



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

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To: Councillors Goode (Chair), Bradshaw (Vice-Chair), Brookes, Dent, Matthews, Roberts and Woodward(for attention)
Cllr 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 2, at the Council Offices, Southfields, Loughborough on Monday, 18th September 2023 at 6.00 pm for the following business.

Chief Executive

Southfields
Loughborough

8th September 2023

AGENDA

1. APOLOGIES
2. MINUTES OF THE PREVIOUS MEETING 3 - 5

To confirm as a correct record the minutes of the meeting held on 5th June 2023

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

6 - 14

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

15 - 17

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:

4th December 2023

11th March 2024

MEMBER CONDUCT COMMITTEE 5TH JUNE 2023

PRESENT: The Chair (Councillor Goode)

Councillors Brookes, Dent, B. Gray, Matthews,
Roberts and Woodward
Councillors Ellingworth and Jones (Parish
Members)

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

APOLOGIES: Councillor Bradshaw and Ball (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.

1. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 28th November 2022 were confirmed as a true record on the basis that current members had no reason to believe otherwise.

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

No disclosures were made.

3. QUESTIONS UNDER COMMITTEE PROCEDURE 12.8

No questions had been received.

4. UPDATE ON COMPLAINTS RECEIVED

Considered a report of the Monitoring Officer providing an updated 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 presented the report and provided a brief overview. With reference to Appendix B he noted that at a previous meeting the Committee had resolved to publish fact finding summaries on the Council's website including the name of the Council but not the councillors involved.

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

Reason

To keep the Committee informed about complaints.

5. WORK PROGRAMME

Considered a report of the Monitoring Officer enabling the Committee to agree a work programme to plan its future business (item 6 on the agenda filed with these minutes).

The Monitoring Officer suggested the Committee may wish to consider receiving a Member Briefing after its meeting in September regarding Member Conduct Panels.

He also provided an update regarding the two items on the work programme that were yet to be scheduled, noting that the recommendations made by the Committee on Standards in Public Life had been made to the Government several years ago and to date the Government had provided a holding response indicating it did not consider any requirement for amendment in the near future. The Committee could continue to include the items on the programme as a reminder or remove from the programme and ask the Monitoring Officer to bring future updates as appropriate to the Committee.

RESOLVED

1. that a Member Briefing regarding Member Conduct Panels be arranged after the Committee's meeting scheduled to be held on 18th September 2023;
2. that the two items on the work programme yet to be scheduled be removed;
3. 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.

Reasons

1. As the membership of the Committee had changed it was considered beneficial for the Committee to receive a briefing in this matter.
2. The Committee considered it would be acceptable to remove from the work programme and ask the Monitoring Officer to provide future updates.
3. To enable the Committee to fulfil its role in promoting and maintaining high standards of conduct by councillors 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, 18 SEPTEMBER 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

There are no specific risks associated with this decision'

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

Background Papers: None

Officer to contact: Adrian Ward
Monitoring Officer
01509 634573
Adrian.Ward@charnwood.gov.uk,

Part B

Summary of Complaints received to 31st August 2023

Since the last update report to the Committee there have been four new complaints received.

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 mths)	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
2023/24 (to date)	4

Appendices

Appendix A – List of complaints & actions

Appendix B – Fact Finding Summaries published since the last meeting

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	No further action or investigation	Member objected to a planning application in a biased way, did not respond to an email, and also parks irresponsibly	Not sufficiently serious enough to warrant further action or investigation		
Parish / Town	3	Referred for investigation	Intimidation and bullying of a parish employee (Quorn Parish Council)			Investigation ongoing
		No further action or investigation	Member was Chair of a committee which did not accept an apology, which was considered to be disrespectful and bullying (Birstall Parish Council)	Conduct would, if proven, not amount to a breach of the Code	Monitoring Officer suggested that mediation between the complainant (also a parish councillor) and the subject Member might be helpful	
		Fact finding ongoing	Withholding information about a complaint against a parish employee and a fellow councillor and not following the correct complaints processes (Quorn Parish Council)			

FACT FINDING SUMMARY

Complaint from an employee of Quorn Parish Council that a Member of the Council failed to observe the Member Code of Conduct

Complaint Ref: MC1 23/24

A complaint was submitted by an employee of Quorn Parish Council ('the complainant') that a Member of the Council ('the subject Member') failed to observe the requirements of the Member Code of Conduct.

The complaint alleged that the subject Member intimidated and bullied the complainant following a parish council meeting in front of other Members of the parish council. The complainant stated that they felt that this was also potentially a case of sexism.

Having considered the complaint and the subject Member's response, the Monitoring Officer concluded that there were differing versions of the relevant events being put forward by the complainant and by the subject Member, and therefore the complaint should be referred for further investigation, particularly to consider issues arising in relation to the requirements set out in the following sections of the Member Code of Conduct:

2.3.2 I will treat council officers, employees and representatives of partner organisations and those volunteering for the council with respect and respect the role they play.

2.7.1 I will not bully any person.

2.7.3 I will promote equalities and do not discriminate unlawfully against any person.

Views of the Independent Person

An Independent Person, Mr Shaw, was consulted and supported the Monitoring Officer's conclusion that the complaint warranted further investigation.

Adrian Ward
Monitoring Officer

Date: 16th June 2023

FACT FINDING SUMMARY

Complaint from a Resident that a Member of Charnwood Borough Council failed to observe the Member Code of Conduct

Complaint Ref: MC2 23/24

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 Member Code of Conduct.

The complaint alleged that the subject Member objected to the complainant's planning application in a biased and underhanded way, did not respond to an email she sent to him about the application, supported factually incorrect objections from a neighbour about an extractor fan, and also supported an objection on highway related parking grounds, despite parking his own vehicle irresponsibly on the brow of a hill.

The subject Member did not submit a response to the complaint within the allowed time period.

Having considered the complaint, the Monitoring Officer concluded that it was not sufficiently serious enough to warrant further action or investigation.

This is because ward councillors are not the decision makers in relation to planning applications in their area, but instead decisions are either made by planning officers under delegated powers, or by the Plans Committee. In this case, although the subject Member requested that the application be called-in to be decided by the Plans Committee the deadline for call-in was missed, and therefore the application was considered and approved by officers under delegated powers.

Also, because there is no specified process for ward councillors to follow in deciding whether or not to object to or call-in a planning application, they are free to consider and respond to applications as they see fit, including deciding what, if any, contact to have with applicants, neighbours and objectors.

Finally, the Member Code of Conduct only applies when a councillor is acting in their capacity as a councillor, and so it does not apply to how they park private vehicles.

Views of the Independent Person

An Independent Person, Mr Michael Gibson, was consulted and supported the Monitoring Officer's decision that the complaint was not serious enough to warrant further action or investigation.

Adrian Ward
Monitoring Officer

Date: 19th July 2023

FACT FINDING SUMMARY

Complaint from a Councillor of Birstall Parish Council that another Member of Birstall Parish Council failed to observe the Member Code of Conduct

Complaint Ref: MC3 23/24

A complaint was submitted by a Birstall Parish Councillor ('the complainant') that another Member of Birstall Parish Council ('the subject Member') failed to observe the requirements of the Member Code of Conduct.

The complaint alleged that the subject Member, in his role as chair of a committee, failed to respond to requests to clarify why the complainant's apology for non-attendance at a meeting of the committee had not been accepted, and also that he had previously requested that a matter about the complainant be included on a parish council agenda.

The complainant stated that these actions were disrespectful and felt like a personal attack against her by the subject Member, and that this may also be a breach of the Code of Conduct requirement that councillors '*shall not act in a way which a reasonable person would regard as bullying or intimidatory*'.

In his response to the complaint the subject Member stated that the decision not to accept the complainant's apology for not attending the meeting was a collective decision by the committee as a whole, that he had been on holiday when clarification was sought from him, but that anyway his understanding was that the chair of a committee was not obliged to explain or justify the collective decisions of a committee.

He also said that he had requested the other previous matter to be put on the agenda because the complainant had sent an email to all the parish councillors wrongly suggesting that he had failed to do something that had been agreed, and which also contained factual inaccuracies.

He stated that he considered this to have been an attempt by the complainant to discredit, embarrass and belittle him, and therefore he had felt it necessary to exonerate himself by requesting an agenda item to explain that he had done what had been agreed and to clarify other relevant facts.

Having considered the complaint and the subject Member's response, the Monitoring Officer concluded that the complaint does not warrant further action or investigation because the conduct in question would not, if proven, be a breach of the Code of Conduct.

This is because the decision not to accept apologies for absence from the complainant was a collective decision of the relevant committee and was not a personal decision of the chair, and also there is no requirement for the chair to explain the reasons for the collective decisions of the committee.

For information, it was noted during the fact finding review that the parish council has received guidance from the Leicestershire & Rutland Association of Local Councils regarding the recording of attendance and non-attendance at meetings, which states that *'if a councillor doesn't send apologies, or council doesn't accept or approve them, it is up to your council if and how this is recorded'*.

Also, having reviewed the relevant agenda item and minutes relating to the matter which the subject Member requested to be considered at a parish council meeting it did not appear to be framed as a personal attack on the complainant, but rather was designed to clarify the relevant facts and to suggest improved processes for the future reporting of issues of concern by parish councillors in general.

It is apparent that the relationship between the complainant and the subject Member has become somewhat strained, with the latter stating in his response to the complaint that he is considering making a counter complaint against the complainant and another councillor should this current complaint against him not be upheld.

To avoid a potentially damaging situation with 'tit for tat' complaints being made within its councillor cohort, Birstall Parish Council may wish to consider arranging for mediation or reconciliation between the complainant and the subject Member, because it is obviously important that their councillors should be able to work together in a constructive and mutually respectful manner.

View of the Independent Person

An Independent Person, Mr Laurie Faulkner, was consulted and supported the Monitoring Officer's conclusion that the complaint was not serious enough to warrant further action or investigation, but that Birstall Parish Council may wish to consider arranging for mediation between the complainant and the subject Member.

Adrian Ward
Monitoring Officer

Date: 14 August 2023

MEMBER CONDUCT COMMITTEE - MONDAY, 18 SEPTEMBER 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 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.

At its meeting on 5th June 2023 the Committee resolved that two unscheduled items on its work programme be removed as follows:

- Review of local government ethical standards by the Committee on Standards in Public Life
- Review of the Constitution alongside CSPL recommendations

Implementation Timetable including Future Decisions

It is recommended that the Committee reviews its work programme at every meeting. Future meetings for 2023-24 are as follows:

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

Background Papers: None

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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 2023 <i>(last considered 2nd December 2019)</i>