

 Brent	Audit and Standards Advisory Committee 29 July 2020
	Report from: Director of Legal, HR, Audit & Investigations
Code of Conduct and Complaints	

Wards Affected:	All
Key or Non-Key Decision:	Not applicable
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
No. of Appendices:	One 1) Appendix A – Decision Notice (05.06.2020)
Background Papers:	None
Contact Officer(s): (Name, Title, Contact Details)	(1) Debra Norman, Director of Legal, HR, Audit & Investigations (ext. 1578) (2) Bianca Robinson, Senior Constitutional & Governance Lawyer (ext. 1544)

1.0 Purpose of the Report

- 1.1 This report informs Members of (a) recent complaints concerning breaches of the Member's Code of Conduct and in particular, the complaint upheld against Councillor Aslam Choudry; and (b) an update on the LGA draft Model Code of Conduct.

2.0 Recommendations

- 2.1 That the Committee note the contents of the report.

3.0 Detail

Complaint against Cllr Aslam Choudry

- 3.1 In early May 2020, the Monitoring Officer (Director of Legal, HR, Audit and Investigations) received three Member Code of Conduct (the Code) complaints regarding Councillor Aslam Choudry.
- 3.2 The details of the complaint, Cllrs Aslam's response to the allegations, consideration of the Code and the rationale of the Monitoring Officer's decision, is set out in the attached Decision Notice (Appendix A). In summary:
- 1) the three complaints were considered together, as they all arose from the same WhatsApp post by Cllr Choudry.
 - 2) Cllr Choudry shared on the Dudden Hill Mutual Aid Group WhatsApp group a link to a video clip of a discussion that took place on the Real Face television channel.
 - 3) following complaints by members of the group, Cllr Choudry removed the post and posted an apology stating it was sent by mistake.
 - 4) in accordance with the Members Code of Conduct Complaints Procedure and following consultation with the Independent Person the Monitoring Officer found that Cllr Choudry breached:
 - a. paragraphs 4 (high standards),
 - b. 5 (seven principles of conduct in public life) and
 - c. 12 (conduct ... in a manner which could reasonably be regarded as bringing your office or the council into disrepute)of the Members Code of Conduct in uploading the Link to the Dudden Hill WhatsApp Group.
- 3.3 By way of sanctions it was recommended that:
- 1) Cllr. Choudry to be requested to:
 - a. attend council training on the appropriate use of social media (noting that Cllr Choudry had already stated publically he will be attending training on anti-Semitism);
 - b. provide a written apology to be placed on the council's website.
 - 2) the council's Labour Group to be invited to consider whether it is appropriate that Cllr Choudry retain his position on the Council's Audit and Standards Committee and Advisory Committee;
 - 3) the decision notice be published on the council's website for 6 months and reported to the Audit & Standards Advisory Committee.
- 3.4 Cllr Choudry did not exercise his right to request a review. The Monitoring Officer's decision is final. His apology, together with a further copy of the decisions notice, Code and the Member's Code of Conduct complaints

procedure can be found on the council's website:
<https://www.brent.gov.uk/your-council/complaints/make-a-complaint-about-a-councillor/>.

Complaints against other Members

- 3.5 The Monitoring Officer has determined two additional complaints against Members for breaches of the Code, as follows:
- 3.6 The first complainant made various allegations of improper conduct, but refrained from identifying which parts of the Code were alleged to have been breached. The complaint was not upheld on the basis that it did not “disclose a sufficiently serious potential breach of the Code to merit further consideration”. It did not progress beyond the initial assessment stage.
- 3.7 The second complainant alleged six breaches of the Code¹, namely: para 6, para 8, para 9, para 10, para 12, para 15, para 16. The complaint was not upheld on the grounds that there had been no breach of the Code. The Cllr apologised for their poor choice of words in a pressured situation. The Monitoring Officer did consider the value of mediation and/or training but formed the view the circumstances did not require it. The Cllr was also reminded that in contentious situation like the matter complained off, it is important to reflect in a balanced and even handed way the advice provided by council officers.
- 3.8 In line with:
- 1) paragraph 1.10 of Members Code of Conduct Complaints Procedures, this Committee is required to review the handling of complaints, reviews and decisions made with a view to identifying trends or any improvements in the procedure and application which may be desirable; and
 - 2) Annex 1, para 1.3 an annual review at the Committee of the Assessment Criteria is required to be undertaken.
- 3.9 At its next meeting officers will provide the Committee a report addressing para 1.10 and Annex 1, para 1.3 of the Members Code of Conduct Complaints Procedures for its consideration.

¹ para 6 (treating others with respect);
para 8 (must not bully);
para 9 (must not intimidate or attempt to intimidate any person);
para 10 (not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council);
para 12 (must not conduct yourself in manner which could reasonably be regarded as bringing your office or the Council into disrepute);
para 15 (must not use or attempt to use your position as a member improperly...);
para 16 (when using or authorising the use by others of the resources of the Council; (a) Act in accordance with the council's reasonable requirements).

Local Government Association (LGA) Draft Model Code of Conduct Update

- 3.10 The Committee is reminded that pursuant to the Localism Act 2011, the Council is under a statutory duty to promote and maintain high standards of conduct amongst their elected and co-opted members, and to adopt a code governing members. Brent's Member's Code of Conduct is set out in Part five of the Constitution.
- 3.11 The Committee will recall from its last meeting that the LGA are undertaking a consultation on a new Model Member Code to be recommended by the LGA. The draft Model Member Code is described as designed to aid members in all tiers of local government exemplify the behaviours and high standards that anyone would expect from a person holding public office. Equally, it articulates behaviour which falls below the standards that would be expected of council members. It is designed to help set a framework for public and councillor interaction, emphasising the importance of civility and that councillors should be protected from bullying, intimidation and abuse.
- 3.12 The LGA have now issued the consultation questionnaire which runs for 10 weeks from Monday 8 June until Monday 17 August.
- 3.13 The proposed updated LGA Model Member Code of Conduct incorporates the recommendations from the Committee on Standard's in Public Life's recommendations on Local Government Ethical Standards and the representation from its membership.
- 3.14 This consultation addresses key areas that the LGA would like a view on to help finalise the Code.
- 3.15 The committee is reminded that the draft Model Code of Conduct is very different to the old Model version, but it is much more closely aligned to the current version the council already has in place. It does not however include some provisions covered in Brent's existing Code, for example, concerning behaviour which:
- May cause the equalities legislation to be breached by the council;
 - Is intimidation of witnesses;
 - Relates to non-attendance of training.
- 3.16 The committee will be kept informed as to how the consultation progresses and in particular will be updated on anything that comes forward in the consultation that looks like it could usefully be adopted into Brent's own Code.

4.0 Financial Implications

- 4.1 There are no financial implications arising out of this report.

5.0 Legal Implications

- 5.1 Pursuant to the Localism Act 2011, the Council has to have arrangements in place to deal with any allegations of failure to comply with the code of conduct

and must appoint an Independent Person whose views are sought and taken into account by the council before it makes its decision on an allegation that it has decided to investigate.

5.2 The Council, individual Members and co-opted Members are required to promote and maintain high standards of conduct in accordance with s27 of the Localism Act 2011. Any alleged breached of the Code must be considered in accordance with the Council's Member Code of Conduct Procedure.

6.0 Equality Implications

6.1 The equality implications arising out of this report are addressed within Appendix A.

7.0 Consultation with Ward Members and Stakeholders

7.1 Not applicable.

8.0 Human Resources/Property Implications (if appropriate)

8.1 Not applicable.

Report sign off:

Director of Legal, HR, Audit & Investigations