

**MINUTES OF THE MEETING OF THE COUNCILLOR CONDUCT COMMITTEE
HELD ON TUESDAY, 22 OCTOBER 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)

432

WELCOME AND APOLOGIES

The Chair welcomed everyone to the meeting.

There were no apologies for absence.

433

DECLARATION OF INTERESTS

There were no declarations of interest.

434

**PROCEDURE FOR DEALING WITH COMPLAINTS AGAINST
COUNCILLORS AND CO-OPTED MEMBERS**

The Committee received a revised copy of the Procedure for Handling Complaints against Councillors and Co-Opted Members, including a complaint form, appeal form template and a flowchart explaining the process.

3.1 Revised Procedure

John Austin presented the revised procedure to members of the Committee, highlighting the following.

- The changes discussed at the last meeting have been included in the revised copy of the procedure.
- Guidance is needed from the Committee as to whether or not Council should allow an appeal against a decision of the Councillor Conduct Committee. Two options have been presented in the report: the current option where there is a right of appeal to a specially formed committee; and a second option which gives no right of appeal against a decision of the Councillor Conduct Committee.

COUNCILLOR CONDUCT COMMITTEE - 22.10.2013

- The Committee also needs to consider whether the Councillor complained against should also have a right of appeal against any decision taken.
- At the next meeting the Committee will be asked to consider a protocol for the relationship between the Independent Person and the Monitoring Officer and a revised procedure for hearing complaints.

3.2 Questions/Comments

3.2.1 Asmat Hussain explained that one of the main purposes of the legislation around standards in Localism Act 2011 had been to stream line processes. Other authorities had decided that there would be no right of appeal against any decision on a complaint against a councillor. If a complainant feels that a complaint has not been properly dealt with, they do have the option of going to the Local Government Ombudsman.

3.2.2 Members considered the issue of the right to appeal. After discussion, it was agreed that they felt that there should be a right of appeal against a decision taken by the Monitoring Officer, as this was a decision taken by one person in consultation with the Independent Person, but not against the decision of the Committee, which was a democratically elected group of people who also had the benefit of formal legal advice. They did not feel that there was a benefit in setting up another panel to replicate what had already been considered by the Councillor Conduct Committee. Once the Council appoints a second Independent Person, the Committee may consult the Independent Person who had not been part of the previous decision.

3.2.3 Asmat Hussain set out the procedure for Councillor Conduct Committee hearings, as in the current scheme.

- The Monitoring Officer will present his report and the evidence to members. The report and evidence having been circulated previously.
- The Independent Person, who had been consulted on the Monitoring Officer decision, may add her comments.
- The Committee Members will have an opportunity to ask questions of both the Monitoring Officer and the Independent Person.
- The Committee will make a decision, whether or not to uphold the Monitoring Officer decision.
- Depending on the outcome, further advice would be provided.

3.3 The current procedure for dealing with complaints, as agreed by Council, was to be used for the hearing to be considered on the evening of the meeting.

3.4 In the current procedure the Committee had an option of inviting the complainant to attend the hearing, which they had agreed not to do.

COUNCILLOR CONDUCT COMMITTEE - 22.10.2013

- 3.5 The wording in paragraphs 6.4 and 7.3 in the revised report should read to be “reviewed” not “drafted”.

AGREED that

1. The revised procedure for dealing with complaints against councillors would be recommended to full Council for approval as amended above and including Option B, allowing no right of appeal against a Councillor Conduct Committee decision.
2. A paragraph would also be inserted to allow a similar right of appeal to a councillor about whom a complaint had been made, as there was to a complainant, against a Monitoring Officer decision.

435

MINUTES OF THE MEETING HELD ON 19 SEPTEMBER 2013

The minutes of the meeting held on 16 September 2013 were agreed as a correct record.

436

DATES OF FUTURE MEETINGS

Noted the dates agreed for future meetings of the Committee:

- Tuesday 3 December 2013
- Tuesday 25 March 2014

437

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).

438

COUNCILLOR COMPLAINTS

Councillor Brett reported that she had been recently contacted by the complainant, by telephone, before the meeting to talk about his lighting issues. Once she realised that the complainant was trying to talk to her in her capacity as the Chair of the Councillor Conduct Committee, she had informed him that she could not discuss the matter. However she felt that to avoid any perceptions of bias she should withdraw from the meeting.

COUNCILLOR CONDUCT COMMITTEE - 22.10.2013

During the telephone conversation, before she knew who the caller was, Councillor Brett had promised to obtain some information from officers about the Bentley Mews Lighting Issue. Having promised, she did so. It was agreed that officers would respond to the complainant on behalf of Councillor Brett.

Councillor Brett left the meeting at this point and did not take part in the hearing.

Councillor Tom Waterhouse, as Vice Chair, took on the role of Chair at this point.

Consideration was given as to whether the hearing should take place in public. Asmat Hussain advised that some Council's did hold complaint hearings in public, in the interests of openness and transparency.

Members however felt that it was preferable to restrict public access, when hearing a complaint, as it involved allegations relating to an individual. If a breach of the code was found it could be made public.

1. Complaint Appeal Hearing

- 1.1 The Committee received the Monitoring Officer's report including the additional email evidence which had been circulated in advance of the meeting, regarding the appeal against a Monitoring Officer decision not to uphold a complaint against a councillor. The email bundles were agreed with both the complainant and the councillor concerned in advance of the meeting.
- 1.2 The Monitoring Officer went through his report and findings and stated that he had found no evidence to support the allegations that the member concerned had breached the code. The complainant had appealed against the Monitoring Officer's decision.
- 1.3 Christine Chamberlain, Independent Person, advised the Committee that on considering the information from the complainant, that she agreed with the Monitoring Officer decision not to uphold the complaint, as the complainant had provided no independent evidence or witnesses to prove or disprove the allegations.
- 1.4 The Committee considered the report and the additional detailed email evidence, asked various questions of the Monitoring Officer and the Independent Person but could find no evidence that the code of conduct had been breached. The complainant had provided no additional other evidence to substantiate the allegations.

AGREED to uphold the original decision of the Monitoring Officer not to uphold the complaint. This was unanimously agreed by all members present.

The councillor and the complainant would be advised of the outcome of the appeal. The complainant would also be notified that there was no further right

COUNCILLOR CONDUCT COMMITTEE - 22.10.2013

of appeal against the Council, but if he felt that the Council had failed to deal with the complaint properly, he could make a complaint to the Local Government Ombudsman.