

Council Report

Wards affected: n/a

Report of the Deputy Monitoring Officer

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Report on sanctions recommended by the Hearings Sub-Committee

Executive Summary

In July 2016, the then Monitoring Officer received two allegations about the conduct of Councillor David Reeve (“the Subject Member”), which concerned the release of a report written by the Subject Member based, as alleged by Councillor Paul Spooner and Councillor Caroline Reeves (“the Complainants”), on information provided to him on a confidential basis as an elected Councillor.

Following assessment of the complaints, and after consulting the Independent Person, the then Monitoring Officer decided to refer the matter for an independent investigation.

Following the investigation, the Investigating Officer submitted her final report to the then Monitoring Officer, which concluded that the Subject Member had breached the Code of Conduct through:

- (a) the disclosure of confidential information (para 3 (a) of the Code)
- (b) failure to treat others with respect (para 2 (1) of the Code), and
- (c) conducting himself in a manner which could reasonably be regarded as bringing the office of councillor or the Council into disrepute (para 4 of the Code)

Attempts were made to achieve a local resolution, but were unsuccessful. In such circumstances, the Council’s Arrangements for dealing with allegations of misconduct by Councillors provided that if the Monitoring Officer considers that a local resolution is not appropriate, or the Subject Member concerned is not prepared to undertake any proposed remedial action, then the Monitoring Officer will take the Investigating Officer’s report to the Hearings Sub-Committee for a local hearing.

Accordingly, the Hearings Sub-Committee was convened for this purpose on 11 September 2017.

After hearing all the evidence, the Sub-Committee determined that, on the facts found, the Subject Member had failed to comply with the Code of Conduct as found by the Investigating Officer. The Sub-Committee then considered what sanctions, if any, should be applied to the Subject Member in accordance with the adopted Arrangements.

Recommendation to Council:

The Sub-Committee has recommended that the following sanctions should be applied to the Subject Member:

- (1) That the Subject Member be asked to apologise specifically to Laura Howard, Principal Planning Officer, regarding the disclosure of the confidential information.
- (2) That the Subject Member be requested to participate in appropriate training, on a one-to-one basis, on the role of the councillor and their responsibilities under the Code of Conduct, in particular reconciling their representational role with their obligations under the Code.

Reason for recommendation:

The sanctions recommended by the Hearings Sub-Committee are deemed to be appropriate and proportionate, in view of the finding that the Subject Member had breached the Code of Conduct.

1. Purpose of Report

- 1.1 The purpose of this report is to ask the Council to consider the sanctions recommended by the Hearings Sub-Committee following a local hearing at which it was found that Councillor David Reeve (the "Subject Member") had failed to comply with the Council's Code of Conduct.

2. Strategic Framework

- 2.1 The Council has a statutory duty to promote and maintain high standards of conduct by councillors, which is one of the key terms of reference of the Corporate Governance and Standards Committee, which is the parent committee of the Hearings Sub-Committee.

3. Background

- 3.1 The background is as set out in the Executive summary to this report. A copy of the minutes of the Hearings Sub-Committee meeting held on 11 September 2017, is attached for information as **Appendix 1**.

4. Consideration of recommended sanctions

- 4.1 The Council's Arrangements provide that a number of possible sanctions may be applied where a councillor has been found to have breached the Code of Conduct following a local hearing. The application of any sanction must be reasonable and proportionate to the Subject Member's behaviour and any sanction must not restrict unduly the Subject Member's ability to perform the functions of a councillor. When considering sanctions, it is not lawful to suspend a Subject Member, withdraw their allowance, or impose financial penalties.
- 4.2 Whilst some of the sanctions listed in the Arrangements may be applied directly by the Hearings Sub-Committee, others require a specific recommendation to the Council before they can be applied. These are:

- “That the Subject Member be requested to apologise”
- “That the Subject Member be requested to participate in appropriate training or participation in conciliation or mediation.”
- “That the Subject Member be removed from all outside appointments to which they have been appointed or nominated by the Council or by the Parish Council for a specified period”

4.3 In this case, the Hearings Sub-Committee, having found that the Subject Member had breached the Code of Conduct, have recommended to Council that the following sanctions should be applied:

- (1) That the Subject Member be asked to apologise specifically to Laura Howard, Principal Planning Officer, regarding the disclosure of the confidential information.
- (2) That the Subject Member be requested to participate in appropriate training, on a one-to-one basis, on the role of the councillor and their responsibilities under the Code of Conduct, in particular reconciling their representational role with their obligations under the Code.

4.4 It is strongly recommended that the Council do not seek to impose any further, more onerous, sanctions on the Subject Member, as only the five councillors on the Sub-Committee heard all the evidence and representations submitted at the hearing. Therefore, any substantive change to the above recommendations, without sound reasons for doing so, could leave the Council open to challenge.

4.5 It is understood that the Subject Member has provided the apology to Laura Howard in writing but is unwilling to participate in the one-to-one training session. The Subject Member has confirmed, however, that he would be willing to participate in a training session for all councillors on ethical standards matters, which is scheduled for 25 October 2017.

5. Financial Implications

5.1 There are no financial implications to the Council associated with the recommendations in this report. Any training delivered will be met from within existing budgets.

5.2 In terms of the investigation of the complaints and the convening of the Hearings Sub-Committee, the overall cost incurred was as follows:

	£
Anthony Collins LLP – Investigation and attendance at hearing:	13,982.80
Cornerstone Barristers - Advice	900.00
Sub Committee - refreshments/food:	46.80
Sub Committee - agenda printing:	456.80
	Total: 15,386.40

The overall investigation and action taken to achieve a resolution have been managed within the existing staff resources of the Council, as part of relevant officers' responsible duties.

6. Legal Implications

The Localism Act Part 1 Chapter 7 sections 26-37.

- 6.1 Section 27(1) sets out a duty upon the Council to promote and maintain high standards of conduct among its members. In discharging this duty, the Council is required to adopt a Code dealing with the conduct that is expected of members and co-opted members of the Council under section 27(2).
- 6.2 Section 28(11) provides that if a Council finds that a member of the authority has failed to comply with its Code of Conduct (whether or not the finding is made following an investigation under Arrangements put in place under subsection (6)) it may have regard to the failure in deciding:
- (a) whether to take action in relation to the member; and
 - (b) what action to take.
- 6.3 Whilst Section 28(11) provides that the Council can decide whether to take action and what action to take in response to a finding that a Councillor has failed to comply with the Code of Conduct, no statutory sanctions currently exist under the Localism Act 2011. All statutory sanctions e.g. to suspend a Councillor which previously existed under the Local Government Act 2000 have been repealed. Sanctions are now limited to that which can be imposed under common law or by agreement with the member concerned.
- 6.4 Throughout this process, a number of points have been raised around the Council's adopted 'Arrangements for dealing with allegations of misconduct by Councillors'. As such, it has been agreed with the Managing Director that a review of these arrangements will be undertaken and any recommendations for change will be brought back to Full Council.
- 6.5 In addition to the above, the Managing Director will introduce stricter measures of control around the handling of confidential information, particularly when the information belongs to a third party. In respect of councillors, this may involve a requirement for individual councillors to enter into confidentiality agreements or if the information is particularly sensitive, a requirement that they visit the offices to view the information.

7. Human Resource Implications

- 7.1 There are no human resource implications.

8. Conclusion

- 8.1 Under the adopted Arrangements, the Council is required to consider the sanctions to be applied to the Subject Member as recommended by the Hearings Sub-Committee on 11 September 2017.

9. Appendices

Appendix 1: Minutes of the Hearings Sub-Committee – 11 September 2017