



MEMBER CONDUCT COMMITTEE

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To: Councillors Murphy (Chair), Ranson (Vice-Chair), Bentley, Draycott, Hadji-Nikolaou, Rollings and Ward (for attention)
Councillors Ball, Ellingworth and Jones (Parish Members)

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, at the Council Offices, Southfields, Loughborough on Monday, 13th June 2022 at 6.00 pm for the following business.

Chief Executive

Southfields
Loughborough

3rd June 2022

AGENDA

1. APOLOGIES
2. MINUTES OF THE PREVIOUS MEETING 3 - 8

To confirm as a correct record the minutes of the meeting held on 13th December 2021.

3. DISCLOSURES OF PECUNIARY INTERESTS AND OTHER REGISTRABLE AND NON-REGISTRABLE INTERESTS.

For information, disclosable pecuniary interests and registrable interests relate to entries that are included, or should be included, on a councillor's register of interests. Non-registrable interests relate to any other matters.

4. QUESTIONS UNDER COMMITTEE PROCEDURE 12.8

No questions were received.

5. UPDATE ON COMPLAINTS RECEIVED

9 - 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. MEMBER CONDUCT COMPLAINTS - FACT FINDING REPORTS

14 - 20

A report of the Monitoring Officer presenting a proposal to update reporting and publicity arrangements for Member Conduct complaints at the fact finding stage.

7. WORK PROGRAMME

21 - 23

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 2022/23 will be held at 6.00pm on the following dates:

19 September 2022

28 November 2022

13 March 2023

MEMBER CONDUCT COMMITTEE 13TH DECEMBER 2021

PRESENT: The Chair (Councillor Murphy)
Councillors Bentley, Rollings and Paling

APOLOGIES: Councillors Ranson, Ward and Ball (Parish
Representative)

The Chair stated that the meeting would be recorded and the sound recording subsequently made available via the Council's website. He 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.

19. APOLOGIES

20. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 20th September 2021 were confirmed as a true record and signed.

21. DISCLOSURES OF PECUNIARY AND PERSONAL INTEREST

No disclosures were made.

22. QUESTIONS UNDER COMMITTEE PROCEDURE 12.8

No questions had been received.

23. AGENDA VARIANCE

RESOLVED

That item 8 relating to the Members' Code of Conduct and Planning Code of Good Practice be taken first to enable officers joining the meeting remotely to contribute to the discussion on the item in a timely manner.

24. MEMBERS' CODE OF CONDUCT AND PLANNING CODE OF GOOD PRACTICE

Considered a report of the Monitoring Officer providing an opportunity for the Committee to review the Planning Code of Good Practice, (item 8 on the agenda filed with these minutes).

The Deputy Monitoring Officer introduced the item and the Head of Planning and Regeneration helped with consideration of the item stating that the suggestion about requiring Members to attend Plans Committee or appoint some other ward member to represent them when they have Called-in a planning application was welcome and outlined potential changes to the Members Planning Code of Good Practice and the Other Committee Procedures to make this effective.

Members of the Committee were supportive of the suggested changes and

RESOLVED

That it be a recommendation to Full Council that the following changes be made to the Constitution;

Chapter 12 (Section 12.12 (c)) – Other Meeting Procedures (Plans Committee Procedures)

Replacement of the word ‘expected’ to ‘must’ in the following sentence ‘Ward councillors who call-in a planning application are expected to attend the Plans Committee meeting at which it is considered’.

Chapter 24 (Section 7.2) - Planning Code of Good Practice

Insertion of the paragraph ‘Where a ward councillor has called in an application to Plans Committee, they will attend the meeting to explain why it has been called in and their concerns. If they are unable to attend, they should nominate a substitute to stand in for them and express their views, or submit a written statement’

Reason

To facilitate attendance at Plans Committee by Members who have Called-in a Planning application.

Members of the Committee attending virtually confirmed that they would have voted in favour of the above decision had they been physically present at the meeting and able to do so.

25. 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 noted that since the agenda had been published the Parish/Town Council investigation in progress had concluded that there had not been a breach of the relevant Code of Conduct and therefore the matter was not being pursued further.

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

Reason

To keep the Committee informed about complaints.

Members of the Committee attending virtually confirmed that they would have voted in favour of the above decision had they been physically present at the meeting and able to do so.

26. MEMBER CODE OF CONDUCT - UPDATE

Considered a report of the Monitoring Officer setting out potential options in respect of the Member Code of Conduct (item 6 on the agenda filed with these minutes).

The Monitoring Officer introduced this report and stated that a locally amended version, set out at appendix A had been adopted by Leicestershire County Council. He highlighted factors to consider and referred to a table in the report setting out how various interest tests would apply in practice. Some of the differences were also highlighted including the requirement for compulsory training, compulsory compliance with sanctions and the different categories of interests. It was also noted that the responsibility for granting dispensations would be with the Monitoring Officer as opposed to the Member Conduct Committee which was considered practical although to date no dispensations had been received.

The following summarises the discussion;

- that it was beneficial to adopt the amended Code of Conduct adopted by Leicestershire County Council as a number of Borough Councillors were also County Councillors and provided a level of consistency.
- that there were advantages for Town/Parish Councils to adopt the same code and it suggested that the Monitoring Officer encourage all Town/Parish Councils to adopt the amended code for consistency.
- that mandatory training would be required, and members would immediately be in breach of the Code if they did not attend the training.
- the adapted LGA Code was considered more complex, particularly relating to pecuniary and personal interests. There was a discussion about the financial and wellbeing test and various examples were referenced in the meeting. It was suggested that the training include a range of examples to help members understand the complexities of the new requirements, although it was pointed out that every situation was unique. It was noted that there was extensive guidance notes available online.
- Completion of the Register of Interest forms was a concern. It was highlighted that all members following the 2019 elections completed their forms within 28 days of being elected. Thereafter a member must within 28 days of becoming aware of any changes or circumstances must update their form. Six monthly email reminders from the Democratic Services are also issued.

RESOLVED

That it be recommended to full Council that the amended Code of Conduct developed by a group of Leicestershire Monitoring Officers and adopted by Leicestershire County Council and based on the LGA national Code of Conduct should be adopted with effect from the 2022/23 civic year.

Reason

To determine which option for a Members' Code of conduct the committee considers to be most suitable.

One member of the Committee attending virtually confirmed that they would have voted in favour of the above decision had they been physically present at the meeting and able to do so. One Member of the Committee attending virtually abstained from voting.

27. CODE OF CONDUCT - COMPLAINTS PROCEDURE

Considered a report of the Monitoring Officer setting out differences between Charnwood's agreed procedure for dealing with Member conduct complaints, and the Local Government Association's recently produced Guidance on Member Model Code of Conduct Complaints Handling (the 'LGA Guidance') (item 7 on the agenda filed with these minutes).

The Monitoring Officer introduced the report and stated that the LGA guidance had been produced in conjunction with the new Model Councillor Code of Conduct. Given that the Committee had in the previous agenda item recommended to Full Council that the locally amended LGA Code of conduct be adopted, he described the main differences between the LGA Guidance and the current Charnwood procedures and asked the Committee to recommend any changes to Council as part of the annual review of the Constitution.

The following summarises the discussion;

- there was currently a right of appeal at the fact-finding stage in Charnwood procedures and it was considered removing the right of appeal for a complainant against a decision not to progress their complaint at the initial fact-finding stage was against the principles of natural justice and as such was not supported.
- expanding the procedure to provide further details of options for informal resolution of complaint was not supported as this was already an established practice.
- there was currently a right of appeal in Charnwood procedures after a hearing if there was a breach of procedure or new information had come to light and it

- was considered removing the right of appeal after a hearing which has determined that a Member had breached the Code of Conduct of their authority was against the principles of natural justice and as such was not supported.
- investigations can take a considerable length of time to undertake impacting the wellbeing of the person being investigated and the requirement to complete investigations within 6 months was welcomed.
 - introducing further potential sanctions was supported.

RESOLVED

1. That it be recommended to full Council that a requirement for investigations to be completed within 6 months and potential further sanctions be introduced.
2. That delegated authority be given to the Monitoring Officer to make the required proposed amendments to the Constitution to be recommended to full Council for adoption.

Reasons

1. To ensure Charnwood's procedure for dealing with Member conduct complaints is aligned with best practice as set out in the LGA guidance
2. To ensure that amendments supported can be recommended to full Council for adoption in an expeditious manner.

Members of the Committee attending virtually confirmed that they would have voted in favour of the above decision had they been physically present at the meeting and able to do so.

28. **WORK PROGRAMME**

Considered a report of the Monitoring Officer enabling the Committee to agree a work programme to plan its future business (item 9 on the agenda filed with these minutes).

The following changes were made to the work programme:

Register of Members' Interests

Noted that the recent reminder response rate was only 13.46%. However, it was established that Members were only asked to respond if they had changes thereon explaining the low response rate. It was suggested that the reminder email be amended so that all members are asked to respond whether or not they have a change. Agreed that in future poor response rates be followed up with the Group Whips' and therefore this item be removed from the work programme.

Regular Review of Members Code of Conduct and Planning Code

Considered that an annual review was unnecessary. Two yearly review to be undertaken with the next review December 2023.

RESOLVED 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.

Reason

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

Members of the Committee attending virtually confirmed that they would have all been content to note the above action had they been physically present at the meeting and able to do so.

NOTES:

1. Councillors Draycott and Hadji-Nikolaou attended this meeting virtually. This was to limit the members of the Committee in the meeting room to quorum only given the position with Covid 19. Decisions were taken only by Committee members physically present at the meeting.
2. The following Parish representatives and officers listed as present attended this meeting virtually: Head of Planning and Regeneration, Eric Ellingworth, Parish representative and Julie Jones Parish representative.
3. No reference may be made to these minutes at the Council meeting on 17th January 2022 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.
4. These minutes are subject to confirmation as a correct record at the next meeting of the Member Conduct Committee.

MEMBER CONDUCT COMMITTEE – 13TH JUNE 2022

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

Appendix A: List of complaints & actions

Officer to Contact: Adrian Ward
Monitoring Officer
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adrian.ward@charnwood.gov.uk

Karen Widdowson
Democratic Services Manager and Deputy Monitoring
Officer
01509 634778
Karen.widdowson@charnwood.gov.uk

Part B

Summary of Complaints Received to 31st May 2022

1. Since the last meeting of the Committee held on 13th December 2021, and up to 31st May 2022, 5 new complaints have been received. Therefore 6 complaints were received in total during 2021/22, and 2 complaints have been received so far in 2022/23.
2. 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
2019/20	9
2020/21	7
2021/22	6

3. For information, a complainant submitted a complaint about the process that had been followed in dealing with their member conduct complaint, and the Chief Executive commissioned an independent investigator to examine that procedural complaint. Whilst the investigator did not uphold any elements of the complaint they did make a recommendation about clarifying the reporting and publicity arrangements for fact finding reports, and this is therefore the subject of a separate report on the agenda for this meeting.

Details of complaints received in 2021/22

Appendix A

Type of councillor	Number of complaints	Outcome	Issues raised in complaint	Reason for no further action	Description of other action	Outcome of investigation
Borough	2	No further investigation or action merited.	Bias and improper personal interests in 'calling-in' a planning application.	No evidence of any improper actions or motives.		
		No further investigation or action merited.	Bias and improper personal interests in 'calling-in' a planning application.	No evidence of any improper actions or motives.		
Parish / Town	4	No breach of the Code of Conduct identified.	Aggressive, threatening and bullying behaviour.	Investigation found that no breach identified based on balance of probability.		No breach of the Code of Conduct identified
		Actions other than an investigation recommended.	Connected complaint against 2 councillors for bullying, aggressive and hostile behaviour.		Recommended that the relevant council should investigate a prior accusation of bullying by one of the councillors against the complainant, and also should reconsider a previous recommendation	

Details of complaints received in 2021/22

Appendix A

Type of councillor	Number of complaints	Outcome	Issues raised in complaint	Reason for no further action	Description of other action	Outcome of investigation
					from a Member Conduct Panel to commission an independent governance review.	
		Councillor offered to apologise.	False and unsubstantiated claims made by councillor during a meeting.		Councillor's offer an an apology was satisfactory to the complainant.	
		No further investigation or action merited.	Abusive and bullying behaviour.	Councillor denied the allegations and both parties confirmed there were no witnesses, therefore an investigation would not be justified.		

Details of Complaints Received in 2022/23

Type of councillor	Number of complaints	Outcome	Issues raised in complaint	Reason for no further action	Description of other action	Outcome of investigation
Borough	1	Fact finding review in progress.	Conflict of interest in relation to an HMO property.			
Parish / Town	1	Fact finding review in progress.	Bullying and intimidating behaviour while chairing a meeting.			

MEMBER CONDUCT COMMITTEE – 13TH JUNE 2022

Report of the Monitoring Officer

Part A

ITEM 6 MEMBER CONDUCT COMPLAINTS - FACT FINDING REPORTS

Purpose of Report

To present a proposal to update the reporting and publicity arrangements for Member conduct complaints at the fact finding stage.

Recommendation

That the proposed approach towards fact finding reports into Member conduct complaints as set out in Part B of this report be approved, and that such fact finding reports should in future be published on the Borough Council's website.

Reason

To respond to a recent recommendation following an independent investigation that the status of fact finding reports into Member conduct complaints should be clarified, and to adopt a revised approach based on that used by the Public Services Ombudsman for Wales.

Policy Justification and Previous Decisions

Under section 28(6) of the Localism Act 2011, the Borough Council, as a relevant authority, must have in place arrangements under which allegations of breaches of its Member Code of Conduct, and those of parish councils within the Borough, can be investigated and under which decisions on allegations can be made.

At their meeting on 10th June 2013, the Member Conduct Committee noted a proposed approach for publicity relating to Member conduct complaints which specified that at the fact finding stage only summary information would be published together with the number of complaints, and that the identity of councillors being complained about would normally only be made public if a complaint progressed to a hearing following an investigation.

Implementation Timetable Including Future Decisions

If approved, the revised approach can be implemented immediately.

Report Implications

Financial Implications

None.

Risk Management

No risks have been identified arising from this report.

Background Papers: None

Appendices: Appendix A - Example Published Report From the
Public Services Ombudsman for Wales

Appendix B - Example of Proposed Fact Finding
Report

Officer to Contact: Adrian Ward
Monitoring Officer
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adrian.ward@charnwood.gov.uk

Part B

Background

1. A recent independent investigation was commissioned by the Chief Executive following a complaint made by a complainant about the process that had been applied for dealing with a Member conduct complaint which they had submitted.
2. Whilst the independent investigation concluded that the approved process had been fully and correctly applied and the complaint was therefore not upheld, a recommendation was made by the investigator that the status of 'fact finding' reports, setting out the initial conclusions of the Monitoring Officer and the views of the Independent Person, should be clarified.
3. Fact finding reports are currently only circulated to the complainant, to the councillor being complained about, and, where the complaint is about a parish councillor, to the parish clerk.
4. Fact finding reports are not made publicly available by Charnwood Borough Council, and are only summarised in the complaint update reports submitted to the Member Conduct Committee.
5. However, fact finding reports themselves are currently not marked as being confidential. This is mainly because in the case of 3rd parties such as members of the public who have made such a complaint, the Borough Council would have limited scope to enforce any confidentiality requirements even if the documents were to be marked as confidential.
6. In the particular case in question one of the elements of the the complaint was that the fact finding report had been shared more widely by one of the recipients and that it contained information which identified the complainant. Fact finding reports currently name the complainant and the the councillor being complained about.
7. Having undertaken some research into potential alternative options, the recommendation of the Monitoring Officer is to introduce an approach similar to that used by the Public Services Ombudsman for Wales in respect of Member conduct complaints, which is to publish a summary naming the council involved and providing an overview of the complaint and the fact finding conclusions but not to name the complainant or the councillor being complained about.
8. An example of such a report from Wales is attached as Appendix A, and a proposed style to be used locally if the recommendation is accepted is attached as Appendix B.

9. This would also follow the general approach used by the Local Government and Social Care Ombudsman in England, where a summary of each complaint received is published naming the council being complained about and providing a summary of the complaint and the conclusions reached, but not naming the complainant.
10. If the recommendation is accepted then the fact finding reports could be published in future, as they would not identify any individuals.

Example Report From the Public Services Ombudsman for Wales

Promotion of equality and respect : Sully and Lavernock Community Council

Report date

12/07/2021

Subject

CODE : Promotion of equality and respect

Outcome

CODE

Case ref number

202000622

Report type

CODE - Referred to Standards Committee/APW

Relevant body

Sully and Lavernock Community Council

The Ombudsman received a complaint from an employee of Sully and Lavernock Community Council (“the Council”) that a Member (“the Member”) of the Council had failed to observe the Code of Conduct for Members.

It was alleged that, during an incident on a Council playing field concerning Council equipment, the Member verbally abused and bullied the employee and subjected the employee’s father to abuse and provocation.

The Ombudsman concluded that the Member used abusive and offensive language towards the employee in front of other members and the employee’s father, in an attempt to insult, belittle and undermine the employee. The Ombudsman concluded that the Member’s actions were suggestive of bullying and provocation.

The Ombudsman determined that the Member’s behaviour may have breached the Council’s Code of Conduct, in particular 4(b) and 4(c) in a failure

to show respect and consideration to others, and not to use bullying behaviour. The Ombudsman also found that the Member's conduct could reasonably be regarded as behaviour which might bring the office of Member of the Council into disrepute and was therefore also suggestive of a breach of 6(1)(a) of the Code of Conduct.

The Ombudsman referred his investigation report to the Monitoring Officer of Vale of Glamorgan Council for consideration by its Standards Committee.

The Member resigned shortly before the Standards Committee Hearing. The Standards Committee of Vale of Glamorgan Council determined that the Former Member had breached paragraphs 4(b), 4(c) and 6(1)(a) of the Code of Conduct and the Former Member received a censure

Example of Proposed Fact Finding Report

FACT FINDING REPORT

Complaint that a Member of XXX Parish Council failed to observe the Council's Member Code of Conduct

Complaint Ref: MC? 22/23

A complaint was received that a Member ('the Member') of XXX Parish Council ('the Council') had failed to observe the requirements of the Council's Member Code of Conduct.

In summary the complaint alleged that, during an incident on a Council playing field concerning the use of Council equipment, the Member verbally abused and bullied the complainant and also subjected the complainant's father to abuse and provocation.

Having considered the complaint and the Member's response, the Monitoring Officer concluded that an investigation was merited to determine whether the Member used abusive and offensive language towards the complainant and their father as was alleged and, if so, whether that behaviour may have breached the following requirements of the Council's Member Code of Conduct:

As a councillor:

- 1.1 *I treat other councillors and members of the public with respect.*
- 2.1 *I do not bully any person.*

Views of the Independent Person

An Independent Person, XXX, was consulted and supported the Monitoring Officer's decision to refer the complaint for investigation.

Adrian Ward
Monitoring Officer

Date: XXX

MEMBER CONDUCT COMMITTEE – 31TH JUNE 2022

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.

Before its meeting on 13th December 2021 the Committee was asked to consider amendments, if any, it wished to make to the Council's Constitution. As no amendments were suggested this item 'Review of the Constitution' listed to be considered by the Committee at its meeting on 13th December 2021 was not submitted. The item has been rescheduled for December 2022.

The Government response with respect to the review of local government ethical standards by the Committee on Standards in Public Life was received and then circulated to the Committee on 21st March 2022.

Implementation Timetable including Future Decisions

It is recommended that the Committee reviews its work programme at every meeting. Future meetings for 2022-23 are as follows:

19th September 2022
20th November 2022
13th March 2023

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
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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
Regular review of Members Code of Conduct and Planning Code	7th December 2015 – requested the Chair and Vice-chair of the Plans Committee and the Head of Planning and Regeneration are invited to attend the Committee on a regular basis, to review the relationship between the Planning Code and the Members’ Code of Conduct. 13th December 2021 - agreed this item be reviewed on a two yearly basis.	December 2023 <i>(two yearly)</i>
Review of Constitution	Consider details of possible amendments to the Constitution it may wish to recommend within the Committee’s remit as part of the annual review process	December 2022 <i>(last considered 2nd December 2019)</i>
Review of local government ethical standards by the Committee on Standards in Public Life	Consider the recommendations by the Committee on Standards in Public Life’s review of local government ethical standards after the Government has provided a response.	To be scheduled <i>(Government response circulated to Committee 21st March 2022)</i>
Review of the Constitution alongside CSPL recommendations	Consider details of possible amendments to the Constitution after the recommendations of the Committee on Standards in Public Life have been considered by the Government.	To be scheduled <i>(awaiting Government response)</i>