

MUNICIPAL YEAR 2013/2014 REPORT NO. 195

MEETING TITLE AND DATE

Councillor Conduct Committee - 3
February 2014

REPORT OF: Director of Finance,
Resources and Customer Services

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Part: 1

Item:

**Subject: Complaint Hearing against
a councillor**

Wards: All

Cabinet Member consulted:
Not applicable

1. EXECUTIVE SUMMARY

- 1.1 The Councillor Conduct Committee (CCC) is advised of the outcome of an investigation into a complaint against a councillor relating to an alleged data protection issue.
- 1.2 The Investigation report will be circulated and considered in Part 2 of the agenda.

2. RECOMMENDATIONS

- 2.1 That the Councillor Conduct Committee notes this report and considers the Investigating Officer's report in Part 2 of the meeting.

3. BACKGROUND

- 3.1 This matter relates to a complaint from an ex Council employee concerning an alleged breach of the Council's Code of Conduct. The allegation was that the councillor concerned took insufficient care in being a party to the disclosure of personal information to the press.
- 3.2 Given the allegations, the Monitoring Officer (MO) accepted the complaint for investigation after discussion with the (then) Independent Person. The MO and other senior Council staff had been involved in the related case previously. It was felt appropriate therefore to engage an external investigator, particularly given the nature of the allegations and a wish to act in the interests of both parties. Bevan Brittan Solicitors were therefore

instructed. This was in accordance with paragraphs 4 and 5 of the Council's procedure for handling complaints.

- 3.3 Under sch12A of the Local Government Act 1972 (as amended by the Local Authorities (access to Information) (exempt Information) (England) Order 2006) consideration of the complaint will be moved into Part 2 of the meeting to exclude the public and press because exempt information will be disclosed. The exemptions to apply are Paragraph 1 of sch 12A - information relating to any individuals and Paragraph 2, Information which is likely to reveal the identity of an individual. In applying these exemptions, the public Interest test has been considered. The public interest in confidentiality over rides the public interest in disclosure
- 3.4 The Investigating Officer's report has been circulated to members under the Part 2 agenda. Olwen Dutton from Bevan Brittan will be at the meeting to present her report and answer questions in accordance with the Council's procedure.
- 3.5 Both the complainant and the member concerned have been invited to submit written representations to this Committee. If any are received they will be circulated to the Committee without delay.
- 3.6 Under the Council's procedure for hearing complaints (paragraph 2.3 - circulated previously with the agenda for this meeting) the Committee, upon receiving the report from the Investigating Officer and considering all the information, is asked to decide whether there has been a breach of the code of conduct. If so, the Committee is asked to consider any appropriate sanctions. These may include (where appropriate):
 - (a) Reporting the findings to full Council
 - (b) Recommending to the relevant Group Leader that the councillor be removed from relevant meetings of the Authority of which they are a member
 - (c) Recommending to the Leader of the Council that the member be removed from the Cabinet or from particular portfolio responsibilities (not appropriate in this case)
 - (d) Withdrawing facilities provided to the member by the Council – such as computer access and/or e mail or internet access
 - (e) Excluding the member from the Council's offices or other premises for a defined period of time – with the exception of meeting rooms as necessary for the purpose of attending meetings of the Authority of which they are a member
 - (f) Publishing the findings in the local media.
- 3.7 The decision will be communicated to all parties with reasons
- 3.8 If the Committee decides there has been no breach, this will be communicated to all parties together with reasons.

4. ALTERNATIVE OPTIONS CONSIDERED

The procedure for handling complaints clearly sets out the options available.

5. REASONS FOR RECOMMENDATIONS

To comply with the above procedure.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

None.

6.2 Legal Implications

6.2.1 The Authority has adopted a local code of conduct under the Localism Act 2011 to assist members in the discharge of their obligations to the Authority, local communities and the public at large. The code also oversees the behaviour of members, covers the receipt and handling of complaints and provides a safeguard against unacceptable behaviour. This report is carried out in accordance with the Council's Code of Conduct and procedure for Handling Complaints.

6.2.2 The Committee should note that under the Councillor Code of Conduct / Procedure for Handling Complaints against Councillors and Co-opted Members, paragraph 8 states that the decision of the CCC will be final and binding with no further right of appeal to the Council. If the complainant feels that the Council has failed to deal with the complaint properly and that this failure caused injustice, they can make a complaint to the Local Government Ombudsman

7. KEY RISKS

Decisions could be open to challenge if the Council's procedure is not properly followed.

Background Papers