

Public Document Pack



Councillor Conduct Committee

Monday, 3 February 2014 at 6.00 pm
Room 3, Civic Centre, Silver Street, Enfield,
EN1 3XA

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

Independent Person: Christine Chamberlain

REVISED AGENDA – PART 1

1. WELCOME AND APOLOGIES

2. DECLARATION OF INTERESTS

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

3. SUBSTITUTE MEMBERS

Members are asked to note that Council on 29 January 2014 is being asked to approve the use of substitute members on the Councillor Conduct Committee.

The outcome of the Council decision will be reported to the meeting.

Subject to the provision being agreed by Council, the member who wishes to appoint a substitute must notify the Monitoring Officer in writing, before the beginning of the meeting, of the intended substitution. Any notifications received will be reported at the meeting.

4. HEARINGS PROCEDURE FOR COMPLAINTS AGAINST COUNCILLORS (Pages 1 - 6)

Following discussion at the previous meeting, the Committee is asked to agree the procedure for hearing complaints against councillors.

5. COMPLAINT AGAINST A COUNCILLOR (Pages 7 - 16)

To consider a report (Report No: 193) on a complaint against a councillor, prepared by the Monitoring Officer. (Report No: 194 on the Part 2 Agenda also refers)

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

6. COMPLAINT HEARING (Pages 17 - 20)

To receive the Monitoring Officer report (Report No: 195) presenting the outcome of the investigation into a complaint against a councillor. (Item 2, on the Part 2 Agenda also refers)

The Committee is asked to consider the recommendations made as a result of the investigation.

7. MINUTES OF MEETING HELD ON 3 DECEMBER 2013 (Pages 21 - 26)

To receive and agree the minutes of the meeting held on 3 December 2013.

8. DATES OF FUTURE MEETINGS

To note the dates agreed for future meetings of the committee:

- Tuesday 25 March 2015

9. 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).

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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MUNICIPAL YEAR 2013/2014 REPORT NO. 193

MEETING TITLE AND DATE

Councillor Conduct Committee - 3
February 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: 4**

**Subject: Complaint against a
councillor**

Wards: All

Cabinet Member consulted:
Not applicable

1. EXECUTIVE SUMMARY

The Councillor Conduct Committee (CCC) on the 14 February 2013 was advised of two complaints received from two individuals (who wished to remain anonymous) against a Councillor in relation to posts and comments made on social media websites.

The Committee noted that the matter had been reported to the Police and that consideration of the complaint by the Monitoring Officer was on hold pending confirmation of any investigation being undertaken by the Police.

The Monitoring Officer has been advised that the Crown Prosecution Service (CPS) has decided to take no action in relation to the complaints. This report sets out the complaints and asks the CCC to decide whether further action should be taken.

2. RECOMMENDATIONS

- 2.1 That the Councillor Conduct Committee notes this report and considers the complaints in Part 2 of the meeting where it will be asked to decide whether they warrant further action. If it decides that further action is warranted, the Committee is asked to agree the form of action to be taken.

3. BACKGROUND

- 3.1 In December 2012, I received two complaints in relation to a Councillor. Both complainants wished to remain anonymous but their complaints are summarised below:

(a) "I spend a lot of time on various social media sites in order to carry out research regarding various projects that I'm involved in. Over the last twelve to thirteen months or so, I have witnessed some stomach-churning posts published by Cllr X. These postings include racist images against the Islamic faith, xenophobic comments towards other residents of Enfield (both past and present) and comments condoning the killing of Palestinian children because they happen to be Muslim. I have attached various examples of Cllr Xs' alarming posts for your reference. I did have more examples, but unfortunately they were deleted in error.

As an Enfield resident, to say that I am disgusted with Cllr Xs' behaviour is an understatement. How can this person continue to be a representative of the people of Enfield? It's sickening."

(b) The second complaint was less specific but referred to the posts and supported the above complaint

- 3.2 The posts sent to me by the complainants have been provided to the Committee under Part 2 of the agenda. The second complainant also referred the matter to the Police.
- 3.3 The Committee was advised of the complaints on the 14 February 2013. 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.
- 3.4 On 5 December 2013, the Metropolitan Police wrote to the Councillor confirming that there would be no further action from the Crown Prosecution Service.
- 3.5 The Chairman of the Committee has also recently received representations from other parties expressing concerns about the Councillors' alleged actions.
- 3.6 As Monitoring Officer, and in accordance with the procedure agreed at the Council meeting on 27 November 2013 (Procedure for Handling Complaints against Councillors and Co-opted Members – attached as Appendix A), I am referring this matter to the Councillor Conduct Committee under paragraph 4.2 (e) "referral to the Councillor Conduct Committee where the Monitoring Officer feels it would not be appropriate for him/her to take a decision".
- 3.7 I do not feel it is appropriate for me to make a decision because of the continuous press coverage, the nature of the allegations and the fact that the Conservative Group are reportedly taking further action/investigations.
- 3.8 The Independent Person has been consulted on this report and her views will be circulated to the Committee as soon as possible.

- 3.9 Both the complainants and the member concerned have been invited to submit written representations to this Committee. If any are received they will be circulated to the CCC without delay.”
- 3.10 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 complaints 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 Schedule 12A - information relating to any individual 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
- 3.11 The Committee is therefore asked to consider the complaint in Part 2 of the meeting and decide whether it warrants further action.
- 3.12 If the Committee decides that it does not warrant further action, the complainants will be advised accordingly with reasons (paragraph 4.4 of the attached procedure).
- 3.13 If however the complaint is referred for further action, the Committee is then asked to consider the most appropriate way of dealing with the complaint (paragraph 4.5 of the attached procedure). Some options are set out in paragraph 4.2 of the attached procedure.

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 other than those referred to or attached.

London Borough of Enfield

Procedure for Handling Complaints against Councillors and Co-opted Members

1. Introduction

- 1.1 The Council has established a Councillor Conduct Committee to implement the relevant requirements of Section 28 of the Localism Act 2011. These include arrangements for dealing with allegations that a councillor or co-opted member has failed to comply with the Authority's Code of Conduct.
- 1.2 The Councillor Conduct Committee comprises 4 members of the Council and deals with policy, complaints against councillors and issues concerning the members' Code of Conduct. The Localism Act also set up a role of Independent Person who will be consulted in respect of complaints received and before findings and sanctions are agreed. The Independent Person will not be a councillor and will be drawn from the local community. The Council has agreed to appoint two Independent Persons who will be recruited through public advertisement and a competitive interview process. Further information on the role of the Committee and the Independent Persons can be found at (insert hyper link)
- 1.3 Further reference to 'councillor' or 'member' in this document also refers to co-opted members of the Authority.

2. Key principles

The procedure for dealing with complaints should:

- 2.1 Be relevant to the Council's Code of Conduct
- 2.2 Have the confidence of the public, Council members and council staff.
- 2.3 Be as simple and economical as possible
- 2.4 Be speedy and fair to all parties
- 2.5 Be decisive
- 2.6 Provide oversight and support to the Monitoring Officer
- 2.7 Be proportionate and comply with the principles of natural justice

Appendix A

3. Criteria for eligibility of complaints

- 3.1 Complaints must be received by the Council's Monitoring Officer in writing within three months of the alleged matter, stating why it is felt the councillor concerned has breached the Code of Conduct. It will be considered solely on the evidence presented. The Council encourages complainants to provide their name and contact details. If the complainant asks for their identity to be protected, the Council will not disclose such details without their consent. The Council will not accept anonymous complaints. The Monitoring Officer will consult the Councillor Conduct Committee or relevant Independent Person as appropriate throughout the process – subject to neither being at risk of being compromised in the event of them being involved at some future point.
- 3.2 Complaints will not be accepted where:
- (a) They are considered to be malicious, vexatious or frivolous
 - (b) The subject matter has already been considered by the Council - except where new evidence has become available which could not previously have been produced
 - (c) It would be more appropriate for the complaint to be dealt with by a court or under another complaints or arbitration procedure
 - (d) One of the parties had registered their intention to take legal action on all or some of the matters complained about
 - (e) Legal action is under way
 - (f) Some or all of the matters complained about have been resolved through litigation.
 - (g) The complaint is being/has been dealt with by another independent complaints process.
 - (h) The complainant seeks to overturn decisions made by the Council.
- 3.3 If a complaint is rejected on the basis of 3.2 above, there is no right of appeal.

4. Process

- 4.1 All complaints must be made using the Councillor Conduct Complaint Form attached as Appendix 1.
- 4.2 The Council will use its best endeavours to determine a complaint within 3 months of receipt. It will acknowledge the complaint within 5 working days, giving the complainant a contact name and details. The complainant will be kept informed of progress throughout. The process may include:
- (a) Requests for further information/evidence
 - (b) Informal resolution to the satisfaction of all parties

Appendix A

- (c) Mediation
 - (d) Investigation and/or
 - (e) Referral to the Councillor Conduct Committee where the Monitoring Officer feels it would not be appropriate for him/her to take a decision
- 4.3 The Monitoring Officer, based primarily on the criteria set out in paragraph 3.2 above, will consider the complaint received and, in consultation with an Independent Person, will determine whether it warrants further action.
- 4.4 If it is decided that the complaint does not warrant further action as it falls within the criteria in 3.2, the Monitoring Officer will advise the complainant accordingly with reasons.
- 4.5 If the complaint is referred for further action, the Monitoring Officer will determine, in consultation with the Independent Person, the most appropriate way of dealing with the complaint. The Monitoring Officer can either decide to determine the matter her/himself or refer it to the Councillor Conduct Committee.

5. Consideration of Complaints by Monitoring Officer

- 5.1 The Monitoring Officer may decide to undertake any investigation and other actions him/herself or appoint another person to act as investigating officer on his/her behalf. Whichever option is chosen, the outcome will be the responsibility (and in the name) of the Monitoring Officer.
- 5.2 Following an investigation which may involve requests for further information and advice, the Monitoring Officer or his/her representative will seek to resolve the matter to the satisfaction of all parties or carry out mediation.
- (a) If the complaint is resolved, there will be no further action.
 - (b) If this is not possible the Monitoring Officer will either determine the matter her/himself or refer it to the Councillor Conduct Committee at this stage.
- 5.3 The Monitoring Officer will report quarterly to the Councillor Conduct Committee on:
- (a) The number and nature of complaints received
 - (b) Those rejected with reasons
 - (c) Those resolved through informal resolution and other methods (eg mediation)
 - (d) The number investigated,
 - (e) Outcome/progress of investigations and action taken.

6. Appeals against Monitoring Officer decisions

Appendix A

- 6.1 In cases where the Monitoring Officer has either found no breach of the code or has determined the matter him/herself the complainant will have a right of appeal against this decision.

A councillor will also have a similar right of appeal against a Monitoring Officer decision.
- 6.2 Such appeals must be submitted on the template attached as Appendix 2 within 10 working days of the receipt of the decision.
- 6.4 Appeals under 6.1 above will be considered by the Councillor Conduct Committee, with advice from an Independent Person not previously involved, if available.
- 6.5 When considering the appeal the Councillor Conduct Committee will follow the procedure for appeal hearings (to be reviewed).
- 6.6 The attendance of the appellants will not be required unless the committee decides otherwise
- 6.7 If the Councillor Conduct Committee do uphold the appeal, and consider that there has been a breach of the code, they will have the option of considering further action, imposing sanctions or adjourning to seek further information.
- 6.8 There is no further right of appeal to the Council against the decision of the Councillor Conduct Committee. The decision made will be final and binding.
- 6.9 If the complainant feels that the Council has failed to deal with a complaint properly, and that this failure has caused injustice, a complaint can be taken to the Local Government Ombudsman.

7. Consideration of complaints by Councillor Conduct Committee

- 7.1 If appropriate, the Monitoring Officer (in consultation with the Independent Person) may refer the outcome of an investigation to the Councillor Conduct Committee.
- 7.2 The Committee will consider the Monitoring Officer/Investigating Officer's report which should include evidence and representations from both parties associated with the complaint. The attendance of the complainant(s) and the member(s) against whom the allegations were made will not be required, unless the Committee decides otherwise.
- 7.3 The Committee will follow the procedure for Councillor Conduct Committee hearings. (to be reviewed)
- 7.4 The Committee after considering the investigating officer's report will decide either that:

Appendix A

- (a) The member concerned has breached the Code of Conduct; or
- (b) There has been no breach

7.5 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:

- (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
- (c) Recommending to the Leader of the Council that the member be removed from the Cabinet or from particular portfolio responsibilities
- (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.

7.6 The decision will be communicated to all parties with reasons

7.7 Where there is a finding of no breach, the Committee will communicate the decision to all parties together with reasons.

8. Appeals against decisions of the Councillor Conduct Committee (in relation to 7 above).

The decision of the Councillor Conduct Committee 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 has caused injustice, they can make a complaint to the Local Government Ombudsman.

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MUNICIPAL YEAR 2013/2014 REPORT NO. **195**

MEETING TITLE AND DATE

Councillor Conduct Committee - 3
February 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:

**Subject: Complaint Hearing 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 relating to an alleged data protection issue.
- 1.2 The Investigation report will be circulated and considered in Part 2 of the agenda.

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 an ex Council employee concerning an alleged breach of the Council's Code of Conduct. The allegation was that the councillor concerned took insufficient care in being a party to the disclosure of personal information to the press.
- 3.2 Given the allegations, the Monitoring Officer (MO) accepted the complaint for investigation after discussion with the (then) Independent Person. The MO and other senior Council staff had been involved in the related case previously. It was felt appropriate therefore to engage an external investigator, particularly given the nature of the allegations and a wish to act in the interests of both parties. Bevan Brittan Solicitors were therefore

instructed. This was in accordance with paragraphs 4 and 5 of the Council's procedure for handling complaints.

- 3.3 Under sch12A 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. Olwen Dutton from Bevan Brittan will be at the meeting to present her report and answer questions in accordance with the Council's procedure.
- 3.5 Both the complainant and the member concerned have been invited to submit written representations to this 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 - circulated previously with the agenda for this meeting) 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
 - (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

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COUNCILLOR CONDUCT COMMITTEE - 3.12.2013**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)

583**WELCOME AND APOLOGIES**

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

584**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.

585**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.

COUNCILLOR CONDUCT COMMITTEE - 3.12.2013

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

COUNCILLOR CONDUCT COMMITTEE - 3.12.2013

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.

587

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.

588

MINUTES OF THE MEETING HELD ON 22 OCTOBER 2013

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

589

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.

COUNCILLOR CONDUCT COMMITTEE - 3.12.2013

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

590

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.

591

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).

592

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

COUNCILLOR CONDUCT COMMITTEE - 3.12.2013

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).

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