



Doncaster Council

Date: 25th April 2024

**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 2023 to 31st March 2024;
 - (ii) notes the whistleblowing return for 2023/24.
 - (iii) notes the nil money laundering reports for 2023/24.

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

3. 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.
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.

Councillor Complaint Handling Activity – 1st April 2023 to 31st March 2024

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. 33 of the 37 Councils in Doncaster have now adopted the

revised code and we continue to work with the remaining Councils to encourage adoption of the modern Code.

Borough Councillors

8. During the period since my last report, **three** individual complaints have been received in relation to Borough Councillors and these are detailed at Appendix A.
9. Five complaints were received in 2022/23 & eight complaints in 2021/22 so members will note that complaint activity has continued to fall. The complaints received were relatively minor in nature and two stemmed from usage of social media with one matter being outside of the scope of the Code of Conduct as it involved social media being used in a private capacity. The third complaint is still subject to investigation at the time of writing. I am happy to report that most complaints received, or enquiries made 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 three complaints received is a very low number and I am pleased by the position.

Parish & Town Councillors

10. The Monitoring Officer has received **Seven** complaints against Parish & Town Councillors during the period 1st April 2023 to 31st March 2024. This is a welcome decrease from the Eleven complaints received in 2022/23 and the nine complaints received in 2021/22. One complaint was considered to be a breach of the Code resulting in an agreed apology by the subject member and one further complaint was investigated at length before establishing that there was insufficient evidence to proceed.
11. I remarked in last year's report that many complaints received relate to the use of social media in all its forms and that 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 all of 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. Even though Councillors may not identify themselves as Councillors on their social media profiles and use the account for personal matters, it is clear that complainants very often do not make the same distinction and believe that Councillors should be judged more harshly than other members of society when making comment or sharing their opinions on a wide variety of topics. Several of the complaints detailed at Appendix A stem from this particular issue.
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 2023/24 Municipal Year is set out in **Appendix A** to this report.

Whistleblowing Returns for 2023/24

14. The Monitoring Officer 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 updated last year to reflect the return of the former Doncaster Childrens Services Trust to the Council. The Council's Whistleblowing policy is open to use by members of the public, stakeholders, and contractors as well as employees. Whistle-blowers are asked to report their concerns to named senior officers. This ensures that senior management are made aware of any matters and that the correct processes are 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.

Following suggestions made last year by Audit Committee Members, individual names and telephone numbers of Whistleblowing contacts have been added to the policy in order to make contact easier for potential complainants.

The existence and purpose of the Whistleblowing process was also shared with CDC staff via the Council's intranet site and the Monitoring Officer intends to repeat this on an annual basis.

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 wrongdoing 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 wrongdoing, 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
8 th August 2023	Acting Director of Public Health – shared with Monitoring Officer/Head of Audit	Concern about use of funding by an external service provider	Allegations were investigated. Contract arrangement was subsequently terminated for different reasons.
9 th February 2024	Monitoring Officer/Head of Audit	Concerns over a planning matter	Complaint did not constitute a Whistleblowing matter and was dealt with by the relevant Asst Director under the Councils Corporate Complaints policy.

Anti- Money Laundering Returns for 2023/24

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 Council’s Chief Financial Officer, and obtain advice and permission to continue the transaction.
18. For the period 1st April 2023 to 31st March 2024 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 05.04.24]

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...01.04.24.]

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

BACKGROUND PAPERS

Whistleblowing Policy
Code of Conduct
Anti-Money Laundering Policy

REPORT AUTHOR & CONTRIBUTORS

Scott Fawcus, Monitoring Officer
01302 734640
Scott.fawcus@doncaster.gov.uk

**Scott Fawcus
Monitoring Officer**