



MEMBER CONDUCT COMMITTEE

This meeting will be recorded and the sound recording subsequently made available via the Council's website: charnwood.gov.uk/pages/committees

Please also note that under the Openness of Local Government Bodies Regulations 2014 that other people may film, record, tweet or blog from this meeting. The use of any images or sound recordings is not under the Council's control.

To: Councillors Tassell (Chair), Murphy (Vice-Chair), Bentley, Bradshaw, Hadji-Nikolaou, Hamilton and Rollings(for attention)
Ball (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, 17th June 2019 at 6.00 pm for the following business.

Chief Executive

Southfields
Loughborough

7th June 2019

AGENDA

1. APOLOGIES
2. MINUTES OF THE PREVIOUS MEETING 3 - 6

To confirm as a correct record the minutes of the meeting held on 18th March 2019.

3. DISCLOSURES OF PECUNIARY AND PERSONAL INTEREST

4. QUESTIONS UNDER COMMITTEE PROCEDURE 12.8

No questions were received.

5. UPDATE ON COMPLAINTS RECEIVED

7 - 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 LOCAL GOVERNMENT ETHICAL STANDARDS BY THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

13 - 17

A report of the Monitoring Officer regarding the results of the public consultation of the review of local government ethical standards by the Committee on Standards in Public Life

7. WORK PROGRAMME

18 - 21

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 2019/20 will be held at 6.00pm on the following dates:

9th September 2019
2nd December 2019
16th March 2020

MEMBER CONDUCT COMMITTEE 18TH MARCH 2019

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

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

APOLOGIES: Councillor Crick (Parish Member)

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.

15. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 3rd December 2018 were confirmed as a true record.

16. DISCLOSURES OF PECUNIARY AND PERSONAL INTEREST

No disclosures were made.

17. QUESTIONS UNDER COMMITTEE PROCEDURE 12.8

No questions had been received.

18. 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).

The Monitoring Officer drew the Committee's attention to two new cases relating to Borough Councillors where the councillors had made inappropriate comments which failed to recognise the role of the Contact Centre. He also noted that an appeal had been submitted with respect to the decision reached by a recent Member Conduct Panel Hearing that a breach of the Member's Code of Conduct had occurred.

Members of the Committee discussed the process for handling appeals to decisions made by Member Conduct Panels within Charnwood Borough Council and were informed that an appeal was required to be submitted in writing and the Appellant did not have to provide new evidence, as was stated in the Council's Constitution. The

beginning of Purdah would not affect the arranging of an Appeals and Review Committee meeting as normal council business would continue during this period.

It was proposed by Councillor Draycott and seconded by Councillor Rollings to review the appeals process in the Council's Constitution. 6 voted for, none voted against or abstained. The proposal was carried.

Councillor Hadji-Nikoloau joined the meeting.

RESOLVED

1. that the current position in respect of complaints about breaches of the Members' Code of Conduct that have been received by noted;
2. that guidance regarding the role of the Contact Centre be circulated to all councillors and also be included as part of the induction programme for new and returning councillors after the election;
3. that a review of the appeals process in the Council's Constitution be added to the Committee's Work programme for the Committee to consider in the new Council Year 2019-20.

Reasons

1. To keep the Committee informed about complaints.
2. The Committee considered that the role of the Contact Centre, particularly in respect of councillors making initial enquiries, was not clear and that a guidance note explaining the role of the Contact Centre would be beneficial for existing councillors and new and returning councillors after the election.
3. The Committee considered that when an appeal was submitted after a decision had been reached by a Member Conduct Panel it should only be considered valid if there had been a procedural failing in the original Panel Hearing or new evidence was provided. The current process where an appeal can be submitted in writing irrespective of the content of the appeal was potentially wasting officer and councillor time and that the Constitution in relation to the appeals process should be reviewed.

19. 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).

Members of the Committee were pleased with the increased number of Borough Councillors keeping their Registers of Members' Interests up to date. It was noted that the response rate for Parish Councillors reflected the number of clerks who had responded not the individual Parish Councillors.

RESOLVED that the processes for keeping the Register of Members' Interest up to date be noted.

Reason

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.

20. 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 a summary of the results of the public consultation of the review of local government ethical standards by the Committee on Standards in Public Life be scheduled for the first meeting of the Committee in 2019-20 Council Year;
3. that an email circulated by the Democratic Services Manager to Borough Councillors in February 2019 regarding feedback from the consultation by the Committee on Standards in Public Life be also circulated to Parish Clerks for distribution to Parish Councillors;
4. that an update regarding the Register of Member's Interests be scheduled to the Committee's meeting to be held in December 2019.

Reason

1. To enable the Committee to fulfil its role in promoting and maintaining high standards of conduct by councillor and co-opted members.
2. The Committee considered the information would be beneficial for the new members of the Committee after they had been appointed to the Committee after the election.
3. The Committee considered the information to be beneficial to Parish Councillors.
4. The Committee wished to monitor the situation six months after the election of Borough Councillors.

NOTES:

1. No reference may be made to these minutes at the Council meeting on 24th June 2019 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 – 17TH JUNE 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

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 31st May 2019

1. Since the last meeting of the Committee there has been one new complaint received, making thirteen* in total for 2018/19 to date (* twelve formal complaints, and one case where concerns were raised by officers).
2. No complaints have been received thus far during 2019/20.
3. The new case relates to a Borough Councillor and a posting made on social media. The fact finding review has been completed, and the Monitoring Officer concluded that the complaint, if proven, would not amount to a breach of the Code of Conduct. The Independent Person felt that the posting was unprofessional, but agreed that no further action was required as the Councillor had deleted the posting after the complaint was made.
4. In respect of the hearing that was undertaken on 27th February 2019 in relation to the three complaints made against former Borough Councillor David Hayes, although Councillor Hayes withdrew his appeal against the decision of the Member Conduct Panel, the written apology that the Panel requested he make to the Head of Planning & Regeneration has not been made.
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
2018/19	13

Appendices

Appendix A – Details of complaints received in 2018/19

Type of councillor	Number of complaints	Outcome	Issues raised in complaint	Reason for no further action	Description of other action	Outcome of investigation
Borough	7* (* 6 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 Councillor	Complaint from Contact Centre Advisor about			

Type of councillor	Number of complaints	Outcome	Issues raised in complaint	Reason for no further action	Description of other action	Outcome of investigation
		apologising	telephone call from Councillor			
		Fact finding review – no further action required	Complaint about social media posting	Matter was not serious enough to warrant further action, and the Councillor deleted the posting in question		
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 concluded that there has been a breach of the Code	The 2 complaints were about the parish councillor making serious allegations regarding a parish council officer during a council meeting			Hearing being arranged

Type of councillor	Number of complaints	Outcome	Issues raised in complaint	Reason for no further action	Description of other action	Outcome of investigation
		Fact finding review – no further action required	Complaint against the chair of the parish council meeting for not intervening in relation to the two complaints above	The conduct, if proven, would not amount to a breach of the Code		
		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 – 17TH JUNE 2019

Report of the Monitoring Officer

ITEM 6 REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS BY THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

Purpose of Report

To update the Committee.

Recommendation

That the Committee be informed of the results of the consultation and the recommendations by the Committee on Standards in Public Life (CSPL) as summarised in the Appendix and continue to monitor the response by the Government.

Reason

To enable the Committee to understand the recommendations of the Committee on Standards in Public Life.

Policy Justification and Previous Decisions

At its meeting on 19th March 2018 the Committee considered a verbal update by the Monitoring Officer regarding the Committee on Standards in Public Life's review of local government ethical standards. It resolved to have the Monitoring Officer draft a collective response for submission to CSPL as part of the public consultation on behalf of the Member Conduct Committee and, once agreed by the Committee, forward to CSPL. The Committee wished to submit a response collectively to the public consultation and address several concerns, in particular, to add the option of suspension of a councillor up to six months to the range of sanctions available, to remove the word 'to ask' when a member undertakes training so it becomes mandatory, and to suggest the recharging of the costs of investigations of complex complaints when the cost goes above a certain limit but being mindful of the size of the Parish or Town Council in question.

At its meeting on 18th March 2019, the Committee resolved that a summary of the results of the public consultation of the review of local government ethical standards by the Committee on Standards in Public Life be scheduled for the first meeting of the Committee in 2019-20 Council Year, and that it could be beneficial for the new members of the Committee after they had been appointed to the Committee after the election.

Implementation Timetable including Future Decisions

It is recommended that the Committee note the information and monitors the response of the Government.

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: Summary of Recommendations by CSPL

Link to CSPL: <https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life>

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

COMMITTEE ON STANDARDS IN PUBLIC LIFE - REVIEW INTO LOCAL GOVERNMENT ETHICAL STANDARDS

Background

The Committee on Standards in Public Life (CSPL) advises the Prime Minister on ethical standards across the whole of public life in England. It monitors and reports on issues relating to the standards of conduct of all public office holders and promotes the 7 principles of public life.

The Localism Act 2011 introduced significant changes to the way that conduct of elected councillors was handled. It abolished a national framework headed by a regulator and a national Code of Conduct and removed powers to suspend or disqualify councillors for serious breaches of the Code of Conduct. Instead it placed a duty on councils: to adopt their own local Code; to put local procedures in place to investigate allegations the Code may have been broken (with principal authorities carrying out that duty for parish councils; and to appoint at least one Independent Person (IP) whose views they had to take into account when considering matters under investigation. CSPL undertook to review the effectiveness of the arrangements once they had bedded in. They therefore undertook a detailed review during 2018 seeking evidence from all interested stakeholders and published their recommendations on 30 January 2019. [A copy of their full report can be found at CSPL](#). This note summarises the key areas of concern and recommendations.

Issues and recommendations

CSPL looked at four specific areas of operation of the system – the Code of Conduct and arrangements for registration and declaration of interests; the available sanctions; the role of the IP, MO and standards committees; and support for parishes. In addition it looked more widely at how authorities could better promote high standards of conduct.

Overall finding

CSPL found there was no appetite to return to a centrally-regulated system as local arrangements on the whole were most effective at handling the majority of cases and that on the whole standards were high. However there were issues with a small handful of serious or persistent offenders and with governance arrangements in some parish councils. There also needed to be a more consistent approach taken to standards and MOs and councils needed some more effective tools to allow them to handle those serious and persistent cases.

Codes of Conduct

CSPL felt that there was too much variation among local Codes. This led to inconsistencies, with some members who sat on more than one authority being subject to different rules and the public being confused about what standards applied. These inconsistencies were particularly marked when it came to interests that needed to be

registered and declared. They were also critical of Codes that were based around models produced by LGA and CLG in 2012 and felt that Codes should be simpler and more 'rules-based'.

They also felt the scope of the Code should be widened so that it also captures statements made by members in public, particularly on social media, and circumstances where members are purporting to act as a member in order to advantage themselves or disadvantage others.

Recommendations

- **There should not be a compulsory national Code but there should be a new model rules-based Code produced by the LGA which councils should generally follow but add local variations to if needed**
- **There should be the same Code across a geographical area with parishes being under a requirement to adopt the principal authority code**
- **There needed to be a more comprehensive system for registering and declaring interests which goes wider than the current statutory minimum**
- **The criminal offence for non-registration and non-declaration of Disclosable Pecuniary Interests should be abolished**
- **There should be a rebuttable presumption that any public action by a councillor is within the scope of the Code**
- **The Code should also cover circumstances where a member is purporting to act as a member**

Sanctions

CSPL found councils needed greater sanctions available to deal with serious and persistent misconduct. They therefore recommend that councils should be given the power to suspend members for up to six months without allowances. However, safeguards would need to be built into the system to avoid it being used politically.

Recommendations

- **Councils should have the power to suspend members for up to six months without allowances**
- **The IP would need to agree that there had been a breach of the Code and that a suspension was a proportionate outcome**
- **A suspended member could appeal to the Local Government Ombudsman against the outcome of the case**
- **The Government should make clear what other administrative sanctions are available to Councils**

The role of the IP, MO and standards committees

If there are to be tougher sanctions, CSPL concluded there needs to be greater independence in the system so the role of the IP should be enhanced, and the MO should be better supported and protected so that they feel free to act without fear or favour. In addition the role of standards committees should be enhanced as the guardians of a council's duty to promote and maintain high standards

Recommendations

- **The IP should be given a legal indemnity by Councils if they are to have a role in agreeing to suspension of members**
- **IPs should be appointed for a two-year term, renewable once, to ensure they are seen to be independent**
- **Any views expressed by an IP should be published as part of a decision notice**
- **Statutory protection for MOs should be extended to include any disciplinary action not just dismissal**
- **Councils should have a standards committee**
- **Standards committees should be able to co-opt independent members and parish representatives with voting rights if they so choose**

Parish councils

While the majority of parish councils operate to the highest standards, CSPL found that a minority have significant problems and can absorb a lot of time and resources. There therefore needs to be a recognition that they need greater support and access to training and councils need to allow MOs sufficient resource to support them.

Recommendations

- **Sanctions against a parish council should be imposed by the principal authority rather than referred back to the parish council**
- **Parish clerks should hold a suitable qualification**
- **There should be greater recognition of the role of the MO in supporting parishes and they should be resourced accordingly**

Promotion of high standards

CSPL also made some wider recommendations about how councils should seek to put high standards at the heart of the organisation. It believes, for example, that political parties should make member training on standards a requirement of their model group rules, and that there needs to be a much greater recognition in all authorities of the importance of the role of the MO as part of corporate management arrangements, and standards should be seen as the responsibility of all not just the MO.

Next steps

The Government will respond to the report in the coming months setting out whether or not it accepts some or all of the recommendations. Some of the recommendations – for example increased sanctions, or the abolition of the DPI criminal offence, would require primary legislation. However, many other recommendations are good practice.

MEMBER CONDUCT COMMITTEE – 17TH JUNE 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. Future meetings of the Committee for 2019-20 have been agreed by full Council as follows:

9th September 2019
2nd December 2019
16th 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.	2nd 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.	2nd 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.	2nd December 2019 <i>(last considered 18th March 2019)</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.	17 June 2019

ITEM	NOTES	DATE
<p>Hearing Appeals Process (Constitution)</p>	<p>Review of the Member Conduct Panel Hearing Appeals process, as the Committee considered that when an appeal was submitted after a decision had been reached by a Member Conduct Panel it should only be considered valid if there had been a procedural failing in the original Panel Hearing or new evidence was provided. The current process where an appeal can be submitted in writing irrespective of the content of the appeal was potentially wasting officer and councillor time and that the Constitution in relation to the appeals process should be reviewed.</p>	<p>To be scheduled <i>(added 18th March 2019)</i></p>