



Date: 27th April 2023

**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. The report includes details of complaint handling activity in relation to allegations of Member misconduct, details of disclosures made under the Council's Whistleblowing Policy during the last 12 months and any reports under the Money Laundering Policy.

RECOMMENDATIONS

2. It is recommended that the Committee:-
 - (i) notes the MO's annual report on complaint handling activity for the period 1st April 2022 to 31st March 2023;
 - (ii) notes the whistleblowing return for 2022/23.
 - (iii) notes the nil money laundering reports for 2022/23.

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 in which the Council conducts its business. This in turn should help increase public confidence in local governance through maintaining high standards of conduct by Members and Officers.

BACKGROUND

4. The Monitoring Officer has the specific duty to ensure that the Council, its officers, and its Elected Councillors, maintain the highest standards of conduct in all they do. The main duties of the Monitoring Officer are set out below. The Monitoring Officer's legal basis is found in Section 5 of the Local Government and Housing Act 1989 (as amended). The Monitoring Officer is also responsible for considering complaints made about Parish & Town Councillors across the borough.

The Monitoring Officer has three main roles:

- (i) To report on matters he/she believes are, or are likely to be, illegal or amount to maladministration;
- (ii) To be responsible for matters relating to the conduct of Councillors and officers; and
- (iii) To be responsible for the operation of the Council's Constitution.

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.

Councillor Complaint Handling Activity – 1st April 2022 to 31st March 2023

5. The Monitoring Officer works closely with the Council's designated Independent Person (IP), Philip Beavers on matters of Member Behaviour and Complaints.
6. The Council's *Arrangements For Handling Complaints Regarding allegations of Member Misconduct* requires that all complaints are provided upon the Council's specified complaints form. In accordance with this process, the Monitoring Officer is only able to consider these formal complaints and it is those, which are detailed within this report. (In the event that a complainant requested assistance to complete the complaint form that would be provided by an officer not otherwise involved in the complaints process.) Upon receipt of a formal complaint, the Monitoring Officer considers whether the complaint is a potential breach of the Council's Code of Conduct and consults with the Independent Person upon its contents. In consultation with the Independent Person, the Monitoring Officer considers whether the allegations are serious enough to potentially warrant a formal investigation and potentially a hearing of the Audit Committee (Standards Hearing) Sub-Committee. Since the law changed in 2011 that sub-committee has met on only two occasions. Wherever possible the Monitoring Officer will seek an alternative form of resolution, most usually an apology.

Revised Code of Conduct & Revised Complaints Handling Procedure

7. In May 2021 the Council resolved to adopt the new LGA Model Code of Conduct, which was drafted following recommendations by the *Committee On Standards In Public Life*. Significant training has been provided to DMBC Councillors on the provisions of the new Code and all Councillors attended that training. Work was also done with Doncaster's Town & Parish Councils and to date 30 of the 37 Councils in Doncaster have also adopted the new Code.

Borough Councillors

8. During the period since my last report, **five** individual complaints have been received in relation to Borough Councillors and these are detailed at Appendix A. No action was taken in relation to four complaints and informal advice was provided to one Councillor.
9. Eight complaints were received in the previous year (2021/22) so members will note that complaint activity has fallen this year. Last year I remarked that I believed that many complaints were a reflection of the post-election period where political tensions were heightened and perhaps reflected in complaint activity and that nationally complaints were reported to have risen post-covid. I am happy to report that most complaints received do not constitute a breach of the Code of Conduct and are often a dissatisfaction with the outcome of a decision or a policy position, or a perceived delay in responding. Such matters do not fall within the purview of the Code and complaints are responded to accordingly. My experience is that members are sensitive to complaints and are on most occasions willing to apologise if they have inadvertently upset a resident. Including the Elected Mayor there are 56 Ward Councillors and in that context five complaints received is a very low number.

Parish & Town Councillors

10. The Monitoring Officer has received **11** complaints against Parish & Town Councillors during the period 1st April 2022 to 31st March 2023. This is a slight decrease on the 12 complaints received in the previous 12 months. **Four** complaints received were considered to potentially be breaches of the Code of Conduct with one complaint awaiting determination at the time of writing. However those breaches were considered to be relatively minor in nature and whilst an advisory letter was issued to the subject member no further action was considered necessary. On all occasions, the complainants were notified as to the conclusions reached. Last year I remarked that a large number of complaints were received from one particular Council and that those complaints were reflective of local tensions at that Council. To date no further complaints have been received from that Council and it is hoped that matters may have stabilised.
11. It is noticeable that many complaints received relate to the use of Social Media in all of its forms and this continues to be a difficult area. Whilst the new Code attempted to clarify matters, it is clear that some members of the public believe that Councillors at all levels should be judged as to their social media use and the contents of their postings. I am wary of such approaches and usually draw a line between what is legitimately personal use and what is official use but that is often difficult.

- 12 On a final positive note, I would reiterate my annual comments made that the levels of complaints received and most importantly the number of actual breaches remain very low, and most Councillors and most Town & Parish Councils in Doncaster do not appear on my radar and that point should be noted by the Committee. To put that in context there are 37 Town & Parish Councils across Doncaster and over 350 serving Councillors across Doncaster so the amounts of complaints received remains proportionately extremely low.
13. A detailed summary of all complaints dealt with by the MO in consultation with the Independent Person during the 2022/23 Municipal Year is set out in **Appendix A** to this report.

Whistleblowing Returns for 2022/23

14. The MO has overall responsibility for the maintenance and operation of the Whistleblowing Policy, which includes keeping a record of all whistleblowing cases and presenting a summary of these to the Audit Committee on an annual basis.
15. The Whistleblowing policy was revised in February 2018. This applied the policy to members of the public, stakeholders, and contractors as well as employees. Whistle-blowers are asked to report their concerns to named senior officers. This ensured that senior management were aware of any matters and that the correct processes were followed and reported to the Monitoring Officer for the annual report. Not all complaints received are whistle-blowing reports, even where the complainant has cited them as such. In accordance with the Council's Whistleblowing policy, complaints are assessed and either dealt with as Whistleblowing complaints or otherwise referred to the Council's Corporate Complaints process and investigated as part of that process. A copy of the policy is attached at **Appendix B**, which now reflects the return of Children's Safeguarding to the Council from the former Doncaster Children's Services Trust.

The policy states as follows :-

"2.6 A way to establish whether an individual raising a concern is a 'whistle-blower' or a 'complainant' is to consider the nature of the concern.

- If the concern is about wrong doing and affects others, e.g. the general public and not just 1 individual, family or household, then you are likely to be a whistle-blower*
- If the concern affects only yourself, your family or household and is not about wrong doing, then you are likely to be a complainant*

9.1 (you will be advised if it is considered that the matter falls within the grievance or complaints or another procedure - the decision whether it falls outside of the whistleblowing procedure will be done in consultation with the Monitoring Officer and Assistant Director of Human Resources, Communications and Executive Office).

16. In accordance with its policy the Council considered two whistleblowing complaints as detailed below.

Date	Name of officer reported to	Brief Summary of Matter	Outcome
25 th January 2023	Monitoring Officer	Concern over a staffing matter at a school	Investigated by CYPF staff and appropriate assurances provided. Response provided to Complainant.
6 th February 2023	Monitoring Officer/Asst. Director – Education Skills & Culture	Concern over the Council's processes to prosecute non-school attendance	Assurance provided to the Complainant that Council processes in line with policy and the law.

Anti-Money Laundering Returns for 2022/23

17. Money laundering is the method by which cash or funds obtained illegally are passed or “laundered” through financial systems to disguise their criminal origin. The “laundered” funds can then be used for legitimate transactions that do not arouse suspicion. Where an officer suspects (or knows) that money laundering activity is taking place it must be reported to the Money Laundering Reporting Officer, who is the Monitoring Officer, and obtain advice and permission to continue the transaction.
18. For the period April 2022 to March 2023 there have been no reports made to the Money Laundering Reporting Officer.

OPTIONS CONSIDERED AND REASONS FOR RECOMMENDED OPTION

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

IMPACT ON THE COUNCIL'S KEY OUTCOMES

20.

Outcomes	Implications
Connected Council: <ul style="list-style-type: none">Working with our partners and residents to provide effective leadership and governance	The work of the Audit Committee in 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.

RISKS AND ASSUMPTIONS

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

LEGAL IMPLICATIONS [Officer Initials...NC... Date...5/4/23]

22. 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.
23. Section 28 of the Localism Act 2011 requires Principal Authorities to have in place arrangements for investigating allegations of Member misconduct (both Members of the Council and Parish/Town Councils in the Borough) 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 duties.
24. Whistleblowing protection for workers is provided in the Public Interest Disclosure Act 1998, incorporated into the Employment Rights Act 1996, and amended by the Enterprise and Regulatory Reform Act 2013. It gives protection from detrimental treatment of workers who disclose reasonable concerns about serious misconduct or malpractice at work. Workers are protected from detrimental treatment if their disclosure qualifies as a 'protected disclosure'. In order to ensure that they qualify for protection, the worker should follow a certain procedure as set out in our Policy.
25. The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 came into force on 26 June 2017. They implemented the EU's 4th Directive on Money Laundering and replaced earlier Regulations which were previously in force. Whilst the Regulations do not directly place specific responsibilities on local authorities in respect of money laundering, it is accepted best practice for the Council, as a guardian of public finances, to comply with the spirit of the legislation and put in place appropriate anti-money laundering safeguards.

FINANCIAL IMPLICATIONS

26. Financial implications were not requested in relation to this report.

HUMAN RESOURCES IMPLICATIONS [Officer Initials RH Date 06.04.23]

27. There are no specific HR implications in relation to the parts of this report which refer to complaints made against elected members and anti-money laundering returns.

Whistleblowing complaints which relate to the conduct of council employees are dealt with in line with the appropriate HR policy and procedure and any action taken, as appropriate, within the framework of the relevant policy.

EQUALITY IMPLICATIONS [Officer Initials...SRF... Date...01.04.23.]

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

BACKGROUND PAPERS

Whistleblowing Policy
Code of Conduct
Anti-Money Laundering Policy

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