

CONSTITUTION AND ETHICS	AGENDA ITEM No. 10
8 FEBRUARY 2021	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>Notes the report on complaints received/being handled by the Monitoring Officer/Deputy Monitoring Officer since the Committee's last meeting on 12th October 2020.</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 12th October 2020 there has been three new complaints received in relation to city councillors. The new complaints received include:

- A complaint was made by a councillor in relation to a social media post by another councillor (January 2021). This has only just been received and is therefore still at the very early stages of the process.
- 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 has been sought from the complainant before the complaint can be sent to the councillors for comment and then assessed.
- A complaint has been made by a member of the public in relation to a city councillor and comments made during a visit to business premises (January 2021). The Monitoring Officer is awaiting a response from the councillor before it can be assessed.

New complaints – Parish Councillors

There have also been four new complaints received in relation to parish councillors. These include:

- A complaint by one parish councillor against another in relation to the content of an email sent. This matter has been discussed with the Independent Person and is being referred for investigation.
- A complaint by the clerk of a Parish Council against a parish councillor in relation to tone and content of various emails and interactions over the course of 2020. This matter has been discussed with the Independent Person and is being referred for investigation.
- A complaint from a member of the public against a parish councillor in relation to the tone and content of two interactions. The matter is due to be discussed with the Independent Person imminently.
- A complaint from a member of the public against a parish councillor in relation to their use of social media and subsequent interactions with them. The matter is due to be discussed with the Independent Person imminently.

4.2 **Update on complaints reported to last meeting**

City Council complaints

- A complaint from a councillor in relation to the behaviour of another councillor at a council meeting (October 2019). 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 is currently establishing whether this complaint is capable of alternative resolution.

- Two complaints from a councillor in relation to social media posts by another councillor (received September 2020). These have been initially assessed by the Monitoring Officer and Independent Person and have both been referred for a joint investigation.

Parish Council complaints

- The previous complaint made by one parish councillor against two other councillors at the same parish council in respect of issues arising at a Parish Meeting have been discussed with the Independent Person and is being referred for investigation.
- The complaint by a parish councillor about another parish councillor at the same parish council involving allegations of bullying has been discussed with the Independent Person and is being referred for investigation.

It should be noted that the investigation of new and existing Parish Councillor complaints detailed above will be investigated together as they all emanate from the same Parish Council.

Publication of investigation report

At the Committee in October 2020 a report was made concerning the outcome of three complaints about one councillor, which were previously referred for a formal investigation by an external investigator, to be investigated together. 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 was to be taken.

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*". This should have been attached to the October report and was omitted in error. The investigation report in relation to this complaint is therefore attached as **Appendix 1** for the Committee to note.

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