

**MINUTES OF THE MEETING OF THE COUNCILLOR CONDUCT COMMITTEE
HELD ON THURSDAY, 2 MARCH 2017**

COUNCILLORS

PRESENT Claire Stewart, Joanne Laban, Katherine Chibah and Alessandro Georgiou, Christine Chamberlain (Independent Person), Sarah Jewell (Independent Person)

OFFICERS: Asmat Hussain (Assistant Director Legal) and Jayne Middleton-Albooye (Head of Legal Services) Penelope Williams (Secretary)

Also Attending: Councillors Nesimi Erbil and Guney Dogan

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WELCOME AND APOLOGIES**

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

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SUBSTITUTIONS**

There were no substitutions.

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DECLARATION OF INTERESTS**

There were no declarations of interest.

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UPDATE ON COMPLAINTS**

The Committee received a table setting out a rolling record of all complaints dealt with by the Monitoring Officer since September 2016.

The Monitoring Officer highlighted the complaints, commenting as follows:

- Each complaint had been allocated a unique reference number.
- An appeal had been received against the decision of the Monitoring Officer on Complaint 00A. An appeal hearing would be organised towards the end of April 2017.
- A hearing was to be held on Complaint 00B later in the meeting.
- The Monitoring Officer had decided that complaints 00C, 00D, 00E had not met the eligibility criteria for councillor conduct complaints.

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- External investigations had been commissioned from our external partners Browne Jacobson for complaints 001 and 002.
- Complaint 003 was being internally investigated.
- The Monitoring Officer had decided that Complaint 004 was a complaint about a decision that had been taken, not a councillor conduct matter and should therefore be dealt with through the Council's normal complaints processes.
- Complaint 006 was being investigated internally by a senior legal officer.
- Complaint 005 was still under initial consideration.

Members agreed the following on the new complaint reporting format:

- Contentment with the new format.
- The names of councillors complained about should be included.
- More detail on the nature of the possible breach.
- An additional column to be included with the name/initial of the independent person consulted.

Members were advised that the appeal had come in on complaint 00A and it was agreed that a summary of the appeal will be provided to them as the documentation was extensive. All information of the complainer appeal will be made available to all members for the appeal hearing.

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REVIEW OF MEMBER EXPENSES

The Committee received the report of the Monitoring Officer/Assistant Director Legal and Governance outlining the expenses paid to members in pursuance of their duties and provides some comparator information. (Report No: 235)

NOTED the members request that the expenses be grouped into categories and a revised report brought back to a future meeting.

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GIFTS AND HOSPITALITY

The Committee received the report of the Assistant Director Legal and Governance updating members on the gifts and hospitality recorded by councillors in 2016-17. (Report No: 233)

NOTED that more detail on the types of gifts and hospitality being recorded was requested and it was agreed that a revised report would be brought back to a future meeting.

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MINUTES OF THE MEETING HELD ON 7 DECEMBER 2017

The minutes of the meeting held on 7 December 2017 were agreed as a correct record.

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WORK PROGRAMME 2016/17 AND 2017/18

The Committee received a copy of the completed work programme for 2016/17 and a draft for 2017/18.

NOTED that

1. The revisions to the Code of Conduct following concerns raised during the complaint hearing would be an item for the next meeting.
2. The reports on Members Expenses and Gifts and Hospitality would be brought back to a future meeting.

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COMPLAINT HEARING

A hearing was held to consider the complaint received from Councillor Terry Neville against Councillor Nesimi Erbil.

The Monitoring Officer thanked Jayne Middleton-Albooye, Head of Legal Services for attending the meeting at short notice to advise the Committee.

The Committee received the report of the Monitoring Officer setting out the details of the complaint. (Report No: 234)

The Monitoring Officer presented the report to members highlighting the following:

- The report included five appendices: the report to the last meeting of the Councillor Conduct Committee, an extract from the minutes of that meeting, the councillor code of conduct, an email from Councillor Erbil sent to all members and the procedure for hearing complaints against councillors and co-opted members.
- The Council's code of conduct had been established following the implementation of the Localism Act 2011 which sets out the high standards expected of all members. All councillors have to sign up to it when they take office and confirm that they will uphold it.
- Expected behaviour was based upon seven key principles, to which Enfield had added a further three, set out in Paragraph 7 of the code.
- The matter under consideration was purely factual concerning the 6 weeks suspended sentence which Councillor Erbil had received for committing a serious offence.
- No additional representations had been received from the either the complainer and complainant to submit to the committee for the hearing.
- The Monitoring Officer advised that she thought there had been a breach of the code of conduct.
- Although the conviction was below the 3 month threshold which would warrant an immediate disqualification from office, it was sufficiently serious to warrant concern. Councillors had a duty to uphold the law.

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The email which Councillor Erbil had sent to all members had brought the matter into the Council arena.

Christine Chamberlain, Independent Person, advised that she had been consulted by the Monitoring Officer on the complaint and had felt that the councillor's actions did fall below what was expected of a councillor as set out in the code.

Sarah Jewell, Independent Person, added that she felt that it was clear that the code only applied to members when they were acting in their capacity as an elected councillor.

The Monitoring Officer and Christine Chamberlain left the meeting at this point.

The Committee considered the Monitoring Officer's report, the comments made by officers, the independent persons and the views of the Committee.

Having taken everything into account the Committee agreed, that the complaint be upheld and that Councillor Nesimi Erbil had breached the Councillor Code of Conduct.

The decision was made on the following basis:

The breach was in relation to the email which Councillor Erbil had sent to all members concerning his recent conviction under section 4 (1) and (4) of the Public Order Act 1986. Whilst the conduct and criminal conviction were considered by the Committee to be unacceptable behaviour of a councillor, they decided in accordance with paragraph's 1 and 3 of the Code of Conduct that in undertaking the criminal conduct, Councillor Erbil had not been acting as a Councillor and therefore the code did not apply to this aspect of the complaint.

AGREED: that

1. Councillor Erbil had been acting in his capacity as a councillor when he sent the email.
2. The email did not meet the expected general principles of conduct set out in Paragraph 7 of the code in terms of openness, honesty, leadership or accountability and was not consistent with his duty to uphold the law.

The reason for the decision was: that the statement in the email had been misleading in relation to the crime that Councillor Erbil had been convicted for. The words "I've been stitched up" and the email which sought to underplay the seriousness of the offence was held to be misleading. The Committee held that in misleading other members about his offence Councillor Erbil did not meet the expected general principles set out in Paragraph 7 of the code.

SANCTION

The Committee agreed to sanction Councillor Erbil by excluding him from the Civic Centre and other council offices for 6 months – with the exception of meeting rooms as necessary for the purpose of attending meetings of the authority or meeting local residents. Attendance was only to be permitted with the advance permission of the Monitoring Officer.

The Committee felt that some of the wording in the code of conduct was not clear and should be redrafted. They were concerned to make it absolutely clear in what circumstances the code applied and to consider whether committal of a serious criminal offence should automatically be a breach of the code.

AGREED that the code would be reviewed and revisions brought back to the next meeting for further consideration.

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DATE OF NEXT MEETING

The date of the next meeting will be included in the calendar of meetings agreed at Annual Council on 10 May 2017.

A date for an appeal hearing will be arranged towards the end of April 2017.