

GOVERNANCE SUB COMMITTEE 1

14 MAY 2018

REPORT OF THE MONITORING OFFICER

CONSIDERATION OF MEMBER COMPLAINT – REFERENCE GOV 53

1.0 PURPOSE OF REPORT

- 1.1 To enable the Sub Committee to consider a complaint received from a representative on behalf of Clawson in Action regarding the conduct of a Borough Councillor and to consider what action should be taken.

2.0 RECOMMENDATIONS

- 2.1 **The Committee to consider the complaint, attached in full at Appendix A, in the context of the remaining Appendices and consider what action they wish to take from the following in relation to each individual element of the complaint as shown at Appendix A3 :-**

- **No Action**
- **Other Action such as training, support, mediation**
- **Refer for Investigation**

3.0 KEY ISSUES

- 3.1 The complaint at Appendix A has been received by the Monitoring Officer and is being considered in accordance with the Council's Complaints Process as set out at Appendix B and the Council's Code of Conduct for Members attached at Appendix C.
- 3.2 This complaint is at Appendix A and includes Appendices A1-4.
- 3.3 In accordance with the Complaints Process, the Monitoring Officer has shared the complaint with the Subject Member. The Monitoring Officer has met with the Subject Member and supplied an explanation of the complaints process. A note of this meeting is attached at Appendix D. Informal resolution has not been attempted therefore the complaint has been referred to the Sub Committee.
- 3.4 Some factfinding has been carried out of information that is readily available to assist the Sub Committee in determining the action to be taken in this case.
- 3.5 The transcriptions of the relevant sections of the meetings held on 9 November 2017 and 4 December 2017 supplied by the complainant have been verified as reflecting an extract of the content of those meetings. It may help to note that where the transcription refers to 'Greenhaugh', this should read 'Greenow' as being the correct spelling of the Councillor's name.
- 3.6 The minutes of the Planning Committee meetings held on 9 November and 4 December 2017 referred to in the complaint are enclosed at Appendices E and F respectively.

- 3.7 With regard to the advice received from the Assistant Solicitor prior to the 4 December 2017 Planning Committee, this is attached at Appendix G. It may have been helpful for this advice to be conveyed in writing to the Subject Member and with more time for the Subject Member to absorb than just 20 minutes before the start of the meeting.
- 3.8 Some of the complaint relates to the democratic process and how the Subject Member voted. Individual Councillors are entitled to comment and vote as they consider appropriate in respect of a planning application under consideration. It could be assumed that the complainants may take a similar view as to how other Members had voted on the application which is the subject of this complaint and should it be the same as the Subject Member, it could be asked why this Councillor is singled out for a formal complaint in this respect. It is considered that this part of the complaint is not relevant to the Code of Conduct.
- 3.9 The Monitoring Officer sought the views of one of the Independent Persons on the case so far and this is attached at Appendix H.
- 3.10 The next stage of the process indicates that this Sub Committee considers the complaint in relation to each individual element of the complaint as shown at Appendix A3 including the Independent Person's opinion in order to decide whether :-
- No action be action (there is no evidence to justify referral for investigation)
 - The complaint be referred for other action such as training, support, mediation (there is no evidence to justify referral for investigation)
 - The complaint be referred for Investigation (there is sufficient evidence to justify referral for investigation)
- 3.11 At this stage of the complaints process, the Sub Committee does not consider whether there has been a breach. Should the Sub Committee refer the complaint for investigation, the Monitoring Officer will commission an investigation and appoint an Investigating Officer. The Investigating Officer's report will be considered by Governance Sub Committee 2 in the format of a hearing.

4.0 POLICY AND CORPORATE IMPLICATIONS

- 4.1 Strong Corporate Governance is important in order to ensure high standards of conduct are maintained.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

- 5.1 To date the complaint has been managed within existing resources. However should the complaint be referred for external investigation, there would be a financial impact.

6.0 LEGAL IMPLICATIONS/POWERS

- 6.1 Of particular note in the new Localism Act is the change making the non-registration of a disclosable pecuniary interest within 28 days a criminal offence. This is not an issue in this case.

6.2 The Code of Conduct for Members sets out the standard of conduct expected by Members and it is within this Sub Committee's delegation to determine the action to be taken as set out at paragraph 3.10.

7.0 COMMUNITY SAFETY

7.1 There are no specific community safety implications in this report.

8.0 EQUALITIES

8.1 Equalities implications have been considered taking account of the legislation and process.

9.0 RISKS

9.1

L I K E L I H O O D	A	Very High				
	B	High				
	C	Significant				
	D	Low		1		
	E	Very Low				
	F	Almost Impossible				
			Negligible 1	Marginal 2	Critical 3	Catastrophic 4
IMPACT						

Risk No	Risk Description
1	The impact of the requirements of the Localism Act need to be managed to minimise any risk to the Council's reputation

10.0 CLIMATE CHANGE

10.1 There are no climate change implications in this report.

11.0 CONSULTATION

11.1 There has been consultation with one of the Council's Independent Persons.

12.0 WARDS AFFECTED

12.1 None.

Contact Officer Keith Aubrey, Monitoring Officer
Date: May 2018

Appendices : Appendix A - Complaint Form GOV 53 including Appendices 1-4
 Appendix B - Complaints Guidance and Flowchart
 Appendix C – Melton Borough Council's Code of Conduct for Members
 Appendix D – Note of Meeting with Councillor
 Appendix E – Planning Committee minutes of 9 November 2017
 Appendix F – Planning committee minutes of 4 December 2017
 Appendix G - Email from Assistant Solicitor
 Appendix H – Independent Person's View

Background Papers: Localism Act 2011
Reference : X : Committees\Governance\2017 18\Sub Cttees\Gov Sub 1\140518