

CONSTITUTION AND ETHICS	AGENDA ITEM No. 9
14 JULY 2021	PUBLIC REPORT

Report of:	Fiona McMillan, Corporate Director of Governance	
Cabinet Member(s) responsible:	Councillor Cereste, Cabinet Member	
Contact Officer(s):	Philippa Turvey, Democratic and Constitutional Services Manager Daniel Kalley – Senior Democratic Services Officer	01733 296334

CODE OF CONDUCT COMPLAINTS

R E C O M M E N D A T I O N S	
From: Monitoring Officer	Deadline date: N/A
<p>It is recommended that the Constitution and Ethics Committee:</p> <ol style="list-style-type: none"> Note the report on complaints received/being handled by the Monitoring Officer since the Committee's last meeting on 8th February 2021. 	

1. ORIGIN OF REPORT

- 1.1 This Report is submitted to the Constitution and Ethics Committee by the Council's Monitoring Officer.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The Constitution and Ethics Committee has the responsibility for promoting and maintaining high standards of conduct amongst members and co-opted members of the council including 'monitoring the operation of the Code of Conduct'. This also includes parish councillors.

To assist in the fulfilment of the above objective it has been agreed that a standing item is placed on the agenda for the committee notifying and updating it on complaints that have been made, how they are being handled and whether they have been resolved. The committee decided that these should be reported in an anonymous way until such time as a breach of the code of conduct is found as part of the complaints process.

This Report fulfils the requirements set out above.

- 2.2 This report is for the Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.2.

Authority to oversee and approve the operation of the Council's functions relating to the promotion and maintenance of high standards of conduct amongst members and co-opted members including:

- promoting and maintaining high standards of conduct by members and co-opted members;
- Assisting the members and co-opted members to observe the Code of Conduct;
- Advising the council on the adoption or revision of the Members Code of Conduct;
- Monitoring the operation of the Code of Conduct;

- Advising, training or arranging to train members and co-opted members on matters relating to the Code of Conduct.

3. **TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	
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4. **BACKGROUND AND KEY ISSUES**

4.1 **NEW COMPLAINTS**

City Councillors

Since the Committee's last report on 8th February 2021 there have been 4 new complaints received in relation to city councillors. The new complaints received include:

- CONDCOMP/PCC/16. On 8th May 2021, a complaint was made by a member of the public regarding a verbal exchange between them and the subject member. The subject member is accused of refusing to speak to the complainant on grounds of them being a racist with white privilege. The complainant considered that the subject member's behaviour was rude, disrespectful and discriminating. The complaint was shared with the subject member for comment. The subject member confirmed that the conversation had taken place but that it had been more detailed than alleged and that he had apologised at the time. The subject member's response was shared with the complainant who accepted the apology as an informal resolution.
- CONDCOMP/PCC/17. On 7th May 2021, a complaint was made by a member of the public regarding the subject member's support for a local business establishment which is the known subject of nuisance complaints. The complainant considers that this demonstrates bias on the part of the subject member and in light of the concerns raised has the potential to bring them/the council into disrepute. The complainant also considers that it is preventing the nuisance from being properly addressed. The subject member has responded to the complaint but the complainant has confirmed that the explanation given does not satisfactorily resolve the concerns raised. The DMO is therefore in the process of arranging to discuss the complaint and response with the Independent Person.

Parish Councillors

There has also been 1 new complaint received in relation to parish councillors as follows:

- CONDCOMP/PCC/18. On 6th May 2021, a complaint was made by one Parish Councillor against another in relation to their behaviour at a Parish Council meeting. Specifically, the complainant considers that the subject member's behaviour towards them was disrespectful and amounted to bullying and intimidation as well as an attempt to disadvantage them. The DMO has acknowledged receipt of the complaint but is seeking more information before the complaint can be progressed to the next stage of the process.

4.2 **ONGOING COMPLAINTS**

The following complaints remain active since the last meeting:

City Councillors

- There are none.

Parish Councillors

- CONDCOMP/PCC/08. This complaint was received on 1st October 2020. The complainant, a parish councillor, alleged that the subject member had breached the code as a result of systematic and ongoing bullying and harassment via email and other direct exchanges. The subject member refutes the allegations and considers that the complainant is guilty of the same behaviour. Following discussion with the Independent Person, the complaint was referred for external investigation on 30th March 2021 along with CONDCOMP/PCC/9, 10, 11 and 13.
- CONDCOMP/PCC/09. This complaint was received on 16th September 2020. The complainant, a parish councillor, alleged that the subject member had breached the code of conduct as a result of their behaviour at a Parish Council meeting at which they are accused of bullying, disrespect, breach of confidentiality and disrepute. The subject member refutes the allegations and, following discussion with the Independent Person, the complaint was referred for external investigation on 30th March 2021 along with CONDCOMP/PCC/08, 10, 11 and 13.
- CONDCOMP/PCC/10. This complaint was received on 23rd October 2020. The complainant, a parish councillor alleged that the subject member had breached the code of conduct as a result of failing to intervene as a result of the behaviours described in relation to CONDCOMP/PCC/09 and for breaching confidentiality requirements. The subject member has not responded to the complaint and following discussion with the Independent Person, the complaint was referred for external investigation on 30th March 2021 along with CONDCOMP/PCC/08, 09, 11 and 13.
- CONDCOMP/PCC/11. This complaint was received on 4th November 2020. The complainant, a Clerk, alleged that the subject member had breached the code of conduct as a result of the tone and content of various emails and interactions over the course of 2020 accusing them of bullying, disrespect, using their position for gain and disrepute. Following discussion with the Independent Person, the complaint was referred for external investigation on 30th March 2021 along with CONDCOMP/PCC/08, 09, 10 and 13.
- CONDCOMP/PCC/13. This complaint was received on 10th November 2020. The complainant, a member of the public alleged that the subject member had breached the code of conduct as a result of their use of social media and resultant interactions between them. The subject member denies breaching the code and considers that the complaint has been manufactured to discredit them. Following discussion with the Independent Person, the complaint was referred for external investigation on 30th March 2021 along with CONDCOMP/PCC/08, 09, 10 and 11.

4.3 CONCLUDED COMPLAINTS

The following complaints have been concluded since the last meeting:

City Councillors

- CONDCOMP/PCC/04. Three complaints were received from a Peterborough City Councillor in relation to the same subject member. Each related to allegations that the subject member had breached the code of conduct as a result of what were described as libellous and defamatory remarks made on social media. The complaints were shared with the Subject Member who denied the allegations and made a counter allegation that the complainant had breached the code of conduct by making false accusations. Both sets of complaint were referred for external investigation. The investigation concluded on 18th May 2021 by which time the subject member and counter-complainant was no longer a serving councillor. In either event, the investigating officer recommended that the Monitoring Officer take no further action in relation to either complainant's complaint. The complainant and (former) subject member/complainant have been notified and their complaints will now be discontinued.
- CONDCOMP/PCC/06. This complaint was received on 20th January 2021. The complainant, a councillor, alleged that the subject member had breached the code of conduct by inciting religious hatred via comments made on social media. The Deputy Monitoring Officer did not have sufficient information to progress the complaint and therefore requested the complainant to complete the template complaint form. No further information was forthcoming and the complaint has therefore been discontinued.
- CONDCOMP/PCC/07. On 3rd February 2021, a complaint was made by a member of the public regarding comments the subject member is alleged to have posted about them on social media. Further information was sought from the complainant because there was no detail as to the dates upon which the comments were made and/or the specific wording or context of the comments. The complainant responded to confirm that they would not be pursuing their complaint and the matters was therefore concluded on 4th March 2021.
- CONDCOMP/PCC/15. On 20th January 2021, a complaint was received from a member of the public in relation to comments made by the subject member during a visit to business premises. In particular, the subject member is accused of making racist comments about the progress of the Covid-19 recovery programme. The subject member in responding to the complaint has denied any recollection of the alleged remarks but has offered an unreserved apology for any offence that may unintentionally have been caused during the course of the conversation. The complainant accepted the apology as an informal outcome and the matter was therefore concluded on 28th June 2021.
- CONDCOMP/PCC/19. A complaint has been made by a member of the public in relation to two city councillors and their involvement in a local issue (January 2021). Further information was sought from the complainant before the complaint could be sent to the councillors for comment and then assessed. The information has not been forthcoming from the complainant who indicated they would prefer to take an alternative route and make a complaint to the LGO.

Parish Councillors

- CONDCOMP/PCC/12. This complaint was received on 24th September 2020. A complaint, a member of the public, complained that the subject member had breached the code of conduct as a result of the tone and content of two verbal interactions between them. Following discussion with the Independent Person it was determined that the complaint did not meet the threshold for further investigation.
- CONDCOMP/PCC/14. This complaint was received on 30th October 2020. The complainant, a Parish Councillor, complained that the subject member had breached the code of conduct as a result of alleged bullying and disrespect arising from email correspondence between them. Following receipt of the subject member's response, the Deputy Monitoring Officer sent it to the complainant to establish whether it satisfactorily resolved their concerns. No response was forthcoming from the complainant and the complaint has therefore been discontinued.

4.4 Publication of Investigation Report

At the Committee on 8th February 2021 it was reported that there had been a complaint from a councillor in relation to the behaviour of the subject member at a council meeting (October 2019). At that stage, the Investigator concluded that there had been a breach of the Code of Conduct and, following discussion with the Independent Person, the Deputy Monitoring Officer was establishing whether the complaint was capable of alternative resolution. In particular, the investigating officer concluded that the subject member had not slapped the complainant or struck them with an object but accepted on balance that they had touched them without consent. It was therefore recommended that the subject member apologise to the complainant and an apology has since been offered.

In July 2018 the Committee agreed, when considering the code of conduct complaints process and confidentiality, that “*where a conclusion has been reached that the code of conduct has been breached but that no hearing is necessary due to an agreed alternative resolution that the investigation report will be published when the case is reported back to the committee.*” The investigation report in relation to this complaint is therefore attached as Appendix 1 for the Committee to note.

5. CONSULTATION

5.1 The process for dealing with conduct complaints requires the Monitoring Officer to consult the Independent Person following an initial assessment and before any decisions are taken as to what if any further action is considered appropriate for example, the appointment of an investigator and, following receipt of the investigator’s report, whether to refer the matter for a hearing.

6. ANTICIPATED OUTCOMES OR IMPACT

6.1 By reporting the complaints that have been made the Committee can more effectively monitor the operation of the Code of Conduct.

7. REASON FOR THE RECOMMENDATION

7.1 Regular reporting of both quantities and substance of complaints will help the Committee gain a better understanding of the effectiveness of current procedures and how well the Code is being observed across both the council and parish councils in its area. This will inform future decisions about what training may be necessary to ensure the requirements of the code are being met.

8. ALTERNATIVE OPTIONS CONSIDERED

8.1 None

9. IMPLICATIONS

Financial Implications

9.1 None

Legal Implications

9.2 Under the Localism Act 2011 the council may set its own procedures in relation to the handling of complaints.

Equalities Implications

9.3 None

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 The Localism Act 2011.

11. APPENDICES

11.1 Appendix 1 – Investigation Report