

**AGENDA ITEM NO.5**
**CONDUCT COMMITTEE**

**Date**            **10 MARCH 2015**

**Title**            **MEMBER CONDUCT COMPLAINT – COUNCILLOR OLIVER**

**1. PURPOSE/SUMMARY**

To consider a complaint under the member code of Conduct against Councillor Oliver of Wisbech Town Council.

**2. KEY ISSUES**

- A complaint has been raised by Mr Erbie Murat (attached at Appendix 1), the former Clerk to Wisbech Town Council about the Conduct of Councillor Oliver. A similar complaint against Mr. Jonathan Farmer is no longer relevant for the consideration of Committee as he is no longer a Councillor.
- Councillor Oliver has been offered the opportunity to provide an initial written response to the complaint; this is attached at Appendix 1.
- The Conduct Committee is asked to consider the complaint and determine if it discloses a likely breach of the member code of conduct.

**3. RECOMMENDATION(S)**

Members consider the complaint and response and determine the initial consideration of the complaint.

<b>Wards Affected</b>	All
<b>Forward Plan Reference No.</b> (if applicable)	NA
<b>Portfolio Holder(s)</b>	
<b>Report Originator</b>	Carol Pilson, Corporate Director and Monitoring Officer Tom Lewis, Deputy Monitoring Officer
<b>Contact Officer(s)</b>	Carol Pilson, Corporate Director and Monitoring Officer Tom Lewis, Deputy Monitoring Officer
<b>Background Paper(s)</b>	Report to Conduct Committee dated 7 <sup>th</sup> March 2013 – complaint Cllr's Oliver and Farmer

## **1. BACKGROUND/INTRODUCTION**

On the 22 January 2013 a complaint was received from Mr Erbie Murat, then the Clerk to Wisbech Town Council about the Conduct of Councillor Oliver of Wisbech Town Council and Mr. Jonathan Farmer who was at that time a Councillor of Wisbech Town Council. A copy of the complaint is attached.

Mr. Jonathan Farmer is no longer a Councillor and as such it is not a matter for the Conduct Committee to consider any historic complaint against him.

Councillor Oliver was offered the opportunity of responding to the complaint and his response is attached.

A further complaint by Mr. Murat in relation to potential ultra vires activity undertaken by members of the Town Council raised on the 5<sup>th</sup> March 2013 has not been brought before Conduct Committee being a matter for private law should Mr. Murat wish to pursue this line. A letter from the then Deputy Monitoring Officer Ian Hunt advised Mr. Murat as such. Both Mr. Murat's letter and Ian Hunt's response are annexed to this report at Appendix 2 as they do provide additional detail relevant to Mr. Murat's initial complaint.

Consideration of the complaint against Councillor Oliver was initially deferred by Conduct Committee on the 7<sup>th</sup> March 2013 in order that those other legal channels running concurrently at that time be brought to a conclusion.

## **2. CONFIDENTIAL INFORMATION**

As a preliminary matter members must give consideration to the exempt papers contained within this report. In the letter of complaint reference is made to an email sent by Mr Murat to Councillor Oliver on the 3 January. This email relates to internal staff management matters within Wisbech Town Council, and refers to a number of staff.

Before deciding whether to deal with this email as an exempt item and to exclude publication of this and where necessary the press and public, the Committee must first decide whether there is exempt information in the email and secondly whether the public interest should override the application of the exemptions referred to.

The information relates to specific staff who although referred to by job title can be readily identified. The information relates to specific elements of their employment relationship which would not usually be expected to be in the public domain. It must be noted that the members of staff involved would have a reasonable expectation of privacy. Accordingly it is considered that the provisions of sections 1 (information relating to an individual) and 2 (information which is likely to reveal the identity of an individual) of Schedule 12A of the Local Government Act 1972 could apply.

There is no formal definition of what the public interest is, it is, however, not a test of what the public may be interested in. The Conduct Committee should bear in mind the need to maintain public confidence in the Council's ethical standards. This requires that the committee's decisions should be seen as open, unprejudiced and unbiased. The meeting will be held in public and the majority of relevant papers will be available for public inspection.

Members will need to decide on balance where they think the public interest lies, however, in this context the main elements of the complaint and the Councillor responses are public with just the detail of one element of the papers withheld. It must be noted that this element relates to personal details of third parties to the complaint.

A further consideration is that this is the initial assessment of the complaint; if the matter is investigated further it may be that the question as to the release of this email requires further review to enable public understanding of the complaint, however, if members do not determine that this matter needs investigation they may chose to reconsider whether or not this element is appropriate to retain confidentiality.

### **3. CONSIDERATIONS**

Members must consider the complaint against the member code of conduct.

Members must consider whether or not there is a reasonable prospect of the complaint being proven based on the information held. In considering this members are to be aware of the fact that should an investigation occur further evidence or detail can be sought.

Members are advised that where a complaint contains a number of elements they may chose to consider each element separately or take the whole complaint together.

Where members consider that there is a reasonable prospect that a breach of the code of conduct has occurred they should give consideration as to whether or not there should be an investigation of the complaint. Members should consider the following points in determining whether an investigation should occur:

- Has the Complaint already been investigated, or is it already the subject of investigation?
- Is the Complaint more appropriately dealt with through another regulatory channel?
- Is the complaint about something which happened so long ago that there would be little benefit in taking action now?
- Is the complaint too trivial to warrant further action?
- Does the compliant appear to be malicious or simply tit for tat?

Where members consider that an investigation is appropriate the Monitoring Officer will be asked to make suitable arrangements for such an investigation. Members are asked to give any particular comments on the scope or direction of the investigation.

If members do not consider that there is a potential breach of the code of conduct or that there is no reasonable prospect of any breach being disclosed or that the complaint does not merit further investigation then no further action is taken in respect of the complaint save for notifying the member and the complainant.