

CONSTITUTION AND ETHICS - RECONVENED	AGENDA ITEM No. 5
15 AUGUST 2022	PUBLIC REPORT

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

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
It is recommended that the Constitution and Ethics Committee:	
<p>1. Note the report on complaints received/being handled by the Monitoring Officer since the Committee's last meeting on 9th March 2022.</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 9th March 2022 there have been 5 new complaints received in relation to city councillors:

- CONDCOMP/PCC/25. This complaint was received on 8th March 2022 and concerned a private neighbourhood dispute. Consequently and following a discussion with the Independent Person, the Deputy Monitoring Officer confirmed to the complainant that the Code of Conduct was not engaged and that no further action could therefore be taken.
- CONDCOMP/PCC/27. This complaint was received on 22nd March 2022 and concerned the content of a Whatsapp message relating to the impact of the Boundary Commission's review which the complainant considered was misleading and designed to extort an adverse public response. The subject member denied the factual inaccuracy/alleged motivation for the message and the matter was therefore referred for initial assessment. The Independent Person and Deputy Monitoring Officer concluded, having regard to the subject member's convention rights, that whilst the Code was engaged, it had not been breached and that no further action would therefore be taken. The outcome has been communicated to the Complainant and Subject Member as a result of which the Deputy Monitoring Officer has been requested to provide further information which she is in the process of compiling.
- CONDCOMP/PCC/28. This complaint was received on 25th March 2022 and concerned allegations about the subject member's social media activity in relation to a particular community centre. The subject member denied that they had breached the Code of Conduct and instead asserted that they were merely expressing what they considered to be a factually accurate view. The complaint was referred for initial assessment and the Independent Person and Deputy Monitoring Officer concluded, having regard to the subject member's convention rights, that whilst the Code was engaged, it had not been breached and that no further action would therefore be taken.
- CONDCOMP/PCC/29. This complaint was received on 4th May 2022 and concerns allegations that the subject member has brought the Council into disrepute as a result of their comments on social media about officers and their conduct of specific matters. The subject member denies any wrongdoing and contends that they have acted in accordance with their convention rights. The complainant does not consider that this response satisfactorily resolves the concerns raised and an initial assessment will therefore be arranged.
- CONDCOMP/PCC/30. This complaint was received on 3rd June 2022 and is a continuation of CONCOMP/PCC/29. This complaint concerns allegations about the subject member's actions and express views being in direct contrast to that of the Council's thereby creating a conflict of interest and further issues of disrepute. The Deputy Monitoring Officer has acknowledged the complaint and forwarded it to the Subject Member for comment.

Parish Councillors

Since the Committee's last report on 9th March 2022 there has been 1 new complaint received in relation to Parish Councillors:

- CONDCOMP/PCC/26. This complaint was received on 8th March 2022 and concerned allegations about the subject member's conduct at a Parish meeting and on social media. The complaint was submitted via the Parish Clerk and the Deputy Monitoring Officer therefore wrote to the Complainant to request further information in accordance with the approved procedure. No response was forthcoming from the Complainant and the complaint was therefore discontinued.

4.2 ONGOING COMPLAINTS

The following complaints remain active since the last meeting:

City Councillors

There are currently no additional ongoing complaints relating to city councillors other than those described within the New Complaints section of this Report.

Parish Councillors

There are currently no additional ongoing complaints relating to parish councillors other than those described within the New Complaints section of this Report.

4.3 CONCLUDED COMPLAINTS

- CONDCOMPS/PCC 8, 9, 10 and 11 and 13 were received between 16th September and 4th November 2020 and all concerned alleged breaches of the Code of Conduct by 3 councillors from the same Parish. Following an initial assessment of the complaints and the subject members' responses, an initial assessment was undertaken with the Independent Person who, in agreement with the Deputy Monitoring Officer, referred the concerns for external investigation on 30th March 2021. The investigation concluded in October 2021 and draft reports were produced. The Investigating Officer concluded that there had been no actionable breaches of the Code of Conduct in relation to CONDCOMPS 8, 9 and 10. However, the Investigating Officer identified that there had been actionable breaches in relation to CONDCOMPS/PCC 11 and 13 but recommended that these were managed by way of alternative resolution. Following further discussion with the Independent Person, the Deputy Monitoring Officer sought the view of the complainants and subject member as to the suggested course of action which centred around a bespoke training package for all Parish Councillors in relation to procedural and constitutional compliance and conflict resolution. The Subject Member indicated their willingness to accept the alternative resolution but the complainants favoured a more formal approach with a request that their complaints proceed to a hearing before the Constitution and Ethics Sub-Committee. The Deputy Monitoring Officer commenced the necessary preparations to facilitate the Sub-Committee hearing however, in the intervening period, the subject member resigned from office. The Deputy Monitoring Officer discussed this with the Independent Person and both agreed that in the particular circumstances, it would not be in the public interest to progress matters further.
- CONDCOMP/PCC/24 This complaint was received on 6th December 2021 from a member of the public relating to a social media post. Following an initial assessment, the subject member has offered an apology which has been accepted as an informal resolution to the concerns raised.

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