicated work.

5.4 It is proposed that the publication of these documents be awaited in the first instance after which time the Sub-Committees previous suggestions be re-visited, and any noticeable gaps in the LGA documentation be rectified with local guidance.

5.5 It is important any local guidance produced compliments national guidance available.

5.6 Officers are also suggesting that should the new Code be adopted, the complaints form and logging process should be revisited. The complaint form currently puts much emphasis on the Nolan provisions rather than the paragraphs of the Code and relies on the complainant being able to categorise their complaint. Members' behaviour is assessed against the Code with Nolan principles being the overarching theme. Re-designing the form would allow for complaints to be more clearly and accurately categorised and allow for greater analysis moving forward.