

REPORT IN RESPECT OF AN ALLEGATION THAT A MEMBER FAILED TO COMPLY WITH THE CODE OF CONDUCT

Head of Service:	Jackie King, Chief Executive
Report Author	Alex Awoyomi
Wards affected:	(All Wards);
Appendices (attached):	Appendix 1: Members Code of Conduct Appendix 2: Proposed Arrangements for Standards Hearing Appendix 3: Investigator's Report (exempt from publication for reason set out on the Agenda) TO FOLLOW Appendix 4: Investigation Bundle (exempt from publication for reason set out on the Agenda) TO FOLLOW

Summary

The Deputy Monitoring Officer recommends that this meeting of the Standards & Constitution Hearing Sub Committee proceeds as a Preliminary Hearing to make arrangements for the Standards Hearing and that a date be set for that meeting.

Recommendation (s)

The Sub-Committee is asked to:

- (1) Adopt the arrangements for this meeting as set out in Appendix 2, or consider any amendments required for overall fairness**
- (2) Make preliminary rulings for the future determination of the matter.**

1 Reason for Recommendation

- 1.1 The Code of Conduct for Members reinforces the ethical standards expected in local government. It clearly sets out a councillor's responsibilities as a representative of the residents of Epsom and Ewell. It also requires that appropriate interests in jobs, property and businesses are declared.

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- 1.2 It is important that the public have confidence in all Members of the Council who are expected to follow the Council's Members Code of Conduct.
- 1.3 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a member or co-opted member of the Council, or of a Committee or Sub-Committee (or, additionally, in the case of this authority,
- 1.4 The Council's "arrangements" are set out within its Constitution and guidance on how to make a complaint against a member and the processes for such which all are available on the Council's website. The arrangements however do not make provision for the procedure to be adopted at a Standards Hearing.
- 1.5 Proposed arrangements for this meeting and determination of this matter by way of this sub-committee are attached at **Appendix 2**. The adoption of these arrangements is a matter for this sub-committee to consider and adopt.

2 Background

- 2.1 The Council adopted the LGA Model Code of Conduct in December 2023, which forms part of Appendix 1 to the Council's Constitution. It is available on the Council's website here – [Code of Conduct](#) - A copy of the current Code is attached at **Appendix 1** to this report.
- 2.2 Paragraph 2.1 of the Constitution states that, "The Code of Conduct for councillors is available in Appendix 1 and the arrangements for making a complaint and dealing with complaints can be found in the Council's Operating Framework ("the Framework"). The Council's Monitoring Officer is responsible for oversight of the Code".
- 2.3 The Council's Operating Framework is found here:
<https://www.epsomewell.gov.uk/council/about-council/governance/council-operating-framework>
- 2.4 The Framework includes further information on the functions and structure of the Council and includes several procedures and protocols. Annex 6.2 of the Framework contains the Council's Complaints Process.
- 2.5 Annex 6.2 confirms that if a person would like to submit a complaint regarding the work of the council, they can do so online via the Council's website. It confirms that if the complaint is about one of the Council's members, this should be made through the Member's Code of Conduct page (with a link provided). This page states that:-

"If you feel that a councillor has breached the code of conduct, you must make a complaint on the attached form. A guide for the Member Complaint process is available on this website to assist you."

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- 2.6 A link is provided to the attached form, and to the guide for the Member Complaint process, which is available here:

<https://www.epsomewell.gov.uk/sites/default/files/documents/council/council-meetings-andcouncillors/councillors-complaint-guidance%202020.pdf>

- 2.7 The process contains various headings, including “What Happens to your complaint”. It describes the Initial Assessment process as follows:-

“When we receive your complaint, we will write to you to let you know that we have received it. The Monitoring Officer will make an initial assessment of your complaint. It is very important that you set your complaint out clearly and provide at the outset all the information you wish the Monitoring Officer to consider. It may be that the Monitoring Officer will decide that your complaint will not be investigated for one or more reasons. The Monitoring Officer may refer the matter on for investigation or take other action.

If the Monitoring Officer decides that your complaint should not be proceeded with, we will write to you explaining the reasons why. There is no right of appeal.”

- 2.8 These documents all form part of the Council’s Operating Framework as described in paragraph 2.1 of the Constitution.

- 2.9 A complaint was made against Councillor Ames by Councillor Dallen.

- 2.10 Following an initial assessment of that complaint by the Council’s Monitoring Officer in consultation with a member of the Council’s Independent Person Panel, it was decided to refer this matter on for investigation. The Monitoring Officer appointed CH&I, as the Investigator and a copy of their report is attached at **Appendix 3 (exempt from publication for the reason set out on the Agenda)** and the bundle of supporting evidence is at **Appendix 4 (exempt from publication for the reason set out on the Agenda)**.

- 2.11 The Investigator concluded that a breach of the Code occurred. In accordance with [Annex 3.3](#), it is decided that following a preliminary hearing, a meeting of this Sub-Committee will take place to receive the investigator’s report in accordance with its terms of reference as set out in Appendix 3 to the Council’s Constitution.

3 Risk Assessment

Legal or other duties

- 3.1 Equality Impact Assessment: None
- 3.2 Crime & Disorder: None
- 3.3 Safeguarding: None

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3.4 Dependencies: None

3.5 Other: None

4 Financial Implications

4.1 Costs have been incurred to seek external support by way of the instruction of an external investigator in addition to the instruction of an external advisor to support the Panel at this meeting. Those costs will be met from corporate reserves; no invoices have been received to date as final invoices will be received after today's meeting.

4.2 **Section 24 considerations:** None

4.3 **Section 151 Officer's comments:** None arising from the content of this report

5 Legal Implications

5.1 The Sub Committee is asked to adopt the arrangements for this meeting as set out in Appendix 2, or consider any amendments required for overall fairness and to make preliminary rulings for the future determination of the matter.

5.2 The Council has delegated to the Sub-Committee powers to determine complaints referred by the Monitoring Officer and Investigating Officer regarding alleged breaches of the Councillor's Code of Conduct.

5.3 **Legal Officer's comments:** As set out in this report.

6 Policies, Plans & Partnerships:

6.1 **Council's Key Priorities:** The following Key Priorities are engaged:
Effective Council

6.2 **Service Plans:** The matter is not included within the current Service Delivery Plan.

6.3 **Climate & Environmental Impact of recommendations:** N/A

6.4 **Sustainability Policy & Community Safety Implications:** Not relevant

6.5 **Partnerships:** None

7 Background papers

7.1 The documents referred to in compiling this report are as follows:

Previous reports: None

Other papers: None