



MEMBER CONDUCT COMMITTEE

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To: Councillors Goode (Chair), J. Bradshaw (Vice-Chair), Brookes, Dent, Matthews, Roberts and Woodward(for attention)
Councillors Ball (Parish Member), Ellingworth (Parish Member) and Jones (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 1, at the Council Offices, Southfields, Loughborough on Monday, 5th June 2023 at 6.00 pm for the following business.

Chief Executive

Southfields
Loughborough

25th May 2023

AGENDA

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

To confirm as a correct record the minutes of the meeting held on 28th November 2022.

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 interest. Non-registrable interests relate to any other matters.

4. QUESTIONS UNDER COMMITTEE PROCEDURE 12.8

No questions were received.

5. UPDATE ON COMPLAINTS RECEIVED

7 - 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. WORK PROGRAMME

14 - 16

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 2023/24 will be held at 6.00pm on the following dates:

18th September 2023

4th December 2023

11th March 2024

MEMBER CONDUCT COMMITTEE 28TH NOVEMBER 2022

PRESENT: Councillors Draycott, Hadji-Nikolaou, Howe, Miah
and Rollings
Councillors Ellingworth (Parish Member) and
Jones (Parish Member)

Head of Governance and Human Resources
Democratic Services Manager
Democratic Services Officer (NC)

APOLOGIES: Councillor Murphy, Ranson, Ward and Ball

As the Chair and Vice-chair had sent their apologies for the meeting, a Chair from the members present was appointed.

RESOLVED that Cllr Rollings act as Chair for the meeting.

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.

7. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 13th June 2022 were confirmed as a true record and signed.

8. DISCLOSURES OF PECUNIARY INTERESTS, AND OTHER REGISTRABLE AND NON-REGISTRABLE INTERESTS

No disclosures were made.

9. QUESTIONS UNDER COMMITTEE PROCEDURE 12.8

No questions had been received.

10. 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 these minutes).

The Monitoring Officer noted that there had not been any further complaints since the last meeting.

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.

11. REVIEW OF THE CONSTITUTION

Considered a report of the Monitoring Officer enabling the Committee to review the parts of the Constitution that relate to its roles (item 6 on the agenda filed with these minutes).

Summary of discussion regarding amendments to Section 18:

- Section 18.4 – reserves were permitted for the initial consideration of complaints by panels of the Member Conduct Committee and would be trained as required in accordance with Section 5.5 of the Constitution
- Section 18.5 – the appointment of a suitable person was thought to be an improvement on the original wording as the Monitoring Officer considered that it would not be appropriate for him to carry out any investigation when his role was to advise the Panel at a hearing. The person would be appointed depending on the complexity of the complaint, a number of private consultants or neighbouring local authority Monitoring Officers could be used. If the complaint was a concise and isolated matter an internal officer with the requisite experience and knowledge could be appointed and it was confirmed that they would receive coaching. These examples could be included in the Constitution but it was determined that the appointment criteria should not be restricted.
- Section 18.10, the procedure for non-Code of Conduct complaints had been deleted as this was a duplication of Section 18.8. it was important that this was made clear in the Constitution.
- Access to exempt information – it was important for the rules of access to be made clear. All councillors could access exempt information that related to executive matters but as member conduct was covered under council matters it was not always appropriate for exempt information to be accessible. This was clarified in section 13 of the Constitution.

Summary of discussion regarding conflicts of members interests:

- if conflicts of members interest during a meeting were identified by the Monitoring Officer / legal team whether there were options for the councillor in question to appeal the judgement or see evidence. It was preferable for a councillor to review the meeting agenda prior to the meeting and to discuss with the Monitoring Officer if they had any concerns regarding a potential conflict of interest. It was the duty of members to have due regard to any such advice given and to consider it fully even if they chose not to follow that advice. With reference to a particular example it was noted that the previous Members' Code of Conduct would have applied.

- with reference to planning applications if a councillor represented a particular Ward and was attending a meeting where an application in that Ward was discussed whether this meant that the councillor had an automatic conflict of interest. Councillors could consider planning applications in their ward but it was important for the councillor to determine if they had an open mind and had not been involved with the application in such a way as to prejudice them. Section 7.1 (role of Ward members) of the Planning Code of Good Practice clarified that a councillor's duty whilst sitting on the Plans Committee was to the whole community and not just to the people in their Ward area.
- it could be challenging to advise and accept advice during a meeting due to the complexities of the Code of Conduct for both officers and councillors. A councillor could, if they wished, seek a short adjournment to a meeting to consider any advice given regarding conflicts of members interests.
- it could be beneficial to emphasise the responsibilities of councillors in relation to conflicts of members' interests and as Ward members in future training, with particular reference to member induction training after the local elections in 2023.

Cllr Draycott requested that it be recorded in the minutes that she was of the view that the original wording for Section 18.5 (a) was preferred.

The Democratic Services Officer agreed to share with the Committee, the webpage links to the relevant sections of the Constitution mentioned during the discussion.

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 the Committee recommends conflicts of members' interests is emphasised in future member training and that the Head of Planning and Growth be notified of this recommendation.

Reasons

1. To enable the Committee's views to form part of the annual review of the Council's Constitution.
2. To ensure that councillors are aware of their duties with respect to handling matters where a conflict of interest may arise.

12. 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).

The Monitoring Officer sought member's views regarding two long standing items on the work programme not yet scheduled to a future meeting. The Committee considered that it would be beneficial for 'Review of local government ethical standard

by the Committee of Standards in Public Life' and Review of the Constitution alongside CSPL recommendations' to remain on the Committee's work programme.

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.

NOTES:

1. No reference may be made to these minutes at the next ordinary Council meeting 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. Councillor Jones (non-voting Parish Member) attended the meeting virtually
3. These minutes are subject to confirmation as a correct record at the next meeting of the Member Conduct Committee.

MEMBER CONDUCT COMMITTEE - MONDAY, 5 JUNE 2023

Report of the Monitoring Officer

Part A

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

Financial Implications

None.

Risk Management

No risks have been identified with this decision

Equality and Diversity

None identified.

Climate Change and Carbon Impact

None identified.

Crime and Disorder

None identified.

Wards Affected

None.

Publicity Arrangements

None.

Consultations

Not applicable.

Links to the Corporate Strategy

Caring for the Environment	No
Healthy Communities	No
A Thriving Economy	No
Your Council	No

Background Papers: None

Officer to contact: Adrian Ward
Monitoring Officer
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Part B

Summary of Complaints received to 30th April 2023

1. Since the last meeting of the Committee held on 28th November 2022 there have been no new complaints received.
2. For comparative information, the following table summarises complaints received in previous years (including complaints about both Borough and Parish/Town Councils)

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
2022/23	4

Appendices

Appendix A – List of complaints & actions

Appendix B – Fact Finding Summaries published since the last meeting

APPENDIX A – Details of Complaints received in 2022-2023

Type of councillor	Number of complaints	Outcome	Issues raised in complaint	Reason for no further action	Description of other action	Outcome of investigation
Borough	3	No breach of the Code of Conduct identified	Conflict of interest in relation to an HMO property.			Hearing determined that there had been no breach of the Code of Conduct.
		No breach of the Code of Conduct identified	Failing to disclose being a councillor in non-council related communications.			
		No breach of the Code of Conduct Identified	Inappropriate comment posted on social media site.			
Parish / Town	1	No breach of the Code of Conduct identified	Bullying and intimidating behaviour while chairing a meeting.			

FACT FINDING SUMMARY

Complaint from a resident that a Member of Charnwood Borough Council failed to observe the Members' Code of Conduct

Complaint Ref: MC3 22/23

A complaint was submitted by a resident ('the complainant') that a Member of Charnwood Borough Council ('the subject Member') failed to observe the requirements of the Members' Code of Conduct.

The complaint alleged that in communications with the subject Member, which took place as part the subject Member's separate main employment, the subject Member failed to disclose that they were a Borough Councillor who had particular responsibilities that the complainant considered were relevant to the communications.

Having considered the complaint and the subject Member's response, the Monitoring Officer concluded that the Code of Conduct did not apply in this situation, and that therefore the complaint did not warrant further consideration or investigation.

This is because the Code of Conduct specifies that:

This Code of Conduct applies to you when you:

- *act in your capacity as a member or co-opted member of the Council; and*
- *conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed).*

The subject Member was not acting in their capacity as a Member of the Council in the communications with the complainant.

Views of the Independent Person

An Independent Person, Mr Laurie Faulkner, was consulted and supported the Monitoring Officer's conclusion that the complaint did not warrant further consideration or investigation.

Adrian Ward
Monitoring Officer

Date: 16th January 2023

FACT FINDING SUMMARY

Complaint from a resident that a Member of Charnwood Borough Council failed to observe the Members' Code of Conduct

Complaint Ref: MC4 22/23

A complaint was submitted by a resident ('the complainant') that a Member of Charnwood Borough Council ('the subject Member') failed to observe the requirements of the Members' Code of Conduct.

The complaint alleged that the subject Member posted an inappropriate comment on a social media site about the potential demolition of a local shopping centre, and that the subject Member then banned the complainant from the social media site (in their role as the site administrator) when they made a comment challenging the appropriateness of the posting.

The subject Member's response to the complaint was that the post did not mention demolition of the shopping centre but rather noted that the site had new owners and expressed a hope that they would upgrade the centre, and that as in their capacity as the site administrator they had banned the complainant for making, and then repeating, derogatory comments in response to the post.

Having considered the complaint and the subject Member's response, the Monitoring Officer concluded that the social media posting made by the subject Member was not inappropriate in any way under the Member's Code of Conduct, and that the Code of Conduct did not apply in relation to their actions as the site administrator of the social media site.

This is because the Code of Conduct specifies that:

This Code of Conduct applies to you when you:

- *act in your capacity as a member or co-opted member of the Council; and*
- *conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed).*

The subject Member was not acting in their capacity as a Member of the Council when undertaking the role as the site administrator of the social media site.

Consequently, the Monitoring Officer concluded that the complaint does not warrant any further action or investigation.

Views of the Independent Person

An Independent Person, Mr Michael Gibson, was consulted and supported the Monitoring Officer's conclusion that the complaint does not warrant any further action or investigation.

Adrian Ward
Monitoring Officer

Date: 18th January 2023

MEMBER CONDUCT COMMITTEE - MONDAY, 5 JUNE 2023

Report of the Monitoring Officer

Part A

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 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 meetings. Future meetings for 2023.-24 are as follows:

18th September 2023

4th December 2023

11th March 2024

Report Implications

Financial Implications

None

Risk Management

None.

Equality and Diversity

None identified

Climate Change and Carbon Impact

None identified

Crime and Disorder

None identified

Wards Affected

Not applicable

Publicity Arrangements

Not applicable

Consultations

Not applicable

Links to the Corporate Strategy

Caring for the Environment	No
Healthy Communities	No
A Thriving Economy	No
Your Council	Yes

Key Decision: N

Background Papers: None

Appendix: Work Programme

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Appendix

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 2023 <i>(last considered 28th November 2022)</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>