



MEMBER CONDUCT COMMITTEE

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To: Councillors Tassell (Chair), Murphy (Vice-Chair), Bentley, Draycott, Gaskell, Hadji-Nikolaou and Rollings(for attention)
Ball (Parish Member), Crick (Parish Member) and Marchant (Parish Member) (Parish Members)

All other members of the Council
(for information)

You are requested to attend the meeting of the Member Conduct Committee to be held in Committee Room 2 - Council Offices on Monday, 17th September 2018 at 6.00 pm for the following business.

Chief Executive

Southfields
Loughborough

7th September 2018

AGENDA

1. APOLOGIES
2. MINUTES OF THE PREVIOUS MEETING 3 - 7
To confirm as a correct record the minutes of the meeting held on 19th March 2018
3. DISCLOSURES OF PECUNIARY AND PERSONAL INTEREST

4. QUESTIONS UNDER COMMITTEE PROCEDURE 12.8

No questions were received.

5. UPDATE ON COMPLAINTS RECEIVED

8 - 15

A report of the Monitoring Officer providing an update on complaints received about breaches of the Code of Conduct and any issues arising from those complaints.

6. REGISTER OF MEMBERS' INTERESTS

16 - 18

A report of the Monitoring Officer providing an update regarding recent reminders and responses for Register of Members Interests.

7. WORK PROGRAMME

19 - 21

A report of the Monitoring Officer to enable the Committee to agree a work programme to plan its future business

MEETING DATES

Meetings of the Committee during 2018/19 will be held at 6.00pm on the following dates:

3rd December 2018

18th March 2019

MEMBER CONDUCT COMMITTEE 19TH MARCH 2018

PRESENT: Councillors Tassell (Vice-chair), Poland, Rollings, and Taylor

Mrs V Ball (Parish Member)
Mr D Marchant (Parish Member)

Head of Strategic Support (Monitoring Officer)
Democratic Services Manager (Deputy Monitoring Officer)
Democratic Services Officer (NC)

APOLOGY: Councillors Bentley, Gaskell, Hadji-Nikolaou and Mrs B Crick (Parish Member)

The Chair stated that the meeting would be recorded and the sound recording subsequently made available via the Council's website. She also advised that, under the Openness of Local Government Bodies Regulations 2014, other people may film, record, tweet or blog from this meeting, and the use of any such images or sound recordings was not under the Council's control.

The Chair of the Committee welcomed the newly appointed Parish Member to the meeting.

15. MINUTES

The minutes of the meeting held on 4th December 2017 were confirmed as a true record and signed subject to an amendment of the sound recording statement at the beginning of the minutes, such that the second sentence read as follows:

'He also advised that, under the Openness of Local Government Bodies Regulations 2014 other people may film, record, tweet or blog from this meeting, and the use of any such images or sound recordings was not under the Council's control.'

16. DISCLOSURES OF PECUNIARY AND PERSONAL INTERESTS

No disclosures were made.

17. QUESTIONS UNDER COMMITTEE PROCEDURE 12.8

No questions had been received.

18. GENERAL DATA PROTECTION REGULATIONS (GDPR)

Considered a report of the Monitoring Officer considering whether data protection issues relating to General Data Protection Regulations (GDPR) should be reviewed

as part of the Members' Code of Conduct (item 5 on the agenda filed with these minutes).

The Monitoring Officer noted that Parish and Town Councils could access advice and support with respect to General Data Protection Regulations from Leicestershire and Rutland Association of Local Councils (LRALC).

RESOLVED that the Committee note the explanation of additional requirements arising from GDPR and that no amendment is required to the Members' Code of Conduct.

Reason

Although there were new requirements arising from GDPR which would impact Councillors, there was already a legal requirement for them to comply with existing Data Protection legislation.

19. COMMITTEE ON STANDARDS IN PUBLIC LIFE

Considered a verbal update by the Monitoring Officer regarding the Committee on Standards in Public Life's review of local government ethical standards.

The Monitoring Officer explained that the Committee on Standards in Public Life was undertaking a review of local government ethical standards and were holding a public consultation seeking feedback from all interested parties including Councillors, Complainants, Monitoring Officers and Standards Committee members. The consultation would close on 18th May 2018.

He noted that he would be submitting a response as the Monitoring Officer and highlighted two areas that the Committee might wish to consider. These were whether to suggest higher levels of sanctions be available to the Investigating Panel if there was a breach of the Code of Conduct by a Councillor, and, although recognising the responsibility of the Borough Council to investigate potential breaches of the Code of Conduct by Parish and Town Councillors, that the Borough Council consider recharging Parish and Town Councils for the costs associated with investigations into Parish and Town Council Member Conduct complaints.

RESOLVED that the Monitoring Officer drafts a collective response for submission to Committee on Standards in Public Life as part of the public consultation on behalf of the Member Conduct Committee and emails the draft to Members of the Committee, including substitute members at this meeting, for comment within five days prior to forwarding to the Committee on Standards in Public Life.

Reason

After a lengthy discussion the Committee wished to submit a response collectively to the public consultation and address several concerns. In particular, it wished to add the option of suspension of a councillor up to six months to the range of sanctions available, to remove the word 'to ask' when a member undertakes training so it

becomes mandatory, and to suggest the recharging of the costs of investigations of complex complaints when the cost goes above a certain limit but being mindful of the size of the Parish or Town Council in question.

20. UPDATE ON COMPLAINTS RECEIVED

Considered a report of the Monitoring Officer providing an update on complaints received about breaches of the Members' Code of Conduct and any issues arising from those complaints (item 7 on the agenda filed with these minutes).

The Monitoring Officer noted that there had been four complaints since the last meeting of the Committee. The fact finding review for one complaint had been completed and no further action was required. This had been supported by the Independent Person but the complaint was still within its appeal response period.

RESOLVED that the current position in respect of complaints about breaches of the Members' Code of Conduct that have been received be noted.

Reason

To keep the Committee informed about complaints.

21. REGISTER OF MEMBERS' INTERESTS

Considered a report of the Monitoring Officer providing an update regarding recent reminders and responses for register of members interests, including more detailed information regarding Parish and Town Councillor responses (item 6 on the agenda filed with these minutes).

The Democratic Services Manager updated the Committee that the response rate for Borough Councillors for March 2018 was 46%.

The Monitoring Officer noted that as a matter of good practice councillors were being prompted to check their Register of Members' Interests on a six monthly basis but there was no legal requirement for the Council to prompt councillors or for councillors to respond.

RESOLVED

1. that the processes for keeping the Register of Members' Interest up to date be noted;
2. that a further review of the Register of Members' Interest and the processes for ensuring it is kept up to date be considered at the Committee's meeting to be held on 17th September 2018;
3. that the Democratic Services Manager provide the Whips with names of councillors who have not yet responded to the reminder and that the Whips prompt the councillors to respond;

4. that if councillors did not respond after being prompted by the Whips, that the Democratic Services Manager place a letter and form asking Councillors for confirmation of a change or no change to their Register of Members' Interests in the relevant pigeon holes.
5. that an item regarding the Register of Members' Interests be added to the agenda of the next Parish and Town Clerks Liaison meeting to be held on 19th April 2018.

Reasons

1. Under the Localism Act 2011 (sections 29 and 30), the relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012 and the Council's Code of Conduct, Members of the Council are required to disclose their own and partners disclosable pecuniary interests, and other interest.
2. The Committee wished to monitor the situation to see if the response rates could be improved by proposed measures agreed during this meeting.
3. Although recognising that it was not a legal requirement for Councillors to respond to prompts to update their Register of Members' Interests, the Committee considered the response rate of 46% was disappointing and that Councillors should be prompted to respond to the six monthly reminders.
4. The Committee considered it was important and beneficial for Councillors to be asked to consider whether their Register of Members' Interests required updating and every opportunity should be given to prompt Councillors to do so.
5. The Committee considered the response rate for Parish and Town Councils was ambiguous and did not clearly explain whether Clerks were receiving a good response rate from Parish and Town Councillors. By including this matter on the agenda of the next Parish and Town Clerks Liaison meeting it was hoped that this could be clarified and further advice be provided by Clerks regarding possible ways to increase the response rate of Parish Clerks on behalf of Parish and Town Councillors.

22. WORK PROGRAMME

Considered a report of the Monitoring Officer enabling the Committee to agree a work programme to plan its future business (item 8 on the agenda filed with these minutes).

RESOLVED

1. that a further review of the Constitution, the Members' Code of Conduct and the Planning Code of Good Practice be considered at the Committee's meeting to be held on 3rd December 2018;

2. that the results of the public consultation by the Committee on Standards in Public Life's review of local government ethical standards be added to the Committee's Work Programme and is scheduled when the report becomes available;
3. that the Committee's current Work Programme be noted and updated in accordance with the decisions taken during consideration of this item and other items on the agenda.

Reasons

1. The Committee wished to continue reviewing the Constitution, the Planning Code and Members' Code of Conduct as part of its role to provide appropriate rules and guidance with respect to ethical standards relating to planning and conduct matters.
2. Having submitted a collective response the Committee wished to receive feedback from the consultation by the Committee on Standards in Public Life's review of local government ethical standards.
3. To enable the Committee to fulfil its role in promoting and maintaining high standards of conduct by councillors and co-opted members.

NOTES:

1. No reference may be made to these minutes at the Council meeting on 30th April 2018 unless notice to that effect is given to the Democratic Services Manager by five members of the Council by noon on the fifth working day following publication of the minutes.
2. These minutes are subject to confirmation as a correct record at the next meeting of the Member Conduct Committee.

MEMBER CONDUCT COMMITTEE – 17TH SEPTEMBER 2018

Report of the Monitoring Officer

Part A

ITEM 5 UPDATE ON COMPLAINTS RECEIVED

Purpose of Report

To provide the Committee with an update on the complaints about breaches of the Code of Conduct that have been received and any issues arising from those complaints.

Recommendation

That the current position in respect of complaints about breaches of the code of conduct that have been received be noted.

Reason

To keep the Committee informed about complaints.

Policy Justification and Previous Decisions

The functions and responsibilities of the Committee set out in the Council's Constitution include determining any complaints that members of the Borough Council or the parish and town councils in the Borough have breached the Code of Conduct. The initial stages of the complaints process are dealt with by the Monitoring Officer and the purpose of this report is to keep the Committee informed of the volume and nature of complaints that are received.

Implementation Timetable including Future Decisions

It is recommended that the Committee receives reports at each meeting about the complaints that have been received.

Report Implications

The following implications have been identified for this report.

Financial Implications

None

Risk Management

No risks have been identified with this decision.

Background Papers: None

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Part B

Summary of Complaints Received to 31st August 2018

1. Since the last meeting of the Committee there have been four new complaints received; two during 2017/18 and two during 2018/19. There has also been a further instance where several officers raised concerns about the actions and conduct of a Borough Councillor which the Monitoring Officer felt necessitated a report to a Panel of the Member Conduct Committee.
2. Two of these cases relate to Borough Councillors, and three to Parish or Town Councillors. For four of the cases fact finding reviews have been completed which concluded that no further action was necessary, and in the fifth case an investigation is in progress.
3. For comparative information, the following table summarises complaints received in previous years (including complaints about both Borough and Parish/Town Councillors):

Year	Total Complaints	No Further Action Required	Other Action
2012/13 (9 months)	10	8	1 x action other than an investigation. 1 x investigation found no breach of the Code.
2013/14	6	4	2 x hearing found a breach of the Code but no sanction imposed.
2014/15	21	19	2 x actions other than an investigation.
2015/16	14	13	1 x hearing found that a breach of the Code had occurred and imposed a sanction and recommended training.
2016/17	7	5	1 x investigation found no breach of the Code. 1 x hearing recommended imposing specified sanctions to the relevant town/parish council.
2017/18	10	8	1 x investigation found no breach of the Code. 1 x investigation was inconclusive due to lack of cooperation from the councillor – hearing found that although a breach could not be proven the parish council should write to the councillor to remind

			him of his obligations under the Nolan Principles
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Appendices

Appendix A – Details of complaints received in 2017/18 and 2018/19 (to date)

Type of councillor	Number of complaints	Outcome	Issues raised in complaint	Reason for no further action	Description of other action	Outcome of investigation
Borough	6	Informal resolution	Comments on social media showed a lack of respect	Not clear whether Councillor was acting in official capacity. However, offer of an apology was accepted by the complainant		
		Fact finding review – no further action required	Breach of several of the Nolan principles as incorporated in the Code of Conduct	Element of political motivation behind the complaint. Also evidence provided by the Councillor to refute several of the concerns raised by the complainant		
		Fact finding review – no further action required	Breach of several of the Nolan principles as incorporated in the Code of Conduct	No evidence of any breach of the Code of Conduct. An appeal was submitted by the complainant, which was considered by the Chair and Vice-chair who decided not to take any further action.		
		Fact finding review – no further action required	Unacceptable behaviour, breach of confidentiality, and failing to show respect	The concerns raised would not, if substantiated, amount to a breach of the Code of Conduct.		
		Investigation completed and no breach of the Code of Conduct found	Making an untruthful statement at a meeting and bringing the council into			Investigator concluded that the conduct did not amount to a breach of the Code of Conduct, but urged

Type of councillor	Number of complaints	Outcome	Issues raised in complaint	Reason for no further action	Description of other action	Outcome of investigation
			disrepute			the Councillor to express themselves more carefully in the future
		Fact finding review – no further action required	Poor chairing of a meeting and lack of impartiality leading to bullying	No evidence of a breach of the Code of Conduct or any inappropriate actions in chairing the meeting in question		
Parish / Town	4	Investigation completed and hearing undertaken by a Member Conduct Panel	Viewing an inappropriate image on a mobile phone during a council meeting			Investigator could not prove or disprove the allegation because of lack of cooperation from the Councillor. A Panel of the Member Conduct Committee determined that while no breach of the Code of Conduct was proved, that the relevant parish council should formally write to the Councillor reminding him of his obligations under the Nolan Principles

Type of councillor	Number of complaints	Outcome	Issues raised in complaint	Reason for no further action	Description of other action	Outcome of investigation
		Fact finding review – no further action required	Comment on social media showing a lack of respect	Councillor was not acting in their capacity as a councillor when they posted the comment in question		
		Fact finding review – no further action required	Rude and aggressive behaviour showing a lack of respect	Issues raised within the complaint were not serious enough to warrant any further action or investigation		
		Fact finding review – no further action required	Viewing private information displayed on a mobile phone during a meeting, and subsequently making rude and disrespectful allegations about an image that was seen	This was a counter complaint to a complaint that a Councillor had been viewing an inappropriate image on his phone during a parish council meeting. The fact finding review concluded that the issues raised within the counter complaint were unfounded as potential breaches of the Code of Conduct		

Details of complaints received in 2018/19 (to date)

Type of councillor	Number of complaints	Outcome	Issues raised in complaint	Reason for no further action	Description of other action	Outcome of investigation
Borough	1	Member Conduct Panel referred some of the concerns to the Monitoring Officer for investigation	Several officers raised concerns about the actions and conduct of a Councillor that the Monitoring Officer felt necessitated a report to a Panel of the Member Conduct Committee			Investigation in progress
Parish / Town	2	Fact finding review – no further action required	Failure to properly declare business interests, and discussing confidential information in public	Failure to declare business interests was an oversight, and the business in question was not trading anyway. Councillor proved they could not have been present in the location on the date and time at which it was alleged that confidential information had been discussed in public		
		Fact finding review in progress	Making slanderous public comments			

MEMBER CONDUCT COMMITTEE – 17TH SEPTEMBER 2018

Report of the Monitoring Officer

Part A

ITEM 6 REGISTER OF MEMBERS' INTERESTS

Purpose of Report

To provide the Committee with an update on the Register of Members' Interests and the processes for ensuring it is kept up to date.

Recommendations

1. That the processes for keeping the Register of Members' Interests up to date be noted, and with immediate effect e-mails about entries in the Registers of Members' Interests to Borough Councillors and Clerks of Parish and Town Councils be issued on a six monthly basis;
2. That the Committee considers whether it wishes to schedule a future update of the Register of Members' Interests and the processes for ensuring it is kept up to date.

Reasons

- 1 & 2. Under the Localism Act 2011 (Sections 29 and 30), the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and the Councils Code of Conduct, Members of the Council are required to disclose their own and partners disclosable pecuniary interests, and other personal interests.

Policy Justification and Previous Decisions

On 11th September 2017, the Member Conduct Committee received an update from the Monitoring Officer about the processes to keep the register up to date. At that meeting the Committee resolved that a time limit of four weeks be added to the email reminders sent asking Borough Councillors and the Clerks of Parish and Town Councils to confirm if their entry in the Registers of Members' Interests required amending or had not changed, and also that the wording in the text of the email reminders sent to Borough Councillor and Clerks of Parish and Town Councils included reference to the Localism Act 2011, other relevant legislation and the requirement to respond within 28 days of any changes.

The Committee also requested at that meeting that the update provided at this meeting included more detailed information regarding Parish and Town Councillor responses as Members were disappointed with the response rate of 54% and felt that the situation required monitoring. With respect to the percentage response rate for the Clerks of Parish and Town Councils, Members were concerned that the percentage reflected the number of responses from Clerks and not the responses received from individual Parish and Town Councillors.

Processes for keeping the Register of Members' Interests up to date

It should be noted that there is no legal requirement for the Monitoring Officer to regularly check with Councillors that their Registers of Members' Interests are up to date, and that the procedures that have been introduced are therefore entirely voluntary, although there are statutory requirements for Councillors to notify the Monitoring Officer of changes in certain circumstances.

To date, emails have been sent on a six monthly basis to all Borough Councillors and Clerks of Parish and Town Councils on a quarterly basis asking about entries in the Registers of Members' Interests.

For consistency and monitoring purposes it is suggested that with immediate effect e-mails are issued to both Borough Councillors and Clerks of Parish and Town Councils on a six monthly basis. The last e.mail was issued in August 2018 and therefore the next update will be in February 2019.

As recommended at the Member Conduct Committee on 12th September 2016, reminder e-mails are sent to all Borough Councillors and Parish Clerks where there are no responses. A positive confirmation of whether or not there have been changes to entries in the Register of Members' Interests is sought from all Borough Councillors and Parish Councillors.

The response rates for 2017-18 and 2018/19 are set out below:

Communication	Month	% Response Rate
Borough Councillors	February 2017	31%
Parish Clerks on behalf of Parish Councillors	June 2017	59%
Borough Councillors (additional guidance)	July 2017	50%
Borough Councillors	August 2017	77% following reminder email.
Parish Clerks on behalf of Parish Councillors	February 2018	30%
Borough Councillors	March 2018	46%
Parish Clerks on behalf of Parish Councillors	August 2018	Update to be provided at meeting
Borough Councillors	August 2018	Update to be provided at meeting

Implementation Timetable including Future Decisions

It is recommended that the Committee receives update reports at six monthly intervals.

Report Implications

The following implications have been identified for this report.

Financial Implications

None

Risk Management

The risks associated with maintaining registers of interests and proposed actions to mitigate those risks are set out in the table below.

Risk Identified	Likelihood	Impact	Risk Management Actions Planned
<p>It is a breach of the Members' Code of Conduct and, in respect of disclosable pecuniary interests, a criminal offence:</p> <ul style="list-style-type: none">• to omit information that ought to be registered and to keep the Register updated;• knowingly or recklessly provides information that is false or misleading;• not to disclose an interest at a meeting in the manner required by the Code when a matter relating to or affecting any of the interests registered is discussed;• participate in the consideration of a matter in which I have an interest where this is prohibited by the Code.	Possible	Moderate	Six monthly reminders and monitoring processes as set out in this report.

Background Papers: None

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MEMBER CONDUCT COMMITTEE – 17TH SEPTEMBER 2018

Report of the Monitoring Officer

ITEM 7 WORK PROGRAMME

Purpose of Report

To enable the Committee to consider, and agree any changes to, its work programme to assist it to plan its future business.

Recommendation

That the Committee considers any items that it wishes to add to, or amend in, its work programme for future meetings;

Reason

To enable the Committee to identify future items of business and enable planning for future meetings to be undertaken, for example preparing reports and arranging for the attendance of officers and/or others at meetings.

Policy Justification and Previous Decisions

At its meeting on 24th March 2014, the Committee resolved to introduce a work programme to manage the business to be conducted at its future meetings (minute 12 refers). The Committee has considered business at its subsequent meetings based on that programme.

Implementation Timetable including Future Decisions

It is recommended that the Committee reviews its work programme at every meeting. The future meetings of the Committee for 2018/19 are scheduled to be held on the following dates:

3rd December 2018
18th March 2019

Report Implications

The following implications have been identified for this report.

Financial Implications

None

Risk Management

No risks have been identified with this decision.

Background Papers: None

Appendix:

Work Programme

Officer to Contact:

Adrian Ward

Head of Strategic Support and Monitoring Officer

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Member Conduct Committee – Work Programme

ITEM	NOTES	DATE
Update on Complaints Received	An update on complaints received about breaches of the Code of Conduct and any issues arising from those complaints.	Standing item
Review of the Constitution	Consider details of possible amendments to the Constitution it may wish to recommend as part of the annual review process as suggested at its meeting on 12th September 2016.	3rd December 2018 <i>(last considered 4th December 2017)</i>
Regular review of Members Code of Conduct and Planning Code	At its meeting on 7th December 2015 the Committee requested that the Chair and Vice-chair of the Plans Committee and the Head of Planning and Regeneration, are invited to attend the Member Conduct Committee on a regular basis, to review the relationship between the Planning Code and the Members' Code of Conduct.	3rd December 2018 <i>(last considered 4th December 2017)</i>
Register of Members' Interests	Update regarding recent reminders and responses for register of members interests and to include more detailed information regarding Parish and Town Councillor responses.	17th September 2018 <i>(last considered 19th March 2018)</i>
Results of the public consultation of the review of local government ethical standards by the Committee on Standards in Public Life	feedback from the consultation by the Committee on Standards in Public Life's review of local government ethical standards when the report becomes available.	To be scheduled