



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, 18th March 2019 at 6.00 pm for the following business.

Chief Executive

Southfields
Loughborough

8th March 2019

AGENDA

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

To confirm as a correct record the minutes of the meeting held on 3rd December 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 - 13

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. REGISTER OF MEMBERS' INTERESTS

14 - 16

A report of the Monitoring Officer providing an update regarding recent reminders and responses for register of members interests.

7. WORK PROGRAMME

17 - 19

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

MEETING DATES

There are no further meetings of the Committee during 2018/19, date for 2019/20 are to be agreed by full Council.

MEMBER CONDUCT COMMITTEE 3RD DECEMBER 2018

PRESENT: The Chair (Councillor Tassell)
The Vice Chair (Councillor Murphy)
Councillors Bentley, Draycott, Hadji-Nikolaou,
Rollings and Ranson
Ball (Parish Member), Crick (Parish Member) and
Marchant (Parish Member)

Democratic Services Manager
Democratic Services Officer (NC)

APOLOGIES: none

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.

8. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 17th September 2018 were confirmed as a true record and signed.

Councillor Hadji-Nikolaou joined the meeting.

In response to a question regarding member grants the Democratic Services Manager stated that the decision had been referred to the Cabinet and that the Leader of the Council had taken an executive decision to delegate the decision making to the relevant Cabinet Lead Member. Currently Cabinet Lead Member Decision meetings were held if required prior to the routine Cabinet meeting but this process would be reviewed as part of the annual review of the constitution.

9. DISCLOSURES OF PECUNIARY AND PERSONAL INTEREST

No disclosures were made.

A Parish Member noted that one of the complaints mentioned in the report for item 5 on the agenda, (Update on Complaints Received), related to the council of which he was a member and if the matter was discussed in detail he would leave the room.

10. QUESTIONS UNDER COMMITTEE PROCEDURE 12.8

No questions had been received.

11. 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 filed with the minutes). The Democratic Services Manager noted that since the publication of the agenda there had been a further complaint relating to a borough councillor.

The Chair stated that one of the complaints relating to a Borough Councillor had required two meetings of a Member Conduct Panel, which had concluded that the Councillor had not breached the Members' Code of Conduct. She noted that he had requested to be named as Councillor Mercer.

Councillor Ranson joined the meeting.

It was noted that the matter relating to Councillor Mercer had not been straight forward as there had not been a formal written complaint and that although he had been found to not have breached the Members' Code of Conduct, additional actions had been recommended as part of the Panel findings.

RESOLVED

1. that the link to the reports and minutes of the Member Conduct Panel held on 14th November 2018 be included in these minutes;

<https://charnwood.moderngov.co.uk/ieListDocuments.aspx?CId=155&MId=247&Ver=4>

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

Reasons

1. Members of the Committee considered that the additional actions recommended by the Member Conduct Panel when considering if Councillor Mercer had breached the Members' Code of Conduct should be made available to highlight that the matter had not been straight forward.
2. To keep the Committee informed about complaints.

12. REVIEW OF THE CONSTITUTION

Considered a report of the Monitoring Officer providing 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 (item 6 on the agenda with the minutes). The Democratic Services Manager stated there was an additional matter for the Committee to consider relating to training requirements for members who sat on Audit, Licensing and Personnel Committees.

In considering whether to remove point (g) in section 2 of the Monitoring Officer Protocol in Chapter 23 of the Constitution, Members of the Committee were concerned that it could inhibit officers from raising concerns, through fear of intimidation or harassment if the only option was to make a complaint in writing. Members who sat on the recent Panel hearing relating to concerns raised about a

Borough Councillor stated that it had been perceived as a weakness of the process that the concerns had not been raised as a formal complaint and considered it had limited its ability to determine the matter.

RESOLVED

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 section (g) of the Monitoring Officer protocol in Chapter 23 of the constitution be deleted as part of the annual Constitutional review by full Council;
3. that, as part of the annual Constitutional review by full Council, the training requirements for members of the Audit, Licensing and Personnel Committee be amended in the Constitution to state that new members of each committee must attend mandatory training or its equivalent in the current Council term to be eligible. Also, with respect to Audit and Personnel Committee members, other councillors are allowed to substitute for members of the relevant committee who are absent using procedures set out in the Committee Procedures but in order to be eligible to participate in meetings the member must have attended the mandatory training, or its equivalent, in the current Council term.

Reasons

1. To enable the Committee's views to form part of the annual review of the Council's Constitution.
2. The Committee considered that measures were already in place elsewhere in the Constitution which would safeguard officers in relation to members and noted that paragraph 27 of the Member:Officer Protocol in Chapter 22 stated:

If an officer had cause to complain about the conduct of a member they may make a complaint to the Monitoring Officer if they consider that the conduct involves a breach of the Members' Code of Conduct. If an Officer considers that the conduct does not involve a breach of the Code of Conduct but is in breach of this Protocol or other Council codes and protocols, they should make their complaint, preferably in writing, to the Monitoring Officer. The Monitoring Officer will deal with the complaint in accordance with the procedure for non-Code of Conduct complaints in Part 4 of the Constitution. In both cases officers should seek the advice of the Monitoring Officer.

3. Members considered it prudent to strengthen the training requirements for these committees to ensure members were up to date with the relevant and latest rules and regulations.

13. REVIEW OF THE PLANNING CODE OF GOOD PRACTICE

Considered a report of the Monitoring Officer providing the Committee with an opportunity to review the Planning Code of Good Practice (item 7 on the agenda filed with the minutes).

Members of the Panel were unclear whether it was necessary to include information in the Planning Code of Good Practice regarding meeting developers or applicants in public or private meetings but did consider that seeking advice from or informing the Planning Service when contacted by developers was appropriate.

It was proposed that paragraphs 8.1, 8.2, and 8.3 of the Planning Code of Good Practice was not amended.

4 voted in favour
1 voted against
2 abstained

The motion was carried. Councillor Draycott wished it to be recorded that she voted against the proposal.

RESOLVED

1. that paragraphs 8.1, 8.2, and 8.3 of the Planning Code of Good Practice are not amended;
2. that the Head of Planning and Regeneration is asked to consider implementing a process whereby ward councillors are informed when Section 106 legal agreements are signed;
3. that the Democratic Services Manager investigates the procedures of other local authorities regarding the practice of holding pre-meetings of committee members before Plans Committee meetings and that the topic is included on the agenda of a future Quarterly Plans Training event for further discussion;
4. that the Democratic Services Manager investigates procedures of other local authorities regarding asking additional questions relating to points of clarification of speakers at Plans Committee and its included into the annual review of the constitution.

Reasons

1. Members of the Committee considered that councillors were aware of the importance of seeking advice when meeting with developers and applicants and that the distinction currently in the Planning Code for Plans Committee members and all Councillors was appropriate.
2. As the Section 106 legal agreement required signing before the planning application was fully granted, members considered it relevant for Ward Councillors to know when it had been signed.

3. Members of the Committee were concerned that the benefits of including a pre-meeting of committee members before a Plans Committee had not been fully considered and that it would be of value for the topic to be considered at a Plans training event when relevant officers were present.
4. Members of the Committee considered that Plans Committee members having the opportunity to ask additional questions of speakers at Plans Committee was of value to the decision making process.

14. WORK PROGRAMME

Considered a report of the Monitoring Officer enabling the Committee to agree a work programme to plan its future business (item 8 on the agenda filed with these minutes).

RESOLVED that the Committee's current work programme be noted and updated to include the review of the Members' Code of Conduct and Planning Code of Good Practice in December 2019.

Reason

To enable the Committee to fulfil its role in promoting and maintaining high standards of conduct by councillor and co-opted members.

NOTES:

1. No reference may be made to these minutes at the Council meeting on XXXX 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 – 18TH MARCH 2019

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

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Part B

Summary of Complaints Received to 28th February 2019

1. Since the last meeting of the Committee there have been three new complaints received, making twelve* in total for 2018/19 to date (* eleven formal complaints, and one case where concerns were raised by officers).
2. Two of these new cases relate to Borough Councillors, and one to a Parish Councillor.
3. The two new cases relating to Borough Councillors both related to telephone calls to the Contact Centre where the Advisors taking the calls felt that the Councillors had made inappropriate comments which failed to recognise the role of the Contact Centre, and which were potentially undermining and belittling. Both cases, which involved separate Councillors and different Advisors, were resolved informally by the Councillors concerned making written apologies, but the Committee may wish to consider whether the complaints suggest that there is an underlying issue that needs further consideration.
4. In the other new case, relating to a Parish Councillor and a Facebook post, the fact finding review concluded that the individual was not acting in their capacity as a councillor when making the post.
5. 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	6* (* 5 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
		Hearing determined that there had been a breach of the Code of Conduct	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 concluded that whilst there was no breach of the Code in relation to some elements of the complaints, there was a case to answer for other elements.
		Resolved informally by Councillor apologising	Complaint from Contact Centre Advisor about telephone call from Councillor			
		Resolved informally by	Complaint from Contact Centre			

Type of councillor	Number of complaints	Outcome	Issues raised in complaint	Reason for no further action	Description of other action	Outcome of investigation
		Councillor apologising	Advisor about telephone call from Councillor			
Parish / Town	6	Fact finding review – no further action required	Failure to properly declare business interests, and discussing confidential information in public	Failure to declare business interests was an oversight, and the business in question was not trading anyway. Councillor proved they could not 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 - investigation in progress	The 2 complaints were about the parish councillor making serious allegations regarding a parish council officer during a council meeting			Investigation in progress
		Fact finding review – no further action required	Complaint against the chair of the parish council meeting	The conduct, if proven, would not amount to a breach of the Code		

Type of councillor	Number of complaints	Outcome	Issues raised in complaint	Reason for no further action	Description of other action	Outcome of investigation
			for not intervening in relation to the two complaints above			
		Fact finding review – no further action required	Comments made anonymously by the councillor on Facebook failed to follow the rules of the relevant 'spotted' site and prejudiced a criminal investigation	Not acting in capacity as a parish councillor in relation to the posting in question		

MEMBER CONDUCT COMMITTEE – 18TH MARCH 2019

Report of the Monitoring Officer

Part A

ITEM 6 REGISTER OF MEMBERS' INTERESTS

Purpose of Report

To provide the Committee with an update on the Register of Members' Interests and the processes for ensuring it is kept up to date.

Recommendations

1. To note the report;
2. That the Committee considers whether it wishes to schedule a future update of the Register of Members' Interests and the processes for ensuring it is kept up to date.

Reasons

1 & 2. Under the Localism Act 2011 (Sections 29 and 30), the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and the Councils Code of Conduct, Members of the Council are required to disclose their own and partners disclosable pecuniary interests, and other personal interests.

Policy Justification and Previous Decisions

On 11th September 2017, the Member Conduct Committee received an update from the Monitoring Officer about the processes to keep the register up to date. At that meeting the Committee resolved that a time limit of four weeks be added to the email reminders sent asking Borough Councillors and the Clerks of Parish and Town Councils to confirm if their entry in the Registers of Members' Interests required amending or had not changed, and also that the wording in the text of the email reminders sent to Borough Councillor and Clerks of Parish and Town Councils included reference to the Localism Act 2011, other relevant legislation and the requirement to respond within 28 days of any changes.

At its meeting on 17th September 2018 the Committee requested that a further update be provided at this meeting as members were disappointed with the response rate and wished to continue to monitor the situation.

Processes for keeping the Register of Members' Interests up to date

There is no legal requirement for the Monitoring Officer to regularly check with Councillors that their Registers of Members' Interests are up to date. The procedures that have been introduced are voluntary, although there are statutory requirements for Councillors to notify the Monitoring Officer of changes in certain circumstances.

To date, emails have been sent on a six monthly basis to all Borough Councillors and Clerks of Parish and Town Councils asking about entries in the Registers of Members' Interests. Emails have been sent on 4th February 2019 with a reminder sent on 19th February 2019.

As recommended at the Member Conduct Committee on 12th September 2016, a positive confirmation of whether or not there have been changes to entries in the Register of Members' Interests is sought from all Borough Councillors and Parish Councillors.

The response rates for 2017-18 and 2018/19 are set out below:

Communication	Month	% Response Rate
Borough Councillors	February 2017	31%
Parish Clerks on behalf of Parish Councillors	June 2017	59%
Borough Councillors (additional guidance)	July 2017	50%
Borough Councillors	August 2017	77% following reminder email.
Parish Clerks on behalf of Parish Councillors	February 2018	30%
Borough Councillors	March 2018	46%
Parish Clerks on behalf of Parish Councillors	August 2018	37%
Borough Councillors	August 2018	35%
Parish Clerks on behalf of Parish Councillors	February 2019	31%
Borough Councillors	February 2019	73%

Implementation Timetable including Future Decisions

It is recommended that the Committee receives update reports at six monthly intervals.

Report Implications

The following implications have been identified for this report.

Financial Implications

None

Risk Management

The risks associated with maintaining registers of interests rest with individual councillors and not with the Council itself.

Background Papers: None

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MEMBER CONDUCT COMMITTEE – 18TH MARCH 2019

Report of the Monitoring Officer

ITEM 7 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. There are no future meetings of the Committee for 2018/19 and meeting dates for 2019-20 have not yet been agreed by full Council.

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

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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.	December 2019 <i>(last considered 3rd December 2018)</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.	December 2019 <i>(last considered 3rd December 2019)</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.	18th 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