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Councillor Conduct Committee

Wednesday, 30 April 2014 at 6.00 pm
Room 3, Civic Centre, Silver Street, Enfield,
EN1 3XA

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Councillors: Yasemin Brett (Chair), Tom Waterhouse (Vice-Chair), Tahsin Ibrahim and Michael Rye OBE

Independent Person: Christine Chamberlain

AGENDA – PART 1

1. WELCOME AND APOLOGIES

2. DECLARATIONS OF INTEREST

Members are asked to declare any disclosable pecuniary, other pecuniary or non-pecuniary interests in items on the agenda.

3. PRE AND POST ELECTION ARRANGEMENTS

To receive a presentation from John Austin, Monitoring Officer updating members on the pre and post election arrangements for new members of the Council.

4. REVIEW OF TERMS OF REFERENCE (Pages 1 - 2)

To give the members of the committee an opportunity to review the terms of reference, in the light of their experience over the past two years, and to enable them to make recommendations for changes for consideration by the new committee and administration.

5. INVESTIGATION OF A COMPLAINT AGAINST A COUNCILLOR (Pages 3 - 6)

To consider a report (Report No: 247) on a complaint against a councillor, prepared by the Monitoring Officer. The Investigating Officer Report is contained under Item 13 on the Part 2 Agenda.

The Committee is asked to consider what, if any, further action that they wish to take following the information provided in the report.

6. UPDATE ON OTHER COMPLAINTS RECEIVED

To receive a verbal update on any other complaints received by the Monitoring Officer to date. Item 15 on the Part 2 agenda also refers.

7. INDEPENDENT PERSON RECRUITMENT

Members are asked to note that we are currently advertising the vacant position of Independent Person. An item has appeared in Our Enfield, posters have been distributed to local libraries and an email sent to voluntary and community groups.

The item in Our Enfield has generated some interest and we have already received 5 applications.

The closing date is Monday 28 April 2014. It is hoped to have someone in place by June/July 2014.

A further update will be provided at the meeting.

8. ANNUAL REPORT 2013/14 (Pages 7 - 12)

To receive and agree the Committee's Annual Report for 2013/14.

9. WORK PROGRAMME 2013/4 (Pages 13 - 14)

To review the Committee's work programme for 2013/14 and to consider whether a work programme should be produced for 2014/15.

10. MINUTES OF THE MEETING HELD ON 3 FEBRUARY 2014 (Pages 15 - 20)

To receive and agree the minutes of the meeting held on 3 February 2014.

11. DATES OF FUTURE MEETINGS

The dates of future meetings will be agreed by full Council on 11 June 2014.

12. EXCLUSION OF PRESS AND PUBLIC

To pass a resolution under Section 100A(4) of the Local Government Act 1972 excluding the press and public from the meeting for any items of business moved to part 2 of the agenda on the grounds that they involve the likely disclosure of exempt information as defined in those paragraphs of Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information) (Variation) Order 2006).

Councillor Conduct Committee

(Updated: Council 17/07/13 & 29/01/14)

Terms of Reference

REMIT

- (i) To deal with policy, complaints against councillors and issues concerning the members' Code of Conduct.
- (ii) To promote and maintain high standards of conduct by councillors and all co-opted members.
- (iii) To assist councillors and co-opted members to observe their Code of Conduct and all other Codes within the Constitution.
- (iv) To monitor the operation of the Councillors' Code of Conduct and report when appropriate to the full Council on the adoption or revision of the Code and all other codes within the Constitution.
- (v) To consider requests for dispensations by councillors, and co-opted members relating to interests set out in the Code of Conduct.
- (vi) To discharge such other functions either general or specific as the Council may from time to time allocate to the Committee.

MEMBERSHIP

4 Members, 2 from the Majority Party and 2 from the Minority Party to include both group whips.

Council will therefore be asked at the Annual Council meeting to agree to this being exempt from the proportionality rules.

Membership to be appointed at the Annual Council meeting, with the chairman and vice-chairman coming from each of the political groups.

Two substitute members by each Group to be appointed at the Annual Council meeting. Substitute members to be permitted in the following circumstances:

- (a) To take the place of an ordinary member from the respective Group on the Committee where that member will be absent for the whole of the meeting. Such an appointment would apply for the entire meeting, including where the meeting is reconvened after any adjournment; or
- (b) Where an ordinary member of the Committee is prevented from attending and participating in a meeting due to any disclosable interest they may have in an issue or complaint to be considered. In these cases the substitute appointment would only apply to the consideration of the relevant item on the agenda.

The Committee member who wishes to appoint a substitute member must notify the Monitoring Officer in writing, prior to the beginning of the relevant Committee meeting of the intended substitution. Once notification of a substitute member

has been received the ordinary member of the Committee will not (unless the notice of substitution is withdrawn prior to the start of the meeting) be entitled to attend the relevant meeting or part of the meeting to which the substitution applies as a member of the Committee.

The Independent Person(s) and the Monitoring Officer will be asked to attend the meetings to offer advice and support.

Meetings to be scheduled on a quarterly basis but only to meet if there was business to be transacted.

MUNICIPAL YEAR 2013/2014 REPORT NO. 247

MEETING TITLE AND DATE

Councillor Conduct Committee - 30 April 2014

REPORT OF: Director of Finance, Resources and Customer Services

Contact officer: John Austin
(Monitoring Officer) Tel: 020 8379 4094
Email: john.austin@enfield.gov.uk

Part: 1

Item: 5

Subject: Complaint against a councillor

Wards: All

Cabinet Member consulted:
Not applicable

1. EXECUTIVE SUMMARY

- 1.1 The Councillor Conduct Committee (CCC) is advised of the outcome of an investigation into a complaint against a councillor.
- 1.2 The Investigation report will be circulated and considered in Part 2 of the agenda.
- 1.3 The Councillor Conduct Committee Hearings Procedure is attached as appendix A to the report

2. RECOMMENDATIONS

- 2.1 That the Councillor Conduct Committee notes this report and considers the Investigating Officer's report in Part 2 of the meeting.

3. BACKGROUND

- 3.1 This matter relates to a complaint from two members of the public (who wished to remain anonymous) against a councillor in relation to posts and comments made on social media websites.
- 3.2 The Councillor Conduct Committee was originally advised of the complaints on the 14 February 2013. At that time the Committee noted that consideration of the complaints by the Monitoring Officer was on hold pending confirmation of any investigation being undertaken by the Police. A subsequent report was provided for the Committee on 3 February 2014, advising that the Metropolitan Police had written to the Councillor concerned to confirm that there would be no further action from the Crown Prosecution Service. The Committee was asked to consider what, if any, further action they wished to take in relation to the complaint and agreed

that it should be referred for further investigation. Due to the previous involvement of the Monitoring Officer in the case it was felt appropriate for the matter to be referred to a senior Council officer (with no prior involvement in the case) for investigation.

- 3.3 Under Schedule 12A of the Local Government Act 1972 (as amended by the Local Authorities (access to Information) (exempt Information) (England) Order 2006) consideration of the complaint will be moved into Part 2 of the meeting to exclude the public and press because exempt information will be disclosed. The exemptions to apply are Paragraph 1 of sch 12A - information relating to any individuals and Paragraph 2, Information which is likely to reveal the identity of an individual. In applying these exemptions, the public Interest test has been considered. The public interest in confidentiality over rides the public interest in disclosure
- 3.4 The Investigating Officer's report has been circulated to members under the Part 2 agenda. Jill Bayley (Principal Lawyer) will, as the investigating officer, be at the meeting to present her report and answer questions in accordance with the Council's procedure.
- 3.5 Both the complainants and the member concerned have been consulted on the draft investigation report, and their comments have been incorporated in the final report. Circulated with the part 2 agenda. In addition (in accordance with the Council's Procedure for Hearing Complaints) they have been invited to submit any final written representations to the Committee. If any are received they will be circulated to the Committee without delay.
- 3.6 Under the Council's procedure for hearing complaints (paragraph 2.3) the Committee, upon receiving the report from the Investigating Officer and considering all the information, is asked to decide whether there has been a breach of the code of conduct. If so, the Committee is asked to consider any appropriate sanctions. These may include (where appropriate):
 - (a) Reporting the findings to full Council
 - (b) Recommending to the relevant Group Leader that the councillor be removed from relevant meetings of the Authority of which they are a member (not appropriate in this case)
 - (c) Recommending to the Leader of the Council that the member be removed from the Cabinet or from particular portfolio responsibilities (not appropriate in this case)
 - (d) Withdrawing facilities provided to the member by the Council – such as computer access and/or e mail or internet access
 - (e) Excluding the member from the Council's offices or other premises for a defined period of time – with the exception of meeting rooms as necessary for the purpose of attending meetings of the Authority of which they are a member
 - (f) Publishing the findings in the local media.

- 3.7 The decision will be communicated to all parties with reasons
- 3.8 If the Committee decides there has been no breach, this will be communicated to all parties together with reasons.

4. ALTERNATIVE OPTIONS CONSIDERED

The procedure for handling complaints clearly sets out the options available.

5. REASONS FOR RECOMMENDATIONS

To comply with the above procedure.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

None.

6.2 Legal Implications

6.2.1 The Authority has adopted a local code of conduct under the Localism Act 2011 to assist members in the discharge of their obligations to the Authority, local communities and the public at large. The code also oversees the behaviour of members, covers the receipt and handling of complaints and provides a safeguard against unacceptable behaviour. This report is carried out in accordance with the Council's Code of Conduct and procedure for Handling Complaints.

6.2.2 The Committee should note that under the Councillor Code of Conduct / Procedure for Handling Complaints against Councillors and Co-opted Members, paragraph 8 states that the decision of the CCC will be final and binding with no further right of appeal to the Council. If the complainant feels that the Council has failed to deal with the complaint properly and that this failure caused injustice, they can make a complaint to the Local Government Ombudsman

7. KEY RISKS

Decisions could be open to challenge if the Council's procedure is not properly followed.

Background Papers – None

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Appendix A

London Borough of Enfield

Procedure for Hearing Complaints against Councillors and Co-opted Members and for Appeals against Monitoring Officer Decisions on Complaints

1. General Principles

- 1.1 The Councillor Conduct Committee will decide, on a balance of probabilities, whether the allegation(s) is or are upheld. They will be able to call on the advice of relevant council officers and the Independent Person, who had not previously been consulted on the complaint. (where we have two independent persons)
- 1.2 Papers will be sent out in advance of the hearing, including the Monitoring Officer/Investigating Officer report with all the evidence gathered, and representations from both the complainant and the member complained against. They will both have the opportunity to comment, in advance, on the report and evidence put forward. Any comments will be provided for the committee in advance of the meeting.
- 1.3 The Committee will make a decision by considering the Monitoring Officer/Investigating officer's report and any representations by the Monitoring/Investigating officer or their representative and the written representations made by the complainant or member complained against, and any information provided at a hearing. Both parties will have the opportunity to make written representations, irrespective of whether they are invited to attend the hearing.
- 1.4 There will be no requirement for either the complainant or the member(s) complained against, to attend committee hearings unless the committee decides otherwise. All parties will be advised of this beforehand.
- 1.5 If the Committee does decide to invite them to attend, the complainant and the member complained against may be accompanied during the investigation hearing.
- 1.6 The public and press will be excluded for those parts of the hearing where confidential or exempt information under Schedule 12A of the Local Government Act 1972, as amended, is disclosed. At the start of the hearing, the Committee will make a decision as to whether or not all or part of the hearing should be held in public.

2. Procedure at Investigation Hearings

The Legal Representative will be the advisor to the Committee and may seek further information or ask questions at any point in these proceedings. During the hearing all questions and other proceedings shall be addressed through the chair.

2.1 Presentation of the Monitoring Officer Report

- a. The Monitoring/Investigating Officer will present his/her report and any relevant information to the committee members.
- b. The Independent Person, who has been consulted on the Monitoring Officer decision, may include their comments.
- c. The committee members will have an opportunity to ask questions of the Monitoring Officer and the Independent Person.

2.2 If the Complainant and Member Complained Against are Invited to Attend the Hearing

- a. The Committee will consider the merits of each case, individually, when deciding if they feel it is necessary to invite the complainant and member complained about to attend the hearing.
- b. If the Committee require the attendance of the member complained against and complainant, they will specify the reasons for their attendance in advance.
- c. In these cases the chair will decide how to manage any contributions to be made at the meeting, including any representations and make this clear to all present at the beginning of the meeting.

2.3 Consideration of the Outcome

- a. The Monitoring/Investigating Officer, Independent Person and any other relevant parties will all withdraw. The Legal Representative and Committee Administrator will remain.
- b. The Committee will consider all the information and make a decision as to whether or not there has been a breach of the code of conduct.
- c. If it is decided that there had been a breach of the code, the Committee will then consider and agree what sanctions should be imposed. A list of possible sanctions is set out in Appendix A.

2.4 Outcome of the Hearing

A formal written notice of the decision will be communicated to all parties including the member complained against, the Monitoring Officer/Investigating

Officer, the members of the committee and the complainant with reasons. This must be within five working days of the conclusion of the hearing.

2.5 General Recommendations from the Hearing

After the hearing the Committee may consider whether there are any general recommendations in relation to ethical governance matters which they may wish to make arising from consideration of the allegation.

3. Procedure at an Appeal Hearing Against a Decision by the Monitoring Officer

The attendance of the complainant and member complained against will not be required unless the Committee decides otherwise.

3.1 Presentation of the Monitoring Officer Report

- a. The Monitoring/Investigating Officer will present his report and any other information to the committee members along with any comments submitted in writing by the complainant or member(s) complained against.
- b. The Independent Person, who had been consulted on the Monitoring Officer decision, may include their comments.
- c. The committee members will have an opportunity to ask questions of both the Monitoring Officer and the Independent Person.

3.2 Consideration of the Evidence

- a. The Monitoring/Investigating Officer and Independent Person will then withdraw. The Legal Representative and Committee Administrator will remain in the appeal hearing.
- b. The Committee will consider all the information and make a decision as to whether or not to uphold the Monitoring/Investigating Officer decision.

3.3 Agree Outcome

If the outcome of the appeal results in Committee confirming that a breach of the code has occurred then it will need to consider what sanctions it wishes to impose as a result. A list of sanctions is attached as Appendix A.

3.4 Outcome of Hearing

A formal written notice of the decision will be communicated to all parties including the member complained against, the Monitoring Officer/Investigating Officer, the members of the committee and the complainant with reasons. This must be within five working days of the conclusion of the appeal hearing.

3.5 General Recommendations from the Hearing

After the appeal hearing the Committee may consider whether there are any general recommendations in relation to ethical governance matters which they may wish to make arising from consideration of the allegation.

Appendix A

In the event of a finding of a breach of the Code, the Committee will have the option of recommending a sanction against the member concerned. This can include:

- Reporting the findings to full Council.
- Recommending to the relevant Group Leader that the councillor be removed from relevant meetings of the Authority of which they are a member.
- Recommending to the Leader of the Council that the member be removed from the Cabinet or from particular portfolio responsibilities.
- Withdrawing facilities provided to the member by the Council – such as computer access and/or e mail or internet access.
- Excluding the member from the Council's offices or other premises for a defined period of time – with the exception of meeting rooms as necessary for the purpose of attending meetings of the Authority of which they are a member.
- Publishing the findings in the local media.

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London Borough of Enfield

Councillor Conduct Committee

Annual Report 2013/14

1. INTRODUCTION

This is the second Annual Report of the London Borough of Enfield's Councillor Conduct Committee. It sets out the key issues we have dealt with during the past year and looks ahead to our priorities for 2014/15.

2. MEMBERSHIP

The Councillor Conduct Committee is made up of four councillors (two from each party, including each of the party whips), supported by independent persons. Currently we have one Independent Person with another post vacant since 1 July 2013.

Councillors

Councillors: Yasemin Brett (Chair), Tahsin Ibrahim, Michael Rye and Tom Waterhouse (Vice Chair)

Independent Persons

Lawrence Greenberg (appointed 7 November 2012 for a term of office ending on 30 June 2013)

Christine Chamberlain (appointed 30 January 2013 for a term of office ending on 30 June 2015)

Officers

The Committee's lead officers were John Austin (Assistant Director of Governance and Monitoring Officer), Asmat Hussain (Assistant Director Legal Services and Deputy Monitoring Officer) and Penelope Williams (Committee Secretary).

3. TERMS OF REFERENCE

The terms of reference of the Councillor Conduct Committee, as set out in the Council's Constitution (see Part 2 – Section 2.7), are

- To deal with policy, complaints against councillors and issues concerning the members' Code of Conduct.
- To promote and maintain high standards of conduct by councillors and all co-opted members.
- To deal with policy, complaints against councillors and issues concerning the members' Code of Conduct.
- To assist councillors and co-opted members to observe their Code of Conduct and all other Codes within the Constitution.
- To monitor the operation of the Councillors' Code of Conduct and report when appropriate to the full Council on the adoption or revision of the Code and all other codes within the Constitution.

- To consider requests for dispensations by councillors, and co-opted members relating to interests set out in the Code of Conduct.
- To discharge such other functions either general or specific as the Council may from time to time allocate to the Committee.

The Committee is ultimately responsible for the promotion and monitoring of high standards of conduct among Enfield councillors.

4. MEETINGS

The Committee held six meetings during the year: on 25 June 2013, 16 September 2013, 22 October 2013, 3 December 2013, 3 February 2014 and 30 April 2014.

5. INDEPENDENT PERSONS

The Localism Act provided that all local authorities had to appoint an Independent Person or Persons to assist the Council in promoting and maintaining high standards of conduct amongst its members. Enfield decided to appoint two Independent Persons.

The main role of an Independent Person is to be available to be consulted on complaints against councillors and ethical governance issues. They provide an independent viewpoint, looking at issues from the point of view of an ordinary member of the public. Our Independent Persons work closely with the Monitoring and Deputy Monitoring Officers, considering whether or not complaints against councillors meet the criteria for investigation, and they are also consulted before a decision is made, on the outcomes of any investigated complaint. On top of this they can offer advice on other standards' matters, including by the member who is subject to an allegation.

Through their work they have developed a sound understanding of the ethical framework, as it operates within the Council and are able to act as advocate and ambassador for the Council in promoting ethical behaviour.

This year, in June 2013, the term of office of Lawrence Greenberg, the experienced former chair of the Standards Committee, came to an end. We were sorry to lose his expertise and thank him for his services.

We are currently recruiting to find a replacement for Lawrence Greenberg. Advertisements have been placed on the Council website and in Our Enfield, the Council's magazine, with information on the position also sent to local voluntary groups. We hope to have a new person in place by June/July 2014, in good time to work with the new administration to be elected in May 2014.

In the meantime we would like to acknowledge the invaluable support

provided to the monitoring and deputy monitoring officer by Christine Chamberlain as our remaining Independent Person. The independent view and expertise she is able to provide on conduct issues has been much appreciated. Although not a member of the Councillor Conduct Committee she has regularly attended meetings and plays an important role in the proceedings. She also frequently speaks to the Monitoring and Deputy Monitoring Officers to discuss the complaints received.

Christine Chamberlain and the Deputy Monitoring Officer attended a training session on 30 October 2013, Independent Persons - One Year On.

6. THE COMMITTEE'S WORK PROGRAMME - 2013/14

We adopted a work programme for the year, which this year has been focused on refining the complaints processes and developing the roles of the Committee and the Independent Persons.

The main items considered this year are listed below.

6.1 Procedure for dealing with Complaints against Councillors and Co-opted Members

The Committee reviewed and revised the procedure for handling complaints against councillors and co-opted members.

A flowchart was drawn up setting out the process from start to finish with options for different actions highlighted. This helped to make it clear who and what decisions could be taken at each stage of the process whether by the Monitoring Officer or the Committee and the implications of these for further action.

Forms and templates were also produced to aid the process. All complainants will now need to complete a form including all the necessary information about the complaint at the start of the process.

The Committee reviewed the appeals process in order to make sure that it was clear to all concerned. These changes were approved by Council, as recommended, on 27 November 2013.

6.2 Hearings Procedure for Complaints and Appeals

The Committee also revised the committee's procedure for hearing complaints and appeals against monitoring officer decisions at meetings. Changes were also considered at both political group meetings and the new detailed procedure was adopted by the Committee in February 2014.

6.3 Independent Person Protocol

At the meeting in December 2014 the Committee agreed a protocol setting out the relationship between the Independent Person and the various parts of the authority involved in the process of handling complaints and the wider promotion of ethical standards.

6.4 Substitute Members

Arising from consideration of the hearings procedure the use of substitute members on the committee was agreed by Council on 29 January 2014. Substitute members can now be used when an ordinary member of the Committee was unable to attend a meeting due to other commitments and or if they had a disclosable interest.

Each group is now able to appoint two substitute members. They will receive training before participating in meetings.

7. MEMBER CODE OF CONDUCT - COMPLAINTS

During 2013/14 the Committee considered three complaints and one appeal against a decision made by the Monitoring Officer.

In the cases of the three complaints:

- One resulted in the Committee agreeing the complaint warranted no further action.
- One resulted in the Committee finding that a councillor had breached the member code of conduct. This resulted in the sanction that a press release would be sent to the local press stating that the councillor had breached the code of conduct.
- One is subject to ongoing investigation with a report on the outcome to be provided to the committee.

The Councillor Conduct Committee considered one appeal against a Monitoring Officer decision. In this case the Committee agreed unanimously to confirm the original decision of the Monitoring Officer not to uphold the complaint.

During the year, the Monitoring Officer has also received a number of other complaints, but these have been resolved informally without the need for referral to the committee.

8. TRAINING ON THE NEW CODE OF CONDUCT AND COMPLAINTS PROCESS

The committee continues to oversee training for members around the code of conduct which this year has included the review of the procedure for handling complaints and the principles of natural justice.

Refresher training was carried out in May/June 2013 for all members.

All members (both the newly elected and those returning to office) will receive training on the Council's code of conduct after the May 2014 elections.

9. WEBPAGES

Our webpages are being reviewed and will provide information about the Committee, its role and purpose and on making a complaint against councillors and co-opted members. This will now include the templates and changes made to the complaints procedure made this year. The pages are within the 'Councillors, Elections and Decisions' section of the Council's website.

10. FUTURE WORK PROGRAMME 2014/15

We will agree a work programme for 2014/15, at the first meeting of the new Municipal Year. Areas of work for next year will include appointment of an Independent Person and the delivery of the new member induction programme, including ethical governance issues.

11. CONCLUSION

As Chair, I would like to take this opportunity to thank the Monitoring Officer, Independent Persons and my fellow committee members for their sound and thoughtful contributions towards the encouragement and maintenance of a robust local standards regime during the year.

On behalf of the Councillor Conduct Committee, I would also like to thank the officers of the Council who have supported the work of this Committee.

Councillor Yasemin Brett
30 April 2014

Councillor Conduct Committee: Work Programme 2013/14

ITEM	Lead/ Support Officer	25 June 2013	5 September 2013	22 October 2013	3 December 2013	3 February 2014	30 April 2014
Annual Report	John Austin	To approve the 2012/13 Annual Report					Draft Annual Report 2013/14
Work Programme 2013/14	John Austin	To Agree the Outline Work Programme for 2013/14	Updated Work Programme Monitoring		Updated Work Programme Monitoring		Updated Work Programme Monitoring
Review of Complaints Process	John Austin/ Legal			Review	Review of Guidance on Hearings	Approve Hearings Procedure	
Review of Terms of Reference	John Austin						Review
Training Programme – Identifying areas for training	John Austin Asmat Hussain						
Update on Complaints	John Austin/ Asmat Hussain	Update	Update	Update	Update	Update	Update
Pre and Post Election Arrangements	John Austin						Presentation
Independent Person Protocol	John Austin/ Asmat Hussain				Report		

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COUNCILLOR CONDUCT COMMITTEE - 3.2.2014**MINUTES OF THE MEETING OF THE COUNCILLOR CONDUCT COMMITTEE
HELD ON MONDAY, 3 FEBRUARY 2014****COUNCILLORS**

PRESENT Yasemin Brett (Chair), Tom Waterhouse, Tahsin Ibrahim, Michael Rye OBE

OFFICERS: John Austin (Assistant Director - Corporate Governance) and Jayne Middleton-Albooye (Principal Lawyer) Penelope Williams (Secretary)

Also Attending: Olwen Dutton (Bevan Brittan) and Christine Chamberlain (Independent Member)

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WELCOME AND APOLOGIES

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

732

DECLARATION OF INTERESTS

Councillor Waterhouse declared a non-pecuniary interest in Item 5 on the Part 1 Agenda and Item 2 on the part 2 Agenda concerning the Complaint against a Councillor due to the fact that he had as Conservative Group Whip already been involved in an investigation into the complaint.

He left when the item was discussed as he felt it would be more appropriate to withdraw from the meeting.

733

SUBSTITUTE MEMBERS

NOTED that

1. The proposal for the use of substitute members to the Committee was approved at Council on 29 January 2014.
2. Councillors Levy and Cranfield had been nominated as Labour Group substitutes. The Conservative Group had agreed to nominate substitutes after the Local Government Elections in May 2014.
3. All substitutes would need to be trained before taking up their positions.

COUNCILLOR CONDUCT COMMITTEE - 3.2.2014

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HEARINGS PROCEDURE FOR COMPLAINTS AGAINST COUNCILLORS

The Committee received the revised procedure for hearing complaints against councillors and co-opted members and for appeals against Monitoring Officer decisions on complaints.

NOTED that the procedure had been discussed at the last meeting and had since been amended to take account of comments from both the Labour and Conservative Groups.

AGREED that the Councillor Conduct Committee adopt the procedure for hearing complaints against members and co-opted members and for appeals against Monitoring Officer decisions on complaints.

735

CHANGE IN THE ORDER OF THE AGENDA

The Committee agreed to change the order of items on the agenda so that Item 2 - Complaint Hearing - on the part 2 agenda could be considered before Item 1 – Complaint against a Councillor. The order of the items in the minutes, follow the order of the agenda.

736

COMPLAINT AGAINST A COUNCILLOR

The Committee received the report of the Monitoring Officer (Report No: 193) on a complaint against a councillor asking the Committee to consider what if any further action they wish to take following the information provided in the report.

Jayne Middleton Albooye, Legal Advisor to the Committee, presented the report and said that the Committee was being asked to consider whether the complaint warranted further action.

Further discussion on this matter took part in the private part of the meeting as it involved exempt information. (Min.741 refers)

737

COMPLAINT HEARING

The Committee received the report of the Monitoring Officer (Report No: 195) presenting the outcome of the investigation into a complaint against a councillor.

Jayne Middleton Albooye presented the report to members and referred to the list of possible sanctions set out in appendix A to the report. She also

COUNCILLOR CONDUCT COMMITTEE - 3.2.2014

introduced Olwen Dutton from Bevan Brittan who had carried out the investigation into the complaint.

Further discussion on this matter took part in the private part of the meeting as it involved exempt information. (Min.742 refers).

738

MINUTES OF MEETING HELD ON 3 DECEMBER 2013

AGREED that the minutes of the meeting held on 3 December 2013 were a correct record.

739

DATES OF FUTURE MEETINGS

The Committee noted the dates agreed for future meetings:

- Tuesday 25 March 2014

740

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) and Paragraph 2 (information likely to reveal the identity of an individual) of Part 1 of Schedule 12A to the Act (as amended by the Local Government (Access to Information) (Variation) Order 2006).

741

COMPLAINT AGAINST A COUNCILLOR

Councillor Waterhouse left the meeting when this item was considered.

The Committee received a report (Report No: 193) on a complaint against a councillor prepared by the Monitoring Officer including the representations received from the Councillor and the complainant.

NOTED

1. Jayne Middleton-Albooye presented the report to the Committee.
2. Members discussed the information that had been circulated with the report.
3. The Criminal Prosecution Service had found that there was no criminal case to answer.

COUNCILLOR CONDUCT COMMITTEE - 3.2.2014

AGREED that

- (1) The complaint would be subject to further investigation.
- (2) The investigation should be completed as quickly as possible.
- (3) Given the comments made with the representations submitted to the Committee, advice on information technology would be sought as part of the investigation.

742

COMPLAINT HEARING

The Committee received the report of the Monitoring Officer presenting the outcome of an investigation into a complaint against a councillor relating to an alleged data protection issue. This included the investigation report and representations from both the complainant and the councillor complained against.

NOTED

1. The hearing was conducted in accordance with the hearings procedure adopted by the Committee.
2. The presentation of the Monitoring Officer's report by John Austin (Monitoring Officer)
3. The findings within the independent investigation undertaken by Olwen Dutton (Bevan Brittan) on behalf of the Monitoring Officer into the complaint. This was presented by Olwen Dutton.
4. The questions put forward by members and the responses from Olwen Dutton.
5. The comments of the Independent Person on the findings arising from the Independent Investigation.

John Austin, Olwen Dutton and Christine Chamberlain left the meeting at this point.

Members considered all the available information, including the representations from the complainant and the councillor.

AGREED based on the outcomes of the investigation and the comments made at the meeting:

- (1) That the Councillor's actions on the day in question, 2 October 2012, fell within his role as a councillor.
- (2) That the Councillor was in breach of paragraphs 12 and 20 of the

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Council's Member Code of Conduct.

The decision was made on the following basis:

- a. *Paragraph 12 (4) "you must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware is of a confidential nature".*

The Committee agreed with the conclusions in the investigation report that the Councillor had deliberately disclosed information of a very personal nature, which had come into his possession by means of his position as an elected member, to the media.

- b. *Paragraph 20 "members shall co-operate, at all stages, with any investigation into conduct by the authority or those persons acting on his behalf. Failure to do so is likely to be a breach of the code"*

The Committee agreed that the Councillor's lack of co-operation with the investigation meant that he had also breached this part of the code.

- (3)** That the Councillor had not breached the code of conduct in relation to paragraph 11. *"you shall at all times conduct yourself in a manner which will maintain and strengthen the public's trust and confidence in the integrity of the Authority and never undertake any action which will bring the Authority, you or other members or officers generally into disrepute".*
- (4)** In terms of sanctions arising from the breaches of the code, that the findings of the outcome of the hearing would be released to the local media. Details would be sent to the media on Monday 10 February 2014.

In reaching this decision, members noted that the Councillor had in his final written representation to the Committee, apologised unreservedly, to the officer involved, for any stress that might have been caused.

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