

**MINUTES OF THE MEETING OF THE COUNCILLOR CONDUCT COMMITTEE
HELD ON TUESDAY, 3 DECEMBER 2013**

COUNCILLORS

PRESENT Yasemin Brett, Tom Waterhouse, Tahsin Ibrahim, Michael Rye OBE and Christine Chamberlain (Independent Member)

OFFICERS: John Austin (Assistant Director - Corporate Governance) and Asmat Hussain (Assistant Director Legal) Penelope Williams (Secretary)

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WELCOME AND APOLOGIES

The Chair welcomed everyone to the meeting. There were no apologies for absence.

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DECLARATION OF INTERESTS

Councillor Waterhouse declared an interest in item 10 Complaint's Update as he had submitted a complaint which was due to be considered under this item. He withdrew from the meeting and did not take part in the discussion or vote on the matter.

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PROTOCOL FOR COMPLAINTS HEARINGS

The Committee received a report from John Austin, Monitoring Officer, on revised procedure for hearing complaints and appeal's against monitoring officer decisions.

Members discussed the report and the following points were raised during the discussion:

1. That written submissions should be allowed for investigation hearings only.
2. Hearings should be based on the rules of natural justice.
3. Members noted Article 6 of the Human Rights Act, the right to a fair hearing.
4. A fair process required a level playing field.
5. Allow the complainant and member to attend separately, one by one, without hearing the other side's case.

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6. Decide each case on its merits as to whether to allow oral representations.
7. The process must be as clear as possible, to avoid challenges.
8. The Independent Person's view was that the complainant and member should have the opportunity to be present and that it would be possible for the chair to manage the hearing to avoid unruly disagreements. Unlike an appeal against a monitoring officer decision, where a decision had already been taken, an investigation hearing was a first stage decision and that it was important to have as much first hand evidence as possible, at this stage.
9. The Chair would be able to chair the meeting as well as taking part in the vote.
10. John Austin advised that in his opinion this was a procedure of the Committee and as such could be agreed by the Committee and did not have to be approved by full council. If there was no agreement, then the matter could be referred to full council.
11. Asmat Hussain, Head of Legal Services, referred to a ruling of the Lord Justice Woolf that in some cases a written representation would be enough.
12. It was suggested that the hearings procedure should be referred for discussion at both political group meetings before a decision was made.
13. The suggestion that substitutes be identified for members of the committee was also discussed; so that when a member of the committee was unable to take part in a meeting, there would be a nominated replacement. An alternative was to increase the membership of the committee, but this would not address the issue of proportionality. These proposals would also be discussed by the political groups.

AGREED that a decision on adopting the hearings procedure would be delayed to enable discussion at the political group meetings before making a decision on the procedure. John Austin or Asmat Hussain, would attend the group meetings to set out the proposals to the separate groups.

If agreement could not be reached, it may be necessary to refer the hearing procedure to full council.

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INDEPENDENT PERSON PROTOCOL

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The Committee received a copy of a draft protocol produced to make clear the relationship between the Independent Person and the various parts of the authority involved in the process of handling councillor conduct complaints and the wider promotion of standards.

NOTED

1. Christine Chamberlain, Independent Person, advised that she had reviewed the protocol and was happy with it.
2. The words "and on the matter at any stage" should be added after the word "complaint" in paragraph 2.1 of the protocol.

AGREED that the protocol should be adopted.

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OPENNESS AND TRANSPARENCY ON PERSONAL INTERESTS - A GUIDE FOR COUNCILLORS

The committee received for information a copy of the Department of Communities and Local Government Guide "Openness and Transparency on Personal Interests".

NOTED

1. A key matter highlighted in the guidance was some information regarding declarations of interest.
2. Enfield's code of conduct goes beyond the minimum suggested by Government and already requires members to declare trade union and other organisation membership.

AGREED to note the report.

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MINUTES OF THE MEETING HELD ON 22 OCTOBER 2013

The Committee received and agreed the minutes of the meeting held on 22 October 2013.

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WORK PROGRAMME 2013/14

The Committee received and noted the work programme for 2013/14.

NOTED

1. The two items on training would be merged.
2. That there would be pre-election Saturday morning event for prospective election candidates.

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3. A report would be brought to the March Committee meeting on the induction programme for new councillors to be held after the elections.

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DATES OF FUTURE MEETINGS

NOTED

1. The date agreed for future meetings of the committee:
 - Tuesday 25 March 2014.
2. An extra meeting would be held in late January 2014 to consider a complaint received against a councillor. The date to be confirmed.

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EXCLUSION OF PRESS AND PUBLIC

AGREED to pass a resolution under Section 100A (4) of the Local Government Act 1972 to exclude the press and public from the meeting for the items of business listed on part 2 of the agenda on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 (information relating to an individual) of Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information) (Variation) Order 2006).

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COMPLAINTS UPDATE

John Austin, Monitoring Officer, updated the committee on the complaints he had received:

Complaint 1

The external investigation into this complaint had been completed and was now ready to be determined. He had considered the investigation report and decided that the complaint should be determined by the committee as a whole. An extra meeting of the committee would be organised to consider the matter, once the hearings procedure had been approved.

Complaint 2

John Austin reported that he had tried to contact the police regarding the outcome of their investigation into this matter, last week, but had not been successful. He would try again, and as soon as he was formally informed of the results of the police investigation would report back to the committee.

Councillor Waterhouse withdrew from the meeting at this point.

Complaint 3

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RECEIVED: The Committee received the report of the Monitoring Officer regarding a complaint against a councillor.

John Austin reported that, after consultation with the Asmat Hussain, Legal Advisor and Christine Chamberlain, Independent Person, he had decided that he could not make a decision on this matter because of his previous involvement in the case.

The complaint was therefore presented to the committee and they were asked to decide if it warranted further action.

The Committee considered the complaint, reviewing the report of the monitoring officer and the evidence put forward by the complainant.

AGREED on a majority vote, that the complaint warranted no further action.

The decision was made on the following basis:

12(1): Treat others with respect and courtesy

The Committee felt that the councillor complained against had not acted with a lack of respect and discourtesy to the complainant as they thought that the comments of councillor complained about had not been directed personally at the complainant.

12 (3): You should not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person an advantage or disadvantage

The Committee considered that the Councillor complained about had not used his position as a member improperly to disadvantage the complainant.

12(6) You should not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

The Committee considered that the councillor complained about had not brought his office into disrepute as they felt the councillor complained about had not accused the complainant personally of lying.

(Exempt information as defined in paragraph 1 of Schedule 12A to the Local Government Act 1972 as amended).