

CONSTITUTION AND ETHICS	AGENDA ITEM No. 12
12 OCTOBER 2020	PUBLIC REPORT

Report of:	Fiona McMillan, Director of Law and Governance/Monitoring Officer	
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

RECOMMENDATIONS	
FROM: Monitoring Officer	Deadline date: N/A
<p>It is recommended that the Constitution and Ethics Committee:</p> <p>1. Notes the report on complaints received/being handled by the Monitoring Officer/Deputy Monitoring Officer since the Committee’s last meeting on 30th September 2019.</p>	

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 30th September 2019, there has been ten new complaints received in relation to city councillors. It should be noted that complaints handling was generally put on hold between the end of March and July 2020 due to Covid-19 issues taking precedence. The new complaints received include:

- i) A complaint from a councillor about another councillor in relation to the use of premises for party political purposes (October 2019) - the Monitoring Officer considered the evidence submitted and was unable to conclude that any rules had been breached. The Monitoring Officer agreed to bring an item to Constitution and Ethics Committee proposing an amendment to the Member Officer protocol which clarified the legal requirements for the use of council premises.
- ii) A complaint from a councillor about the behaviour of other councillors at a council meeting (October 2019). After reviewing footage from meeting it was considered there was insufficient evidence to proceed but the Monitoring Officer agreed that it would be raised at Group Leaders and the Mayor would be asked to warn members about expected standards of behaviour at the start of each council meeting.
- iii) A complaint from a councillor in relation to the behaviour of another councillor at a council meeting (October 2019 - put on hold – final evidence submitted January 2020). This matter is currently under investigation by an external investigator.
- iv) A complaint from a councillor about another councillor in relation to an email sent which related to the complaint at iii) above (December 2019). The Monitoring Officer considered the complaint was not supported by the evidence provided so no further action to be taken.
- v) A complaint was made by a councillor in relation to a social media post by another councillor (December 2019). The Monitoring Officer asked the complainant for further information – this was only received recently due to the complainant overlooking the MO's email. Due to be discussed with the Independent Person.
- vi) A complaint was received from a councillor about a social media post by another councillor (March 2020) – the councillor apologised and removed the post immediately so no further action is to be taken.
- vii) A complaint was made by a councillor about another councillor putting a photo on social media which appeared to show a lack of social distancing (August 2020). The councillor clarified that

it was an old picture reposted following the death of someone in the photo. No further action necessary.

- viii) A complaint from a councillor in relation to social media posts by another councillor (received September 2020) - this awaits initial assessment by the Monitoring Officer and Independent Person
- ix) A complaint from a councillor in relation to social media posts by another councillors (received September 2020) - linked to (viii) above – the Monitoring Officer is awaiting a response from the councillor and then will consider alongside the Independent Person
- x) A complaint was received from a member of the public relating to social media posts by a councillor (September 2020). The complaint has been resolved following a discussion between the parties and the complaint has been withdrawn.

New complaints – Parish Councillors

- i) There have been new complaints made by one parish councillor against two other councillors at the same parish council in respect of issues arising at a Parish Council meeting. These have only just been received (September 2020) and are therefore still at the very early stages of the process.
- ii) A complaint has just been received by a parish councillor about another parish councillor involving allegations of bullying (October 2020).
Other new but now concluded complaints in relation to parish councillors include:
 - 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

These were initially assessed with the Council's Independent Person, the outcomes of which are reported below:

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.

4.2 Update on complaints reported to last meeting

City Council complaints

Following assessment by the Council’s Independent Person and Monitoring Officer, three complaints about one councillor were previously referred for a formal investigation by an external investigator, 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 said they were “appalled”. The complaint is that the post was in breach of the Council’s Social Media Code.

The investigator found that there was a breach of the code of conduct in relation to one of the complaints. The Monitoring Officer and Independent Person considered the investigator’s recommendation that, taking the complaints as a whole, an alternative resolution in the form of social media training should be sought in order to resolve the complaint without the need for a hearing. The councillor agreed to attend training and this was organised and took place on 9th July 2020. The councillor attended and participated fully and therefore no further action will be taken.

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

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