

## MUNICIPAL YEAR 2016/2017 REPORT NO. 167

### MEETING TITLE AND DATE

Councillor Conduct Committee  
7 December 2016

**REPORT OF:** Assistant Director of  
Legal & Governance Asmat Hussain

**Contact officer:** Asmat Hussain  
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Part: 1

Item: 5

**Subject: Complaint against a  
Councillor**

**Wards:** All

**Cabinet Member consulted:**  
Not applicable

### 1. EXECUTIVE SUMMARY

1.1 This report advises the Councillor Conduct Committee (CCC) of a complaint received on the 16 November 2016 and sets out options for the Committee.

### 2. RECOMMENDATIONS

2.1 That the CCC, in accordance with procedure for handling complaints against Councillors and Co-opted Members agree a decision on whether to progress the complaint as set out in the report..

### 3. BACKGROUND

3.1 This matter relates to Councillor who was convicted in 2015 for two offences under the Fraud Act 2006 and in September 2016 for a Public Order Act 1986. The more recent conviction led to the Councillor receiving a 6 weeks' prison sentence suspended for 12 months and to him being ordered to pay a fine and costs, totalling £1,045.00.

3.4 The complaint states that by the "*Councillor's actions in these offences he has "virtually breached all rules and principles in the Code of conduct... and is unsuitable to hold the office of councillor".*

3.5 *The complaint is:-*

*"He failed to notify his political group of this conviction (Fraud Act) and continue to sit in meetings. Of particular concern was the fact that he continues as a member of the Licensing Panel, effectively adjudicating on other people's business and livelihood when he had a conviction in*

*relation to his business and license to drive a Hackney Carriage. Indeed, the matter might not have come to light at all but for information gleaned by the Turkish Press and subsequently published.*

*In September 2016 at Highbury Magistrates Court convicted of an offence provoking violence... arising from a road rage incident, in which he threatened the other party of the incident with a hammer which he brought from his car. For this he was sentenced.*

*Once again he attempted to mislead all members of the council as to the facts of the offence by pretending that the offence merely consisted of swearing in a verbal altercation.*

*These three offences and his conduct in not reporting the first conviction and then issuing a misleading statement in respect of the second on any analysis brings him in the office of councillor into disrepute and by extension runs the risk of bringing the whole of the authority into disrepute as well”*

- 3.6 The Monitoring Officer considered the complaint and in consultation with one of the Independent Persons decided that the complaint should be brought to the committee for further determination.
- 3.7 The Council’s procedure for handling complaints as set out in Appendix A of the Code of Conduct - para 4.2 “Process”, is as follows: -

The process may include:

- (a) Requests for further information/evidence
- (b) Informal resolution to the satisfaction of all parties
- (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.

- 3.8 The committee is asked to consider the report under reference to 4.2 (e). The Monitoring Officer feels that it would not be appropriate for her to take a decision on the complaint as the complaint is factual with regards to the conviction of the Councillor therefore there is no need for an investigation to be undertaken with regards to the facts. The procedure at 5.2 (b) Consideration of Complaints by the Monitoring Officer also makes reference to the committee being asked to determine the matter if it is not possible for the Monitoring Officer to do so.
- 3.9 When determining how and if to proceed further with the complaint the committee will need to decide firstly whether the complaint meets the Criteria for Eligibility of complaints as set out in Para 3 of the procedure, and if it does then follow the process set out in Para 7 Consideration of Complaints by CCC and the CCC procedure for hearing complaints.

- 3.10 Both the complainant and the members concerned have been advised of the report to the Committee.
- 3.11 If the Committee decides to proceed with the complaint the Monitoring Office will make the necessary arrangements for a hearing, including representations from both parties associated with the complaint and their attendance at the hearing, if required by the Committee.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

The procedure for handling complaints is attached at Appendix A to the report.

#### **5. REASONS FOR RECOMMENDATIONS**

To comply with the Council's Councillor Complaints 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.

#### **7. KEY RISKS**

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

#### **8. IMPACT ON COUNCIL PRIORITIES**

##### **8.1 Fairness for All, Growth and Sustainability and Strong Communities**

Not applicable

**9. EQUALITIES IMPACT IMPLICATIONS**

Not applicable

**10. PERFORMANCE MANAGEMENT IMPLICATIONS**

Not applicable

**11. PUBLIC HEALTH IMPLICATIONS**

Not applicable

**Background Papers – None**