

**REPORT TO A HEARING OF THE ETHICAL GOVERNANCE  
COMMITTEE ON 1 MAY 2018**

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**Status:** Decision  
**Title:** Hearing of Complaint SC/34  
**Originator:** Verina Wenham Head of Legal and Democratic Services and  
Monitoring Officer  
**Where from:** Investigation Report  
**Where to  
next:** N/A

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1 Purpose Report

1.1 To consider the Investigating Officer's Report into a complaint regarding the conduct of the Subject Member.

2 Recommendations:

2.1 To consider the evidence put forward in the Investigating Officer's Report ("the Report") attached as Appendix A regarding the complaint set out in paragraph 3 of the Report;

2.2 To decide whether to accept the conclusions of the Report set out in paragraph 8 of the Report; and

2.3 Subject to the decision in respect of 2.2 above, to consider what sanction is appropriate to any of the complaints.

3 Summary of Reasons for the Recommendations

3.1 These steps enable the Committee to conclude the investigation it requested.

4 Impact on Communities

4.1 The Committee is required to consider the complaint and decide what action is appropriate. The options available to the Committee are set out in 2.2 and 2.3 above and the body of this report, particularly paragraph 6.2.

## 5 Key Facts

- 5.1 A complaint was made relating to the conduct of the Subject Member on 23 March 2017 by the Complainant. The complaint related to the contents of a newsletter circulated under the name of the Subject Member. The nature of the complaint is summarised in paragraph 1.3 of the Report.
- 5.2 The complaint has been dealt with in accordance with the Council's adopted Code of Conduct for Members and the Complaints process which are attached as Appendices B and C respectively. Following a fact finding exercise by the Monitoring Officer, a report was considered at an extraordinary meeting of the Ethical Governance Committee on 17 July 2017. The Committee decided to refer the Complaint for investigation.
- 5.3 The Monitoring Officer subsequently delegated the investigation to Mr Geoff Pook, the Investigating Officer. His final report was received on 1 March 2018.
- 5.3 The procedure to be followed at the meeting is attached as Appendix D. The procedure was adopted by the Council in January 2017 and is to be followed by the Ethical Governance Committee when it is hearing and considering an investigation report.
- 5.4 No witnesses have been called by the investigating Officer. The Subject Member has confirmed that one witness will be called. However at the date of this report the witness statement has not provided.
- 5.5 The Subject Member has submitted a number of documents that will be relied upon at the hearing copies of which are attached as Appendices G - respectively.
- 5.6 The complaints to be decided at the Hearing relate to SC/34 and are set out at paragraph 1.3 of the Report at Appendix A.
- 5.7 The Investigating Officer was asked to initially consider to what extent the Code of Conduct applies to communications from a member to his or her residents in contemplation of an election. The Investigating Officer's conclusion is set out in paragraph 5.11 of the Report, in that the Code of Conduct does apply in such circumstances.
- 5.8 The Monitoring Officer obtained the view of the Independent Person which is attached as Appendix E. The Independent Person will also be in attendance at the Hearing. In addition the Monitoring Officer has obtained the view of one of the Independent Persons not involved in the initial consideration of the complaint. Her view is attached as Appendix F.

## 6 Legal Issues

6.1 Following the introduction of the Localism Act 2011 in 2012 the Council adopted a revised Code of Conduct and arrangements for dealing with complaints regarding potential breaches.

6.2 In accordance with the provisions of the Localism Act 2011 the Committee can determine whether the Code has been breached and if so the action to be taken. However, members will note that the sanctions available if it were determined that there has been a breach of the Code of Conduct are limited to censure or appropriate training.

## 7 Resource Issues

7.1 Following the decision to refer the matter for investigation an additional budget has been identified to cover the cost of the investigation.

## 8 Equality Implications

8.1 There are none as far as this report is concerned.

## 9 Impact on the Organisation

9.1 None as far as this report is concerned.

## 10 Community Safety Implications

10.1 None as far as this report is concerned.

## 11. Carbon Management Implications

11.1 None as far as this report is concerned.

## 12. Risk Management Implications

12.1 The impact of the changes and the implementation to meet the requirements of the Localism Act 2011 is to support managing to minimise any risk to the Council's reputation or otherwise.

## 13 Consultation

13.1 The views of the Independent Person have been obtained as referred to in the body of this report. The Complainant has been notified of the conclusions of the Investigating Officer.

## 15 Background Papers

15.1 Localism Act 2011

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**Previous report(s): 17 July 2017**

**Information Issued Under Sensitive Issue Procedure: Y/N**

**Ward Members Notified: Y/N**

**Appendices:** *list any appendices here including title and filename in brackets (e.g. Performance Data 2010 (perfdata.doc)).*

- A. Investigating Officers Report Exempt**
- B. Code of Conduct for Members**
- C. Complaints Flow chart**
- D. Hearing Procedure**
- E. View of Independent Person (GG) Exempt**
- F. View of Independent Person (CH) Exempt**
- G. Subject Members' Representations Documentation Exempt**
  - (i) Documentation**
  - (ii) Report from Investigating Officer**
  - (iii) Statement of Subject Member**
  - (iv) Newspaper Article**