



MEMBER CONDUCT COMMITTEE

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To: Councillors Tassell (Chair), Murphy (Vice-Chair), Bentley, Draycott, Hadji-Nikolaou, Rollings and Ranson(for attention)
Ball (Parish Member), Crick (Parish Member) and Marchant (Parish Member)

All other members of the Council
(for information)

You are requested to attend the meeting of the Member Conduct Committee to be held in Committee Room 2 - Council Offices on Monday, 3rd December 2018 at 6.00 pm for the following business.

Chief Executive

Southfields
Loughborough

23rd November 2018

AGENDA

1. APOLOGIES
2. MINUTES OF THE PREVIOUS MEETING 3 - 7

To confirm as a correct record the minutes of the meeting held on 17th September 2018

3. DISCLOSURES OF PECUNIARY AND PERSONAL INTEREST

4. QUESTIONS UNDER COMMITTEE PROCEDURE 12.8

No questions were received.

5. UPDATE ON COMPLAINTS RECEIVED

8 - 12

A report of the Monitoring Officer providing an update on complaints received about breaches of the Code of Conduct and any issues arising from those complaints.

6. REVIEW OF THE CONSTITUTION

13 - 16

A report of the Monitoring Officer providing a briefing about the annual review of the Council's Constitution and those parts of the Constitution (including the Members' Code of Conduct) that relate to the roles of the Committee.

7. REVIEW OF THE PLANNING CODE OF GOOD PRACTICE

17 - 19

A report of the Monitoring Officer providing an opportunity for the Committee to review the Planning Code of Good Practice.

8. WORK PROGRAMME

20 - 22

A report of the Monitoring Officer to enable the Committee to agree a work programme to plan its future business

MEETING DATES

Meetings of the Committee during 2018/19 will be held at 6.00pm on the following dates:

18th March 2019

MEMBER CONDUCT COMMITTEE 17TH SEPTEMBER 2018

PRESENT: The Chair (Councillor Tassell)

Councillors Bentley, Capleton, Draycott, Gerrard
and Rollings
Councillors Ball, Crick and Marchant (Parish
Members)

Head of Strategic Support
Democratic Services Manager
Democratic Services Officer (NC)

APOLOGIES: Councillor Murphy, Gaskell and Hadji-Nikolaou

The Chair stated that the meeting would be recorded and the sound recording subsequently made available via the Council's website. she also advised that, under the Openness of Local Government Bodies Regulations 2014, other people may film, record, tweet or blog from this meeting, and the use of any such images or sound recordings was not under the Council's control.

1. MINUTES OF THE PREVIOUS MEETING

Councillor Bentley entered the meeting.

The minutes of the meeting held on 19th March 2018 were confirmed as a true record and signed.

2. DISCLOSURES OF PECUNIARY AND PERSONAL INTEREST

No disclosures were made.

In response to a question the Monitoring Officer advised that members could declare a personal interest if they wished in respect of a later report on the agenda, but the Committee were not being asked to make a decision, only to note the report.

3. QUESTIONS UNDER COMMITTEE PROCEDURE 12.8

No questions had been received.

4. UPDATE ON COMPLAINTS RECEIVED

Considered a report of the Monitoring Officer providing an update on complaints received about breaches of the Members' Code of Conduct and any issues arising from those complaints (item 5 on the agenda).

It was noted that it was not possible to insist a councillor participated during an investigation and that the lack of cooperation could result in the Panel being unable to prove or disprove an allegation.

RESOLVED that the current position in respect of complaints about breaches of the Members' Code of Conduct that have been received by noted.

Reason

To keep the Committee informed about complaints.

5. REGISTER OF MEMBERS' INTERESTS

Considered a report of the Monitoring Officer providing an update regarding the Register of Members' Interests (item 6 on the agenda filed with these minutes).

The Democratic Service Manager updated the Committee that the 35% response rate for Borough Councillors was lower than reported in March 2018 and that the response rate for Parish Councillors had increased since it was reported in March 2018 to 37%.

RESOLVED

1. that the processes for keeping the Register of Members' Interest up to date be noted and with immediate effect e-mails about entries in the Registers of Members' Interest to Borough Councillors and Clerks of Parish and Town Councils be issued on a six monthly basis;
2. that the Committee schedule a future six monthly update of the Registers of Members' Interest and the processes for ensuring it is kept up to date be considered at the Committee's meeting to be held on 18th March 2018;

Reasons

1. Under the Localism Act 2011 (sections 29 and 30), the relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012 and the Council's Code of Conduct, Members of the Council are required to disclose their own and partners disclosable pecuniary interests, and other interest. The Committee also wished to standardise the Council's approach to remind both Borough and Parish Councillors regarding their Registers of Members' Interests at six monthly intervals.
2. Although the Committee recognised that it was not a legal requirement for Councillors to respond to prompts to update their Register of Members' Interests it was disappointed with the response rate for Borough Councillors and wished to continue to monitor the situation to see if there was a downward trend that could require further action.

AGENDA VARIANCE

RESOLVED that the urgent item 8 – Member Grants Scheme be considered before item 7 – Work Programme on the agenda.

6. WORK PROGRAMME

Considered a report of the Monitoring Officer enabling the Committee to agree a work programme to plan its future business (item 7 on the agenda filed with these minutes).

RESOLVED

1. that the Committee's current work programme be noted and updated in accordance with the decisions taken during the consideration of this item and other items on the agenda;
2. that at its meeting on 3rd December 2018 when the Committee considers the Planning Code of Good Practice it did not wish to invite the Chair and Vice-chair of the Plans Committee and the Head of Planning and Regeneration to that meeting;
3. that Chairs of Committees are reminded of their powers to ask other meeting participants to moderate their behaviour or to respond to other Members raising a point of order in particular, if filming or photographing during a meeting becomes disruptive, by including an article in the next Members Bulletin.

Reasons

1. To enable the Committee to fulfil its role in promoting and maintaining high standards of conduct by councillors and co-opted members.
2. The Committee wished to utilise member and officer time efficiently and would consider inviting the Chair and Vice-chair of the Plans Committee and the Head of Planning and Regeneration to a future meeting if possible amendments to the Planning Code of Good Practice had been suggested at its meeting on 3rd December 2018.
3. During the consideration of this item Members raised concerns regarding filming by a councillor during a recent meeting, which had become disruptive to other members being able to listen or respond to questions, and wished to ensure that Chairs of Committees were aware that it was within their powers as Chairs to ask other meeting participants to moderate their behaviour.

7. MEMBER GRANTS SCHEME

Considered an urgent report of the Monitoring Officer to seek views of the Committee regarding options for dealing with situations where individual ward councillors may have connections to organisations that they wish to award funding to under the Member Grants Scheme (item 8 on the agenda filed with the minutes).

The Monitoring Officer stated that after the report had been published, during a consultation with the Chief Executive, a third option had been put forward. Where there was a clear conflict of interest on the part of the ward councillor the decision making process would be removed from the councillor and the matter would be considered by the Cabinet. The advantages and disadvantages of the third option

were presented. He also drew the Committee's attention to the preference of the Lead Member for Communities, Safety and Wellbeing for Option 1, although it was noted she had not been aware of the third option at that point.

During the discussion the following points were made:

- other Local Authorities operated similar schemes and it would be beneficial to understand how they handled this situation.
- to involve the Cabinet in a decision regarding the expenditure of £1000 appeared to burdensome and could lengthen the time scales for organisations to obtain the grant monies, although similar issues could occur if the Member Conduct Committee was involved.
- it was unclear to what degree ward councillors were involved in making the final decision to award the grant to the organisation and whether they signed the form to approve payment.
- items were added to the Cabinet agenda at the request of the Leader or the Chief Executive and a standing item could be added for the consideration of Member Grants Scheme applications if and when required.

RESOLVED

1. that the report be considered as an urgent additional item at this meeting in accordance with section 100B(4)(b) of the Local Government Act 1972;
2. that the Committee supports the Chief Executive's suggestion (third option) that in such cases where a ward councillor had a conflict of interest that the grants application be referred to the Cabinet and it requests the Chief Executive to add it to the Cabinet agenda as required, possibly through a standing item.

Reasons

1. The Committee agreed with the Chair that this report be brought forward as an urgent additional item with respect to decisions on payments under the Member Grants Scheme are coming forward and delaying until the next meeting of the Committee would delay consideration of grant applications to the detriment of the organisations concerned.
2. the Committee considered the third option to be the best choice to ensure that the Member Grants Scheme process was transparent and in accordance with the values stated in the Members' Code of Conduct and the associated Nolan Principles. In such cases where the ward councillor might have a personal interest which might lead to bias the decision would be removed from their consideration and impartially considered by the Cabinet.

NOTES:

1. No reference may be made to these minutes at the Council meeting on 5th November 2018 unless notice to that effect is given to the Democratic Services

Manager by five members of the Council by noon on the fifth working day following publication of these minutes.

2. These minutes are subject to confirmation as a correct record at the next meeting of the Member Conduct Committee.

MEMBER CONDUCT COMMITTEE – 3RD DECEMBER 2018

Report of the Monitoring Officer

Part A

ITEM 5 UPDATE ON COMPLAINTS RECEIVED

Purpose of Report

To provide the Committee with an update on the complaints about breaches of the Code of Conduct that have been received and any issues arising from those complaints.

Recommendation

That the current position in respect of complaints about breaches of the code of conduct that have been received be noted.

Reason

To keep the Committee informed about complaints.

Policy Justification and Previous Decisions

The functions and responsibilities of the Committee set out in the Council's Constitution include determining any complaints that members of the Borough Council or the parish and town councils in the Borough have breached the Code of Conduct. The initial stages of the complaints process are dealt with by the Monitoring Officer and the purpose of this report is to keep the Committee informed of the volume and nature of complaints that are received.

Implementation Timetable including Future Decisions

It is recommended that the Committee receives reports at each meeting about the complaints that have been received.

Report Implications

The following implications have been identified for this report.

Financial Implications

None

Risk Management

No risks have been identified with this decision.

Background Papers: None

Officer to Contact:

Adrian Ward

Head of Strategic Support and Monitoring Officer

01509 634573

adrian.ward@charnwood.gov.uk

Part B

Summary of Complaints Received to 16th November 2018

1. Since the last meeting of the Committee there have been six new complaints received, making nine* in total for 2018/19 to date (* eight formal complaints, and one case where concerns were raised by officers).
2. Three of these new cases relate to a single Borough Councillor, and three to Parish Councillors. For the three new cases relating to a Borough Councillor the fact finding review has been completed which concluded that an investigation was necessary, which is now in progress. In the other new cases (relating to Parish Councillors) the fact finding reviews are in progress.
3. For comparative information, the following table summarises complaints received in previous years (including complaints about both Borough and Parish/Town Councillors):

Year	Total Complaints
2012/13 (9 months)	10
2013/14	6
2014/15	21
2015/16	14
2016/17	7
2017/18	10

Appendices

Appendix A – Details of complaints received in 2018/19 (to date)

Type of councillor	Number of complaints	Outcome	Issues raised in complaint	Reason for no further action	Description of other action	Outcome of investigation
Borough	4* (* 3 formal complaints, and one case where concerns were raised by officers)	Member Conduct Panel agreed with the Investigator's findings that there were no breaches of the Code of Conduct	Several officers raised concerns about the actions and conduct of a Councillor that the Monitoring Officer felt necessitated a report to a Panel of the Member Conduct Committee (NB – no formal complaints were received)			Investigation concluded that there were no breaches of the Code of Conduct
		3 separate complaints - investigation in progress	The 3 complaints were about statements made by the councillor at a council meeting, and relate to failing to treat officers with respect and bringing the council into disrepute			Investigation in progress
Parish / Town	5	Fact finding review – no further action required	Failure to properly declare business interests, and discussing confidential information in	Failure to declare business interests was an oversight, and the business in question was not trading anyway. Councillor proved they could not		

Type of councillor	Number of complaints	Outcome	Issues raised in complaint	Reason for no further action	Description of other action	Outcome of investigation
			public	have been present in the location on the date and time at which it was alleged that confidential information had been discussed in public		
		Fact finding review – no further action required	Making slanderous public comments	The complaint was considered to be unfounded as a potential breach of the Code of Conduct		
		2 separate complaints - fact finding review in progress	The 2 complaints were about the parish councillor making serious allegations regarding a parish council officer during a council meeting			
		Fact finding review in progress	Complaint against the chair of the parish council meeting for not intervening in relation to the two complaints above			

MEMBER CONDUCT COMMITTEE – 3RD DECEMBER 2018

Report of the Monitoring Officer

Part A

ITEM 6 REVIEW OF THE CONSTITUTION

Purpose of Report

To provide the Committee with a briefing about the annual review of the Council's Constitution and those parts of the Constitution that relate to the roles of the Committee.

Recommendations

1. That the Committee notes the report and the content of the current sections of the Constitution relating to member conduct and the handling of member conduct complaints.
2. That the Committee makes any recommendations regarding changes to the Council's Constitution relating to its roles that it wishes to see.

Reasons

- 1&2. To enable the Committee's views to form part of the annual review of the Council's Constitution.

Policy Justification and Previous Decisions

The roles of the Committee include:

- monitoring the operation of, and advising the Council on, the adoption or revision of codes and protocols relating to standards issues
- overseeing the process for dealing with complaints that those codes and protocols have been breached and where necessary making determinations of specific complaints
- making recommendations on major amendments to the Council's Constitution which involve standards issues.

A report appears elsewhere on this agenda in relation to the Committee's review of the Planning Code of Good Practice.

Implementation Timetable including Future Decisions

The Council reviews the Constitution each year. As part of the review consultation is undertaken with officers and councillors. It is planned to submit the results of the review to the Cabinet on 14th March 2019 and Council on 25th March 2019. At its meeting on 11th September 2017, the Committee agreed to consider the Members' Code of Conduct for amendments. A request was forwarded to members of the Committee to put forward possible amendments for consideration at the next meeting (3rd December 2018).

Report Implications

The following implications have been identified for this report.

Financial Implications

None

Risk Management

No risks have been identified with this decision.

Background Papers: None

Officers to Contact: Adrian Ward
Head of Strategic Support and Monitoring Officer
01509 634573
adrian.ward@charnwood.gov.uk

Karen Widdowson
Democratic Services Manager and Deputy Monitoring
Officer
01509 634785
Karen.widdowson@charnwood.gov.uk

Parts of the Constitution Dealing with Member Conduct Issues

1. The Council's Constitution includes a section containing the Council's Codes and Protocols in relation to conduct. These are:
 - Members' Code of Conduct
 - Officers' Code of Conduct
 - Protocol on Member/Officer Relations
 - Monitoring Officer Protocol
 - Members' Planning Code of Good Practice
 - Protocol Presentations to Councillors.
2. The Officers' Code of Conduct falls within the remit of the Personnel Committee as it forms part of the terms and conditions on which staff are employed. However all 6 documents can be accessed using the link at the end of the report for the Committee's information. A report appears elsewhere on this agenda in relation to the Committee's review of the Planning Code of Good Practice.
3. The Council has adopted a procedure for dealing with complaints that councillors have failed to comply with the requirements set out in these codes and protocols. A copy of the current procedure can be found using the link at the end of the report. As part of the review of the Constitution officers will look at whether the document can be simplified. Complaints that officers have failed to comply with the requirements of the Officers' Code of Conduct or the Protocol on Member/Officer Relations would be dealt with through the Council's disciplinary procedures.

Issue for the Annual Review of the Constitution - Monitoring Officer Protocol

4. Chapter 23 of the Constitution relates to the Monitoring Officer Protocol which can be found in the link below. Section 2 of the protocol specifically explains the arrangements between the Monitoring Officer, colleagues and Members and is designed to help ensure the effective discharge of their functions.

Point (g) in Section 2 states:

'The Monitoring Officer will, where appropriate, make enquiries into allegations of misconduct in the absence of a written complaint being received and if appropriate will make a written report to the Member Conduct Committee unless the Monitoring Officer considers a report is not warranted'.

5. A Councillor has suggested that section 2 (g) of the Monitoring Officer Protocol in Chapter 23 of the constitution be deleted. No reasons for the request have been provided.
6. A brief review of the Monitoring Officer Protocols of other local authorities suggests that whilst some authorities include a similar section relating to the Monitoring Officer being able to deal with concerns or allegations about Members' conduct in the absence of a written complaint, the majority do not appear to.

7. The Monitoring Officer recently acted under this clause in a situation where several Council officers raised concerns both verbally and in writing about the actions of a Borough Councillor, but were unwilling to make formal Code of Conduct complaints.
8. In considering whether or not to support the proposal to remove section 2(g) of the Monitoring Officer Protocol, the Member Conduct Committee may therefore wish to consider the following issues:
 - Most local authorities appear not to have a similar section in their Monitoring Officer Protocols, although some do,
 - Whether everyone raising a concern about a Member's conduct should be required in all cases to make a formal written complaint before any action will be taken,
 - What the expectations of the Member Conduct Committee are in a scenario where the Monitoring Officer becomes aware of a potential breach of the Member Code of Conduct, but no formal complaint has been made.

Codes and Protocols

The current codes and protocols in the Constitution can be found using the following link:

https://www.charnwood.gov.uk/files/documents/05_codes_and_protocols/05%20Codes%20and%20protocols.pdf

MEMBER CONDUCT COMMITTEE – 3RD DECEMBER 2018

Report of the Monitoring Officer

Part A

ITEM 7 REVIEW OF THE PLANNING CODE OF GOOD PRACTICE

Purpose of Report

To provide the Committee with an opportunity to review the Planning Code of Good Practice.

Recommendation

That the Committee considers the consultation responses and considers whether they wish to recommend any amendments.

Reason

To consider any proposals that have been made to amend the Planning Code of Good Practice.

Policy Justification and Previous Decisions

The functions and responsibilities of the Committee set out in the Council's Constitution include monitoring the operation of, and advising the Council on, the adoption or revision of codes and protocols relating to standards issues which included the Planning Code of Good Practice.

Implementation Timetable including Future Decisions

The Council reviews the Constitution each year. As part of the review consultation is has been undertaken with officers, and members of the Plans Committee and the Member Conduct Committee. It is planned to submit the results of the Constitutional review to the Cabinet and then to Council in the new year.

Report Implications

The following implications have been identified for this report.

Financial Implications

None

Risk Management

No risks have been identified with this decision.

Background Papers: None

Officer to Contact: Adrian Ward
Head of Strategic Support and Monitoring Officer
01509 634573
adrian.ward@charnwood.gov.uk

Background

1. Members of the Plans Committee and the Member Conduct Committee, and the Head of Planning & Regeneration have been consulted by email about any amendments to the Planning Code of Good Practice that they felt may be beneficial.

2. The Head of Planning & Regeneration responded with the following comment:

'Section 8.3 of the code relates to all councillors and attendance at public meetings. It seems to me that advice would be helpful to assist all councillors when considering invitations to attend private meetings with applicants/developers'.

3. The current relevant sections of the Planning Code are:

Applying to all Councillors:

8.1 'Councillors can involve themselves in discussions with developers, their constituents and others about planning matters. However, difficulties can be avoided if Councillors inform officers about any approaches made and seek advice'.

Applying to Plans Committee Members:

8.2 'They should not agree to any formal, private meeting with applicants, developers or objectors if you can avoid it',
'If you feel that a site visit or meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Head of Planning and Regeneration to organise it'.

Applying to all Councillors:

8.3 'Councillors are able to attend public meetings and presentations by applicants/developers which are open to the public'.

4. The Committee is asked to consider whether any further clarification is required within the Planning Code regarding private meetings with applicants, developers or objectors.

MEMBER CONDUCT COMMITTEE – 3RD DECEMBER 2018

Report of the Monitoring Officer

ITEM 8 WORK PROGRAMME

Purpose of Report

To enable the Committee to consider, and agree any changes to, its work programme to assist it to plan its future business.

Recommendation

That the Committee considers any items that it wishes to add to, or amend in, its work programme for future meetings.

Reason

To enable the Committee to identify future items of business and enable planning for future meetings to be undertaken, for example preparing reports and arranging for the attendance of officers and/or others at meetings.

Policy Justification and Previous Decisions

At its meeting on 24th March 2014, the Committee resolved to introduce a work programme to manage the business to be conducted at its future meetings (minute 12 refers). The Committee has considered business at its subsequent meetings based on that programme.

Implementation Timetable including Future Decisions

It is recommended that the Committee reviews its work programme at every meeting. The future meetings of the Committee for 2018/19 are scheduled to be held on the following dates:

18th March 2019

Report Implications

The following implications have been identified for this report.

Financial Implications

None

Risk Management

No risks have been identified with this decision.

Background Papers: None

Appendix: Work Programme

Officer to Contact:

Adrian Ward

Head of Strategic Support and Monitoring Officer

01509 634573

adrian.ward@charnwood.gov.uk

Member Conduct Committee – Work Programme

ITEM	NOTES	DATE
Update on Complaints Received	An update on complaints received about breaches of the Code of Conduct and any issues arising from those complaints.	Standing item
Review of the Constitution	Consider details of possible amendments to the Constitution it may wish to recommend as part of the annual review process as suggested at its meeting on 12th September 2016.	3rd December 2018 <i>(last considered 4th December 2017)</i>
Regular review of Members Code of Conduct and Planning Code	At its meeting on 7th December 2015 the Committee requested that the Chair and Vice-chair of the Plans Committee and the Head of Planning and Regeneration, are invited to attend the Member Conduct Committee on a regular basis, to review the relationship between the Planning Code and the Members' Code of Conduct.	3rd December 2018 <i>(last considered 4th December 2017)</i>
Register of Members' Interests	Update regarding recent reminders and responses for register of members interests and to include more detailed information regarding Parish and Town Councillor responses.	March 2019 <i>(last considered 17th September 2018)</i>
Results of the public consultation of the review of local government ethical standards by the Committee on Standards in Public Life	feedback from the consultation by the Committee on Standards in Public Life's review of local government ethical standards when the report becomes available.	To be scheduled