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Council

4 December 2018

**Name of Cabinet Member:**

N/A- Council

**Member Approving Submission of the report:**

Acting Chair of Ethics Committee – Councillor L Bigham

**Ward(s) affected:**

None

**Title: Recommendations of Ethics Committee Following Code of Conduct Hearing**

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**Is this a key decision?**

No

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**Executive Summary:**

On 6 November 2018 the Ethics Committee held a hearing in to a complaint that Councillor Rois Ali had breached the Code of Conduct for Elected and Co-opted Members. It related to an allegation that Councillor Ali had failed to register disclosable pecuniary interests on his Register of Interests.

The Committee decided that Councillor Ali had breached the Code of Conduct and imposed a number of sanctions upon him. A copy of the Decision Notice issued on behalf of the Committee is attached at Appendix A. Among other things, the Committee decided to report its findings to full Council for information.

**Recommendations**

Council is requested to note the findings of the Ethics Committee.

**List of Appendices included:**

**Appendix 1:** Ethics Committee Decision Notice issued on 14<sup>th</sup> November 2018

**Other useful background papers:**

The original report to Ethics Committee on 6<sup>th</sup> November 2018 can be found here:

<http://democraticservices.coventry.gov.uk/ieListDocuments.aspx?CId=161&MId=11895&Ver=4>

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

Yes

## **Report title: Recommendations of Ethics Committee Following Code of Conduct Hearing**

### **1. Context (or background)**

- 1.1 The Council adopted the Code of Conduct for Elected and Co-opted Members (“the Code”) at its meeting on 3<sup>rd</sup> July 2012. In addition the Ethics Committee on 30<sup>th</sup> August 2012 approved a Complaints Protocol for use when dealing with Code of Conduct complaints.
- 1.2 On 28 January 2018 Councillor Mayer submitted a complaint to the Council’s Monitoring Officer that alleged that Councillor Ali had failed to enter onto his register of interests a DPI namely his interest in a property known as Sudbury House. Councillor Mayer also alleged that there were other DPIs that Councillor Ali had failed to register.
- 1.3 The complaint was investigated and on 6 November 2018 the Ethics Committee held a hearing into the complaint. The Committee concluded that Councillor Ali had breached the Code of Conduct and issued a number of sanctions. The Decision Notice issued on behalf of the Committee sets out the basis for the Committee’s decision and the sanctions that it applied. This can be found at Appendix 1 to this report.
- 1.4 Among other things, the Committee resolved to report its findings to full Council for information.

### **2. Options**

- 2.1 Ethics Committee has asked the Council to note its findings.

### **3. Results of consultation undertaken**

- 3.1 Not applicable.

### **4. Timetable for implementing this decision**

- 4.1 Any decisions of the Council will be implemented within an appropriate time frame.

### **5. Comments from the Monitoring Officer and Section 151 Officer**

#### 5.1 Financial implications

There are no specific financial implications arising from the recommendations within this report.

#### 5.2 Legal implications

The Council is required under Section 28 of the Localism Act 2011 to adopt a suitable Code of Conduct and to have in place arrangements under which allegations of failure to comply with the Code may be investigated and decisions on allegations can be made. The

Council also has a statutory duty to promote and maintain high standards of ethical behaviour under section 27 of the Act.

## 6. Other implications

### 6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

Not applicable.

### 6.2 How is risk being managed?

Failure to consider and deal appropriately with complaints about councillors' behaviour could lead to damage to the Council's reputation as well as that of individual councillors.

### 6.3 What is the impact on the organisation?

This report will have no direct impact on the organisation. It does, however, show that the Council is fulfilling its statutory duty to promote and maintain high standards of ethical behaviour among elected and co-opted members.

### 6.4 Equalities / EIA

There are no public sector equality duties which are of relevance at this stage.

### 6.5 Implications for (or impact on) the environment

None

### 6.6 Implications for partner organisations?

None

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Members: Councillor Bigham	Acting Chair, Ethics Committee		15/11/18	15/11/18

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- (c) declared many of his DPIs only after he had been specifically asked to do so by officers;
  - (d) did not follow officers' advice to ensure that his register of interests was comprehensive; and
  - (e) failed in any event to act promptly on that advice.
- 2.5 Mr Lewin did not accept any of Cllr Ali's explanations for his failures and concluded that Cllr Ali, as someone with wide-ranging private business interests, should have taken particular care to ensure that he was, and was seen to be, serving only the public interest.
- 2.6 Having reviewed Cllr Ali's register of attendance at Council meetings against his register of interests, Mr Lewin had found no evidence to suggest that he had participated in any Council business in which he had a DPI.
- 2.7 Mr Lewin did not accept that Cllr Ali was too busy to follow the rules on declaration of interests nor that he was required to first seek the agreement of his co-investors before disclosing his interests. He had access to advice and his duties to the public should have taken priority over his own private interests.
- 2.8 He did not consider that Cllr Ali had acted dishonestly in the sense that he deliberately sought to conceal his interests. Nor did he consider that Cllr Ali made any personal gain as a result of his failure to declare his interests promptly.
- 2.9 During his interview with Mr Lewin, Cllr Ali claimed that Cllr Mayer's complaint was politically motivated or was part of a personal vendetta. Mr Lewin found that Cllr Ali needlessly disparaged Cllr Mayer and his threats to "stamp on" him and to the "take him to the cleaners" were entirely uncalled for and amounted to a breach of Paragraph 3(j).
- 2.10 Cllr Ali accepted that there was a technical breach of Paragraphs 3(h) and 5.1(a) of the Code of the Code but did not agree with the Investigator's conclusions on the other two breaches.

## **E Hearing**

3.1 The Ethics Committee consisted of:

- Cllr Allan Andrews
- Cllr Linda Bigham
- Cllr Damian Gannon
- Cllr John Mutton
- Cllr Mal Mutton

The hearing was chaired by Ruth Wills, one of the Council's Independent Persons. Ms Wills took no part in the Committee's discussions or the decisions that it reached with regard to whether there had been a breach or breaches of the Code or in its discussions or decision concerning the imposition of sanctions.

3.2 Cllr Ali attended the hearing.

3.3 Mr Matt Lewin, the Investigating Officer (IO), attended the hearing. Mr Lewin outlined his investigation and took the Committee through his report. He answered questions from both the Committee and from Cllr Ali

- 3.4 Cllr Ali referred to his written statement and in addition stressed that he had not participated in any Council business in which he had an interest. He had not benefited financially. Cllr Ali sincerely apologised for the delay in updating his DPI register and undertook to keep it up to date as required by the law. The comments that he had made about Cllr Mayer were made in haste and he apologised to anyone who had been offended by them.

## **F Consultation with Independent Person**

- 4.1 The Independent Person, Mr Peter Wiseman, OBE, LLB gave his opinion on the complaint to the Committee. This can be summarised as follows:
- 4.2 It is surprising and regrettable that Cllr Ali is in this situation at all. He was newly elected in May 2016 but for over 20 years the Nolan Principles have required a high degree of trust from elected councillors. Mr Wiseman assumed that Cllr Ali was given a copy of the Code of Conduct when he was elected which he would have signed and training was offered.

Notwithstanding the training that he undertook and the many emails that he received about his interests, it was 2 ½ months\* before he registered any DPIs at all (on 10 August\*). Cllr Ali may have had a variety of reasons for this failure but he had access to advice from the Monitoring Officer with at least two meetings with her by the autumn of 2016 so he did not just receive correspondence about his interests. This should surely have alerted him to the necessity to sort out his DPIs.

At no point during the hearing did Cllr Ali suggest that he had been acquiring properties during the time that he kept making additions and changes to his declared interests, so it would appear that the DPIs existed at the time he was elected and were there to be disclosed at the outset.

The Nolan Principles and the Code of Conduct make it quite clear that integrity and honesty is expected of councillors and there is a good reason for this expectation. Therefore, although there was no dishonesty on Cllr Ali's part in terms of personal benefit, and he may have initially misunderstood the situation, nevertheless he was then careless in his approach and that comes down to honesty. If someone disregards their obligations to this extent, this has an impact on the work and the credibility of the Council. The fact that failure to declare DPIs on the register may be a criminal offence shows how seriously Parliament viewed the matter.

Mr Wiseman accepted that there can be misunderstandings about the law but what constitutes a DPI is clearly set out in the legislation. He found what happened here to be very odd indeed, especially as to why it took so long to disclose these interests.

*\*later corrected to read 6 June 2016*

## **F Findings**

- 5.1 After considering the submissions of the parties to the hearing and the views of the Independent Person, the Committee reached the following decision(s):

5.2 ***On the question of whether Cllr Ali had breached Paragraph 2(f) of the Code of Conduct:***

The Committee found that Cllr Ali had not breached the requirement in Paragraph 2(f) to declare any private interests relating to his public interests and take steps to resolve any conflicts arising in a way that protects the public interests.

5.3 ***Whether Cllr Ali had breached Paragraph 3(h) of the Code of Conduct:***

The Committee found that Cllr Ali had breached this paragraph of the Code by failing to comply with his legal obligations, namely his obligation under Section 30(1) of the Localism Act to declare all of his DPIs on his register of interests within 28 days of being first elected to the Council in May 2016.

5.4 ***Whether Cllr Ali had breached Paragraph 3(j) of the Code of Conduct:***

The Committee found that Cllr Ali had not breached this paragraph of the Code which requires councillors to treat others with respect.

5.5 ***Whether Cllr Ali had breached Paragraph 5.1(a) of the Code of Conduct:***

The Committee concluded that that Cllr Ali had failed to comply with his obligation to register those DPIs that he was obliged to declare under the Localism Act 2011 and associated regulations.

**G Reasons**

6. **The Committee's reasons for reaching its decision are as follows:**

6.1 ***Finding at Paragraph 5.2***

The Committee accepted Mr Lewin's view that Cllr Ali was more careless in his regard to his legal obligations than dishonest. It also accepts Mr Lewin's finding that Cllr Ali did not appear to have participated in any Council business in which he had an interest. The Committee concluded therefore that Cllr Ali had not acted with any dishonest motivation and so was not in breach of Paragraph 2(f) of the Code of Conduct.

6.2 ***Finding at Paragraph 5.3 and 5.5***

- (a) The Committee accepted that Cllr Ali had failed to declare any DPIs within the 28 days required by the Localism Act. The Committee considered that Cllr Ali had had all of the interests that he subsequently disclosed in stages, at the time of his election, and that there was no reasonable excuse for his failure to do so.
- (b) The Committee noted that Cllr Ali had received training on the Code of Conduct and had been able to seek advice of officers at any time if he had been unsure as to what he needed to declare.
- (c) Cllr Ali received several emails and letters from officers about his failure to disclose his interests fully and in a timely fashion. He also had at least two meetings with the Monitoring Officer about his failure to comply with his legal

obligations. The Committee did not accept Cllr Ali's explanation that he had to obtain the agreement of his co-investors to disclose his interests. The legal obligation to disclose DPs rests with the elected member and, regardless of his business arrangements, he had an obligation to disclose his interests in accordance with the law and to take his public duty seriously. This he failed to do.

6.3 ***Finding at Paragraph 5.4***

The Committee considered that the comments made by Cllr Ali about Cllr Mayer during his formal interview with Mr Lewin were inappropriate and ill-considered. However, they were not made in a public forum, neither were they made directly to Cllr Mayer. Under the circumstances the threshold required for a breach due to failure to show respect had not been met.

6.4 ***Finding at Paragraph 5.5***

See Paragraph 6.2

**H Sanctions applied**

7.1 The Committee heard from Cllr Ali on the question of sanctions. He indicated that he was sure the Committee would decide the sanctions fairly and reasonably.

7.2 The Committee also heard Mr Wiseman, the Independent Person on the question of sanctions. His comments are summarised as follows:

The Committee should approach the question of sanctions from the standpoint of the effect of the decision today on the electorate of Coventry. Councillors are constantly taking decisions which affect the public. The public must have confidence in the honesty and integrity of councillors. Councillors need to be totally free of outside interests and commitments. If there is a doubt, does it just affect Cllr Ali, or does it affect the Council as a whole? Do Cllr Ali's actions reflect upon the Council?

It has been said that Cllr Ali did not benefit from his failure to register his interests. But this is the wrong question. The Committee needs to consider how this decision reflects upon how we conduct ourselves in the public interest, which is crucial to the decision making process at the Council.

Criminal sanctions can apply to people who fail to register their interests in time, We know that the Police looked at this case and chose not to pursue it, but the Committee needs to be looking at the person in the street: how does this breach affect the trust that that person has in how the Council conducts its business?

This was not a technical breach. It is a significant breach at the more serious end of the spectrum.

7.3 **The Committee decided to:**

- (i) publish its findings in respect of Cllr Ali's conduct;
- (ii) send a formal letter of censure to Cllr Ali;

(iii) report its findings to full Council for information; and

(iv) recommend that the Monitoring Officer organises additional training for Cllr Ali on the registration and declaration of interests.

## **I Appeal**

8. There is no right of appeal against the Committee's decision.

## **J Notification of decision**

9. This decision notice is sent to:

- Councillor Tim Mayer
- Councillor Rois Ali
- Mr Matt Lewin and
- Mr Peter Wiseman, OBE, LLB

The decision will also be published on the Council's website.

## **K Additional help**

10. If you need additional support in relation to this decision notice or future contact with the City Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language.

**Ethics Committee**

**Coventry City Council**

**14 November 2018**