

## MUNICIPAL YEAR 2017/2018 REPORT NO. 5

### MEETING TITLE AND DATE:

Councillor Conduct  
Committee 22 May 2017

### REPORT OF:

Monitoring Officer

Assistant Director of Legal  
& Governance

Agenda – Part: 1

Item: 4

**Subject: Appeal Against the Monitoring Officer Decision with regards to a Complaint**

**Cabinet Member consulted: N/A**

Contact officer and telephone number:

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### 1. EXECUTIVE SUMMARY

1. This report sets out a complaint from Helen Osman against Councillor Daniel Anderson received on the 22 February 2017. The complaint alleges multiple breaches of the Code of Conduct, following two Facebook postings made by Councillor Daniel Anderson.
2. Councillor Anderson denies he had breached the Code of Conduct for Councillors.
3. As Monitoring Officer, I instructed Olwen Dutton Partner for Anthony Collins Solicitor's LLP to investigate the complaint in accordance with Council Code of Conduct. I accepted the findings in the investigation report that the complaint did not find breaches of the Code by Councillor Daniel Anderson and the Council dismisses the complaint. The Complaint Report is attached as Appendix A.
4. Helen Osman, the named complainer has exercised her rights to appeal my decision, as Monitoring Officer, to the Councillor Conduct Committee.

### 2. RECOMMENDATIONS

1. The Committee, having reviewed the Monitoring Officer's decision and the Independent investigation report, considers the appeal from Helen Osman against the decision of the Monitoring Officer to not uphold the complaint against Councillor Daniel Anderson.
2. If the committee agrees with the decision to not uphold the complaint, no further action is required, apart from endorsement of the decision.
3. If the committee disagrees then the committee will need to consider what sanctions, if any to apply as set out in the Code of Conduct.

### **3. BACKGROUND**

- 3.1 I attach to this report Appendix A the investigation report from Olwen Dutton, Partner at Anthony Collins Solicitors with regards to the complaint. It is a report which includes interviews with the complainer, officers of the Council and Councillor Daniel Anderson.
- 3.2 The independent person has been consulted thought the process.
- 3.3 As the Council Monitoring Officer I agree with the conclusions that are set out on Page 18 that the Facebook post was made outside of Councillors role as a councillor and subsequently the Code of Conduct does not apply and even if it did the posts did not amount to a breach of the Code.
- 3.4 Attached at Appendix B is the appeal from Helen Osman and the documents. The committee must have regard to the appeal and its contents in making its decision.

### **4. ALTERNATIVE OPTIONS CONSIDERED**

None

### **5. REASONS FOR RECOMMENDATIONS**

As set out in the report

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

#### **6.1 Financial Implications**

None

#### **6.2 Legal Implications**

These are contained within the body of the report and the investigation reports.

#### **6.3 Property Implications**

None

### **7. KEY RISKS**

None

**8. IMPACT ON COUNCIL PRIORITIES**

**8.1 Fairness for All**

**8.2 Growth and Sustainability**

**8.3 Strong Communities**

*Where applicable contained within the body of the reports and the code of conduct as set out in the Council's Constitution*

**9. EQUALITIES IMPACT IMPLICATIONS**

Where applicable contained within the body of the reports and the code of conduct as set out in the Council's Constitution

**10. PERFORMANCE MANAGEMENT IMPLICATIONS**

Where applicable contained within the body of the reports and the code of conduct as set out in the Council's Constitution

**11. HEALTH AND SAFETY IMPLICATIONS**

Where applicable contained within the body of the reports and the code of conduct as set out in the Council's Constitution

**12. HR IMPLICATIONS**

Where applicable contained within the body of the reports and the code of conduct as set out in the Council's Constitution

**13. PUBLIC HEALTH IMPLICATIONS**

Where applicable contained within the body of the reports and the code of conduct as set out in the Council's Constitution

**14. Background papers**

Appendix A  
Investigation report of Olwen Dutton, Partner Anthony Collins Solicitors LLP

Appendix B  
Helen Osman Appeal Form and Appendices