

<b>CONSTITUTION AND ETHICS</b>	<b>AGENDA ITEM No. 9</b>
<b>9 MARCH 2022</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	
Contact Officer(s):	Philippa Turvey, Democratic and Constitutional Services Manager Daniel Kalley – Senior Democratic Services Officer	01733 296334

<b>CODE OF CONDUCT COMPLAINTS</b>
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<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 22<sup>nd</sup> November 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 22<sup>nd</sup> November 2021 there have been two new complaints received in relation to city councillors.

- CONDCOMP/PCC/23: This complaint was received on 20<sup>th</sup> December 2021. The complainant, a member of the public alleged that one of the councillors had breached the Code of Conduct as a result of comments made in a local newspaper article and subsequently that the Councillor, along with another, had failed to respond to emails raising concerns about its content. The complaint was referred to the Deputy Monitoring Officer who requested that the complainant identify which of the general obligations had been breached as well as providing some further context to the article and the emails to include the dates on which they were sent and what if any response had been received over what timescale. The complainant refused to provide any further information, including their identity and it was not therefore possible for the Deputy Monitoring Officer to progress the complaint as there was insufficient evidence upon which to invite their comment.
- CONDCOMP/PCC/24 This complaint was received on 6<sup>th</sup> December 2021 from a member of the public relating to a social media post. It has been sent to the subject member for comment, a response has been received and the Monitoring Officer has arranged a meeting to conduct an initial assessment with the council's independent person.

##### **Parish Councillors**

There have no new actionable complaints received in relation to parish councillors.

#### 4.2 **ONGOING COMPLAINTS**

The following complaints remain active since the last meeting:

##### **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 Deputy Monitoring Officer had discussed the outcome of the investigation report with the Independent Person and is considering whether an informal resolution can be achieved.

- 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 Deputy Monitoring Officer had discussed the outcome of the investigation report with the Independent Person and is considering whether an informal resolution can be achieved.
- 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 Deputy Monitoring Officer had discussed the outcome of the investigation report with the Independent Person and is considering whether an informal resolution can be achieved.
- 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 Deputy Monitoring Officer had discussed the outcome of the investigation report with the Independent Person and is considering whether an informal resolution can be achieved.
- 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 Deputy Monitoring Officer had discussed the outcome of the investigation report with the Independent Person and is considering whether an informal resolution can be achieved.

#### **4.3 CONCLUDED COMPLAINTS**

Other than the new conduct complaint CONDCOMP/PCC/23, there are no further concluded City Council or Parish Council conduct complaints to report.

#### **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