

Present: Councillor Jonathan Noble (Chairman), Councillor Tom Ashton (Vice-Chairman), Councillors George Cornah, Anne Dorrian and Stephen Woodliffe, Parish Councillor Chris Cropley and Parish Clerk Belinda Butterly

Officers –

Deputy Chief Executive (Monitoring Officer) and Senior Democratic Services Officer

Observer: Internal Audit Manager

**8 APOLOGIES**

No apologies for absence were received.

**9 MINUTES**

The minutes of the meeting held on 1<sup>st</sup> August 2019 were received by the Sub-Committee, agreed and signed by the Chairman.

**10 DECLARATION OF INTERESTS**

No declarations of interest were made.

**11 REVIEW OF THE MEMBER CODE OF CONDUCT**

The Deputy Chief Executive and Monitoring Officer introduced a report that presented proposed revisions to the Council's Member Code of Conduct in order to ensure its robustness and promotion of the high standards of behaviour expected of Members of the Council.

At the last meeting, the Sub-Committee considered the Review of Local Government Ethical Standards by the Committee on Standards in Public Life, which recommended best practice in respect of Member Codes of Conduct. The Sub-Committee agreed to defer consideration of the revised Code to this meeting and take into account action points 1 and 2 from the Best Practice Recommendations from the Ethical Standards Review, namely:

Action Point 1 - Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Action Point 2 – Councils should include provisions in their code requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

These elements had been added to the proposed revised code and shown in red text.

Also, the recent Peer Review Feedback report, attached at Appendix 2, contained recommendations in respect of organisational leadership and governance, explicitly

referencing the need to adopt a refreshed Member Code of Conduct as a matter of priority. Specifically, it stated that *“Frontline Councillors should be supported not only in their community leadership positions but also to act as ambassadors for the authority and wider borough. Currently Councillors’ role in portraying a positive image of the Council and place does not appear to be fully understood (e.g. social media behaviour). The Member Code of Conduct is an important tool in promoting this understanding. Agreeing and adopting a refreshed Member Code of Conduct should be progressed as a matter of priority.”*

This feedback had been addressed through amendments to the proposed revised code and highlighted in yellow. In particular, the Monitoring Officer directed attention to the section that provided greater clarity on the use of social media, which was an excellent tool for improving the accessibility and relevance of the Councillor’s role, but had become a higher risk area, especially in terms of comments made by others to Members’ posts. Also, sections had been added clarifying the meaning of “disrepute” and relating to confidential information and data protection in the light of General Data Protection Regulations (GDPR).

The Monitoring Officer recommended that the revised Member Code of Conduct, as set out in Appendix 1, be referred to full Council for adoption.

The Monitoring Officer added that the parish councils were waiting for the Council to adopt a revised Code of Conduct in order to proceed with its adoption themselves, which would provide consistency.

During debate, the Committee’s comments included:

- Concern that bullying and intimidation in parish councils was a common problem, but it was a subjective situation.
- The code needed to be balanced in terms of not being overly wordy, but ensuring there were no loop-holes.
- Parish councils were required to have up-to-date codes of conduct, adopting either the local authority’s or that recommended by the National Association of Local Councils

The Monitoring Officer agreed that situations of bullying and harassment were subjective, but the basic principle was how that person felt they had been treated. The context of a situation was key. There could be one significant incident or several low-level incidents. Parish clerks were employees of the Parish Council and as such the Parish Council had a duty of care for them, occurrences of bullying by Parish Councillors were difficult to address when the behaviour of bullying or harassment were not covered in the Code of Conduct.

A Member felt that the Code of Conduct had been changed too significantly and that many of the changes were open to misuse and misinterpretation. There was a need for a safe framework for Members and officers to work within. However, the main role of a Councillor was to hold officers to account and he suggested that officers were economical with the truth. The Monitoring Officer sought clarification as to whether the Member was suggesting that officers were lying to Members. The Member clarified answers to questions were sometimes incomplete and the current draft made it unclear

what pressure could be applied on officers in order to obtain complete answers when Councillors themselves had to accept a certain level of pressure from members of the public, sometimes excessive pressure.

There was particular concern regarding the interpretation of the 3<sup>rd</sup> and 5<sup>th</sup> bullet-points in the section on *Disrepute*.

In response, the Monitoring Officer explained that the sections on bullying and harassment had not been added in order to prevent Members from holding officers to account. Simply returning repeatedly for additional information would not constitute bullying or impinge on free speech; it would depend on the tone, body language and words used. Each complaint had to be dealt with on its own related facts. Members were reminded that the sections on bullying and harassment had come from the recommendations of the Committee on Standards in Public Life. The Council was responsible as an employer for its officers; however, the Code of Conduct did not purely relate to Members' relations with officers; it was much broader and included all those with whom Members had contact. If Members felt officers were not responding to requests, these could be raised with the Head of Service or the Chief Executive.

The Code of Conduct was a document to benefit all Members and future Members. It could be compared with the code that school governors (where governors were also unpaid) worked to, which did not impinge on their effectiveness in that role or restrict freedom of speech. The Nolan Principles were quite brief; the proposed revisions expanded on these to provide clarity and demonstrate what could be constituted as 'improper behaviour'.

Members were provided with training and support to deal with residents and, where behaviour was excessive, the Councillor's political role would be a factor that might be subject to other courses of action. As an example, the Monitoring Officer could also take action if a Member, for example, was receiving vexatious e-mails. The Council's duty of care was not the same for Members as for officers, but there were steps that could be taken to assist and protect them, such as the issue of community protection notices.

In response to concern about the limitation of sanctions that could be applied if a complaint was upheld, the Monitoring Officer explained that the revised code would be a framework for the assessment of complaints and, although sanctions were limited, if it was found that there were grounds to investigate the complaint, any subsequent hearing would be held in public.

The parish representatives spoke in support of the proposed revised Code of Conduct, as in their opinion, the current Code was not sufficiently robust or comprehensive. It was suggested that two changes be made to the draft if it was to be recommended: the strengthening of the second paragraph on bullying and harassment to read "*must not be tolerated*" and the correction of a typographical error in the final paragraph.

One Member considered the draft to be robust and comprehensive, and that it would provide the framework for assessment of complaints. It was the Sub-Committee's responsibility to monitor, review and update the code and, if it was not operating effectively, it would bring it back for further consideration. The Member proposed that the revised draft be recommended to Full Council with the Sub-Committee's endorsement.

However, other Members expressed concerns that the revised draft was open to misinterpretation, too prescriptive, and, in places, too broad.

*[Councillor Tom Ashton left the meeting at 6.55 pm]*

It was suggested that there needed to be further scrutiny of the sections on bullying and harassment in terms of the maintenance of freedom of speech, as this could become a 'Victim's Charter' for officers. Deferment was then discussed in order that the draft could be considered in more detail. It was then suggested that a working group of Members could be convened in order to review the proposed Code and that any interested Members could serve on this group, as the Sub-Committee was too small. A Member expressed agreement with most of the revised draft, but felt it could be beneficial to have another meeting.

A Member indicated that the Assessment Panel process should be reviewed as there were insufficient Members in the structure and there should be a Member from the same group as the Subject Member. The Monitoring Officer confirmed that a Member of the Subject Member's group was invited to be part of the panel, but if that Member declined then an alternative was sought.

It was suggested that this group would meet without the Monitoring Officer. The Monitoring Officer suggested to Members that, in accordance with her responsibilities to the Council to ensure proper governance, it was important that she be present at meetings of any Working Group where the Code of Conduct was to be considered in order to advise Members of legal implications of any proposals put forward and provide case law context.

A Member asked if Members would be unable to meet without the Monitoring Officer. The Monitoring Officer confirmed this would not be the case but it would be surprising not to have the experience and knowledge available to assist Members in their discussions. Involving the Monitoring Officer would also be a more effective method of working as, if any suggested revisions were found to be not in accordance with legislation or case law, they would need to be disregarded.

However, Members felt they could meet and draw up a draft Code of Conduct for the Monitoring Officer to consider at a later stage.

The parish representatives commented that it would be extremely unwise not to take advantage of the Monitoring Officer's expertise and knowledge when the draft was being reconsidered and that the proposed draft would be an excellent guide to new parish councillors.

The proposal was then put to the vote and it was:

**RESOLVED: That a Working Group, made up of any interested Members, be set up to consider the revised Member Code of Conduct, set out in Appendix 1, and put forward any further revisions to the Monitoring Officer for advice.**

The Meeting Closed at 7.15 pm