

**To the Chair and Members of the
AUDIT COMMITTEE**

ANNUAL REPORT OF MONITORING OFFICER

EXECUTIVE SUMMARY

1. This paper sets out the Monitoring Officer's (MO's) Annual Report on matters relating to ethical governance, including details of any complaint handling activity carried out in consultation with the Independent Persons in relation to allegations of Member misconduct and details of disclosures made by members of staff under the Council's Whistleblowing Policy during the last 12 months.

RECOMMENDATIONS

2. It is recommended that the Committee:-
 - (i) notes the MO's annual report on complaint handling activity for the period 1st April 2014 to 31st March 2015;
 - (ii) recommends to Full Council that Parish Council representation on the Audit Committee's Hearings Sub-Committee should cease with immediate effect for the reasons outlined in paragraph 7 below;
 - (iii) notes the whistleblowing returns for 2014/15.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

3. Having robust ethical governance policies and procedures in place helps to maintain openness, transparency and probity in the way that the Council conducts its business. This in turn should help increase public confidence in local governance through maintaining high standards of conduct by Members.

BACKGROUND

4. In accordance with adopted practice, this Committee receives a report by the MO on an annual basis, which summarises complaint handling and ethical governance activities during the previous 12 months.

Audit Committee Hearings Sub-Committee

5. As a consequence of the Localism Act 2011, the Council had to adopt a new Member Code of Conduct and put in place new arrangements for dealing with Code complaints against Councillors at both Borough and Parish level. These new arrangements came into effect in July 2012. It was agreed at that time to retain the Council's Standards Committee while the new arrangements were bedded in, but that this would be reviewed in 12 months' time.

6. As the Audit Committee has responsibility for corporate governance that incorporates ethical governance (the focus of the former Standards Committee) it was agreed by the Council at its meeting on 13th June 2014 to disband the Standards Committee and transfer its functions to the Audit Committee. To enable the Audit Committee to have a mechanism in place to deal with complaints against Councillors that cannot be resolved informally, it was also agreed to establish a Hearings Sub-Committee of the Audit Committee. This Sub-Committee currently comprises two co-opted Parish Council representatives (Parish Councillors Norma McCarron and Richard Johnson) and two co-opted Independent (non-Councillor) representatives (David Harle and Monica Clarke).
7. As the terms of office of the Parish Council representatives on the Hearing Sub-Committee are due to end on 20th July 2015, it is necessary to review the composition of the Sub-Committee. The Localism Act 2011 introduced a new process with a much greater emphasis on resolving complaints on a more informal basis (avoiding lengthy and potentially costly formal investigations and subsequent local hearings). As a result, since its establishment in 2012, the Hearings Sub-Committee has never been convened. Furthermore, the need for Parish Council representation in any Hearings process is no longer a statutory requirement.
8. It is therefore recommended that the Parish Council representation on the Audit Committee's Hearings Sub-Committee be discontinued on the understanding that this is no longer a statutory requirement and that the membership of the Hearings Sub-Committee, if it should ever meet, will still include an independent element by way of the existing Independent (non-Councillor) Co-optees who serve on this body.

Complaint Handling Activity – 1st April 2014 to 31st March 2015

9. The Council's main designated Independent Person (IP), Philip Beavers will be in attendance at today's meeting to answer any questions Members may have on his role during the past year in assisting the MO with complaints of alleged Member misconduct. Following the recent notice given to the MO by Ian Daines of his wish to resign as the Council's reserve IP, the MO is currently exploring the option of having a stand-by sharing arrangement in place with the other South Yorkshire authorities to enable Doncaster to call upon the services of one of their IPs in the event that Mr Beavers is unable to assist with a complaint for any reason.

Borough Councillors

10. Over the last 12 months, two formal complaints against Borough Councillors have been received by the MO.
11. The first complaint was made by a member of the public on behalf of six residents expressing concerns in relation to attempts made by the residents to communicate with two of their Ward Councillors in connection with a planning application. In summary, the complainants alleged that:
 - The Ward Councillors had shown a lack of respect and adopted a bullying attitude in the manner of their communications with the residents concerned;
 - The Members in question had used their position to attempt to influence DMBC Officers.

- The Members had failed to attach appropriate weight to all relevant considerations and give any reason for their stance in this matter.
12. Having consulted the Council's IP, Philip Beavers, on the complaint, the MO subsequently wrote to the two Ward Councillors in question, providing them with a copy of the complaint, and notifying them that he had concluded that this was not a matter which warranted referral to the Audit Committee but instead, should be referred for Local Resolution. The Councillors were advised that the MO and IP were both of the opinion that there was nothing within the complaint that justified the assertion of bullying. However, on their reading of the complaint and on the basis of the material put forward, the MO and IP did feel that the Ward Councillors could have engaged with the complainants in a more timely and helpful way. The Councillors were offered the opportunity to make observations on the complaint and respond with any proposals for the resolution of this matter. In their responses to the MO, both Councillors refuted the allegations made against them and did not feel that they had a case to answer or that they should make an apology for the way in which they had dealt with the complainants in this matter. In view of the strength of feeling that exists on this issue, the MO believes it is unlikely that agreement can be reached between the parties.
 13. The second complaint alleged that a Ward Councillor had exceeded her role and become too involved in a private law case with safeguarding implications and, in doing so, had used her position inappropriately, accessed confidential court papers and compromised the impartiality of officers. The MO and IP both concluded that some further enquiries should be undertaken before any decision could be reached regarding future action. Those enquiries were concluded and considered by the MO and IP. The Family Procedure rules do allow a party to family proceedings to take confidential advice and support from a third party as was the case here. On that basis, there could be no case to answer over the Ward Councillor having read court papers that were given to her by a party to those proceedings. The other two aspects of the complaint were also looked at and found to have not constituted a breach. However, the decision was a balanced one and it was appropriate to advise the Councillor concerned of the dangers involved in becoming personally involved in a case of this nature.

Parish Councillors

14. In respect of complaints against Parish Councillors, the MO's attention during the past year has had to focus to a large extent on trying to resolve on-going tensions and conflicts at one specific Parish Council in the Borough. This has stemmed from the MO receiving numerous complaints from Parish Councillors against fellow Parish Councillors and from residents in the parish against certain Parish Councillors over a considerable length of time. In an attempt to resolve matters, the MO and the Council's Independent Person Phil Beavers have met in a private session with the Parish Councillors and Parish Clerk in a mediation capacity and have also attended subsequent meetings of the Parish Council to observe proceedings and monitor the situation.
15. It should be noted that, taken in isolation, the nature of many of the concerns raised in this case would not have been considered sufficiently serious to warrant any specific action or investigation by the MO. However, when considered as a whole, in view of the scale of the problems and given that the apparent breakdown in relationships has been impacting on the Parish Council's ability to function effectively, it was felt necessary for the MO and Independent Person to intervene in

this instance. The MO and Independent Person will be able to provide an update on the latest position with regard to the case in question at the meeting, if the Committee so wishes.

16. One further formal complaint, which was submitted on behalf of 7 residents, was received during the year. This related to a Parish Councillor at a different Parish Council to that described in paragraphs 11 and 12 above. The allegations related to an incident at a public meeting of the Parish Council in November 2014, during discussion on a planning application in the parish, where the complainants had been "...appalled at the attitude and total lack of professionalism shown by the Parish Councillor".
17. Having considered the concerns raised and consulted with the Independent Person, the MO noted as a key issue in this case that following the submission of the complaint, the Parish Councillor in question had subsequently resigned. Whilst the Council's process did not necessarily preclude the acceptance of a complaint which related to a former parish councillor's time in office, the MO was mindful in this instance of the need to have regard to the nature of the complaint, the very limited extent of remedies available in these circumstances, and the best use of Council resources. Having regard to these factors and the subsequent resignation of the Parish Councillor, it was the joint view of the MO and the Independent Person that there was no merit in investigating the complaint or pursuing any of the other options available under the Council's complaint handling procedure.

Whistleblowing Returns for 2014/15

18. In accordance with the Council's Whistleblowing Policy, Directors are responsible for completing an annual return detailing any whistleblowing concerns within their Directorate, which is forwarded to the MO. The MO has overall responsibility for the maintenance and operation of the Policy, which includes keeping a record of all whistleblowing cases and presenting a summary of these to the Audit Committee on an annual basis.
19. The Monitoring Officer has not been notified of any whistleblowing concerns during 2014/15. Whilst this may be a good thing, there is always the concern that the reasons for this may not be positive. For example, it could be the case that not everyone is sufficiently aware of the whistleblowing procedure or, if they are, do not have sufficient confidence in the process or the protection offered by it. Hopefully, that is not the case, but it is necessary to recognise the possibility and mitigate as far as possible. There is a separate report on today's agenda introducing the revised whistleblowing procedure. The revised procedure will be widely publicised and the protection afforded by it emphasised.

OPTIONS CONSIDERED AND REASON FOR RECOMMENDED OPTION

20. Not applicable – this report is primarily for noting.

IMPACT ON THE COUNCIL'S KEY OBJECTIVES

- 21.

	Implications
We will provide strong leadership and	The work of the Audit Committee in

governance, working in partnership.	monitoring the Council's ethical governance activities helps to: <ul style="list-style-type: none"> • ensure that Council arrangements are open, accountable and ethically strong; • promote high standards of conduct; • build a 'bond of trust' between the Council and its communities.
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RISKS AND ASSUMPTIONS

22. There are no identified risks associated with this report.

LEGAL IMPLICATIONS

23. Section 27(1) of the Localism Act 2011 places a duty on relevant authorities to promote and maintain high standards of conduct by Members and Co-opted Members of the authority.

24. Section 28 of the Localism Act 2011 requires Principal Authorities to have in place arrangements for investigating allegations of Member misconduct and taking decisions on those allegations. It also requires Councils to appoint at least one Independent Person who is to be consulted as part of the complaint handling process. The Council has in place arrangements for discharging these arrangements.

FINANCIAL IMPLICATIONS

25. There are no specific financial implications arising from this report.

EQUALITY IMPLICATIONS

26. There are no specific equalities implications associated with this report.

BACKGROUND PAPERS

Complaints File (exempt).

Whistleblowing Policy.

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