

CONSTITUTION AND ETHICS	AGENDA ITEM No. 13
16 MARCH 2020	PUBLIC REPORT

Report of:	Fiona McMillan, Corporate Director of Governance	
Cabinet Member(s) responsible:	Cllr Mohammed Farooq – Cabinet Member for Digital Services and Transformation	
Contact Officer(s):	Philippa Turvey, Democratic and Constitutional Services Manager Daniel Kalley – Senior Democratic Services Officer	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 30th September 2019. 	

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**

Since the Committee's last report on 30th September 2019, there has been two new complaints received in relation to city councillors. These include:

- i) a complaint from a councillor in relation to the behaviour of another councillor at a council meeting. The Deputy Monitoring Officer has contacted the councillor for a response and the councillor has been given an extension of time to respond due to extenuating personal circumstances.
- ii) a complaint from a member of the public in relation to social media posts by a city councillor, The Monitoring Officer has contacted the councillor for a response. Once received the complaint and response will be discussed with the council's Independent Person.

There have also been a number of complaints in relation to parish councillors:

- a) two complaints in relation to parish councillors at the same parish council, one by a member of the public and one by a fellow parish councillor.
- b) a complaint in relation to social media posts by a parish councillor

All were concluded following initial assessment with the Council's Independent person, the outcomes of which are reported below.

4.2 **Existing Complaints**

Following assessment by the Council's Independent Person and Monitoring Officer, three complaints about one councillor were previously referred for a formal investigation, to be Investigated together. These related to the following:

- A complaint that was received from a PCC councillor that another PCC councillor had breached the code of conduct in relation to a Facebook post in breach of the Council's Social Media Code.
- A complaint that was received from a member of the public that a PCC councillor had breached the code of conduct in relation to comments made about another councillor during a full council meeting and an associated social media post in breach of the Council's Social Media code.
- A complaint that was made by a PCC member that another councillor had used offensive language (via an acronym) in a social media exchange which had been seen by a member of the public and sad they were "appalled". The complaint is that the post was in breach of the Council's Social Media Code.

The investigation has taken place and draft and final reports have now been issued to those involved. As the investigator has found that there was a breach of the code of conduct in relation to one of the complaints the Monitoring Officer will now, in consultation with the Independent Person, review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel, or seek an alternative resolution, if it is considered the matter can be resolved without the need for a hearing. Such resolution may include the member

accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter back to the authority's Constitution and Ethics Committee for information, but will take no further action.

Informal Resolution

The following complaints have been informally resolved as follows:

- A complaint by a member of the public regarding a parish councillor's posts and comments on social media relating to a tree felling application. The post was removed, an apology was issued and the parish councillor confirmed that they would not participate in the discussion of this matter when it fell for discussion by the Parish Council.

No Further Action

The following complaints were resolved without any further action because there was no perceived breach of the code or for other reasons:

- A complaint by one Parish Councillor against another in relation to their management of a conduct complaint and the subsequent content of a related email sent to all (but the complainant) parish councillors.
- A complaint was also received by one Parish Councillor in respect of others at the same Parish Council relating to alleged failures to declare disclosable pecuniary interests both in their registers and at meetings during which their interests were engaged. The Deputy Monitoring Officer did not accept this complaint as she was satisfied, following preliminary enquiries that there were no relevant statutory interests.
- A complaint by a member of the public in relation to a number of social media posts made by a parish councillor, which as they were over two years old were considered to be "historical" under the council's complaints process and not to be proceeded with.

5. CONSULTATION

5.1 N/A

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 None