

<b>CONSTITUTION AND ETHICS</b>	<b>AGENDA ITEM No. 10</b>
<b>22 NOVEMBER 2021</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Corporate Director of Governance	
Cabinet Member(s) responsible:	Councillor Cereste, Cabinet Member for Digital Services and Transformation	
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## CODE OF CONDUCT COMPLAINTS

<b>R E C O M M E N D A T I O N S</b>	
<b>From: Monitoring Officer</b>	<b>Deadline date: N/A</b>
<p>It is recommended that the Constitution and Ethics Committee:</p> <ol style="list-style-type: none"> <li>Note the report on complaints received/being handled by the Monitoring Officer since the Committee's last meeting on 14<sup>th</sup> July 2021.</li> </ol>	

### 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?	<b>NO</b>	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 14<sup>th</sup> July 2021 there has been no new complaints received in relation to city councillors.

##### **Parish Councillors**

There have been 2 new complaints received in relation to parish councillors as follows:

- CONDCOMP/PCC/21. This complaint was received on 20<sup>th</sup> July 2021. The Complainant, a member of the public alleged that the subject member had failed to comply with Covid requirements thereby potentially comprising a bubble. They first expressed their concerns to the Chairman of the Parish Council concerned who responded to confirm that the subject member was acting in their personal capacity. This resulted in the complainant also raising their concerns about the Parish Council's management of their complaint. The Deputy Monitoring Officer acknowledged the following day clarifying that the process could not be used to investigate complaints about the Parish Council and seeking additional information in relation to the concerns raised about the subject member. The Deputy Monitoring Officer did not receive any further information and it has therefore not been possible to progress the complaint. The complaint has therefore been discontinued.

CONDCOMP/PCC/22. This complaint was received on 13<sup>th</sup> September 2021. The complainant, a member of the public alleged that the subject member had inappropriately utilised information obtained from Peterborough City Council's planning portal on social media and when challenged about this at a subsequent Parish Council meeting had behaved in a rude and abrasive manner. Details of the complaint were shared with the Subject Member who confirmed that they had posted on social media in their personal capacity (providing evidence of the relevant disclaimers on the relevant group page) and in either event denied a breach of the Code of Conduct. The subject member asserted that the information on the planning portal was already in the public domain and that it had been confirmed to them that there were not constraints on the subsequent publication of that information elsewhere. The subject member also denied inappropriate behaviour at the Council meeting. The subject member's response was shared with the complaint who, whilst still dissatisfied with the event described confirmed that they did not wish to progress matters further. The complaint has therefore been discontinued.

#### 4.2 **ONGOING COMPLAINTS**

The following complaints remain active since the last meeting:

##### **City Councillors**

There are currently no active complaints involving city councillors.

## **Parish Councillors**

- CONDCOMP/PCC/08. This complaint was received on 1<sup>st</sup> 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 30<sup>th</sup> March 2021 along with CONDCOMP/PCC/9, 10, 11 and 13. The investigation has now concluded and the Deputy Monitoring Officer is in the process of reviewing the associated reports in readiness for discussion with the Independent Person.
- CONDCOMP/PCC/09. This complaint was received on 16<sup>th</sup> 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 30<sup>th</sup> March 2021 along with CONDCOMP/PCC/08, 10, 11 and 13. The investigation has now concluded and the Deputy Monitoring Officer is in the process of reviewing the associated reports in readiness for discussion with the Independent Person.
- CONDCOMP/PCC/10. This complaint was received on 23<sup>rd</sup> 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 30<sup>th</sup> March 2021 along with CONDCOMP/PCC/08, 09, 11 and 13. The investigation has now concluded and the Deputy Monitoring Officer is in the process of reviewing the associated reports in readiness for discussion with the Independent Person.
- CONDCOMP/PCC/11. This complaint was received on 4<sup>th</sup> 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 30<sup>th</sup> March 2021 along with CONDCOMP/PCC/08, 09, 10 and 13. The investigation has now concluded and the Deputy Monitoring Officer is in the process of reviewing the associated reports in readiness for discussion with the Independent Person.
- CONDCOMP/PCC/13. This complaint was received on 10<sup>th</sup> 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 30<sup>th</sup> March 2021 along with CONDCOMP/PCC/08, 09, 10 and 11. The investigation has now concluded and the Deputy Monitoring Officer is in the process of reviewing the associated reports in readiness for discussion with the Independent Person.

### **4.3 CONCLUDED COMPLAINTS**

The following complaints have been concluded since the last meeting:

#### **City Councillors**

- CONDCOMP/PCC/15. On 20<sup>th</sup> 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 offense that may unintentionally have been caused during the course of the conversation. The complainant was notified and confirmed their satisfaction that the complaint had been properly considered and that no further action was therefore required. The subject member was notified on 28<sup>th</sup> June 2021 when the complaint was concluded.

- CONDCOMP/PCC/17. On 7<sup>th</sup> 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 subject member 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 responded to the complaint but this did not satisfactorily resolve the complainant's concerns. The DMO therefore conducted an initial assessment of the complaint with the Independent Person and following careful consideration it was determined that it would not be an appropriate use of the Code of Conduct to prevent a Councillor from expressing their honestly held beliefs even if those beliefs were such that they would not be agreeable to everyone.

### **Parish Councillors**

- CONDCOMP/PCC/18. On 6<sup>th</sup> 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 acknowledged receipt of the complaint however more information was required before the complaint could be progressed. The DMO sought that information however nothing was forthcoming and the complaint has therefore been discontinued.

## **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 None

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