

Coventry City Council
Minutes of the Meeting of Ethics Committee held at 9.30 am on Tuesday, 6
November 2018

Present:

Members: Councillor L Bigham (Chair for the meeting from Minute 15 onwards)
Councillor A Andrews
Councillor D Gannon
Councillor A Andrews
Councillor L Bigham
Councillor D Gannon
Councillor J Mutton
Councillor M Mutton

Independent Persons S Atkinson
A Barton
R Wills (Chair for Minutes 14 and 15)
P Wiseman

Other Members: Councillor G Williams

Employees (by Directorate):

Place: C Bradford, J Newman, C Sinclair
People: S Chun Lam

Apologies: Councillor S Walsh

Public Business

11. Declarations of Interest

Cllr John Mutton and Cllr Mal Mutton declared an “other relevant interest” in Minute 15 (Hearing into complaint under Code of Conduct - Councillor W) by virtue of the hearing relating to a complaint by Cllr John Mutton. They did not participate in any discussion by or voting of the Committee. Cllr John Mutton participated in the hearing only in his capacity as the complainant in the matter under discussion.

12. Minutes

The Minutes of the meeting held on 26 July 2018 were signed as a true record. There were no matters arising.

13. Chair for Code of Conduct Hearings (Minutes 14 and 15 below)

Ruth Wills, Independent Person, took the Chair for consideration of the matters referred to in Minutes 14 and 15 below (Hearings into complaints under the Code of Conduct)

14. **Hearing into complaint under Code of Conduct - Councillor A**

The Ethics Committee considered a report of the Chief Executive which detailed a complaint made against Councillor R Ali (the "Subject Member"). The complainant alleged that the Subject Member had breached the Code of Conduct for Elected and Co-opted Members.

A formal complaint was made on 28 January that the Subject Member had failed to enter on his register of interests certain Disclosable Pecuniary Interests (DPIs) that he held.

A Stage One review of the complaint concluded that an Independent Investigator should be appointed to investigate the complaint. An Independent Investigator was duly appointed to carry out the investigation and he concluded that the Subject Member had breached four paragraphs of the Code of Conduct. The Subject Member accepted that he was in breach of two of the paragraphs, but denied a breach of the other two, the matter was therefore before the Ethics Committee for their deliberations and a decision as to whether the Subject Member had breached the Code of Conduct and if so, what sanctions should be applied.

The Committee considered the following:

- a) Presentation of the Investigation report
- b) Presentation of the Subject Member's response to the Investigation report
- c) Summing up from both the Investigating Officer and the Subject Member
- d) Views and submissions of the Independent Person

The Committee then determined the complaint and concluded:

- That there had been breaches of paragraphs 3(h) and 5.1(a) of the Code of Conduct
- That there had been no breaches of paragraphs 2(f) and 3(J) of the Code of Conduct

Before determining what sanctions, if any, should be applied, the Independent Person and the Subject Member were invited to make representations as to whether or not any sanctions should be applied and, if so, what form they should take. The Committee noted that the application of any sanction should be reasonable and proportionate to the Subject Member's behaviour.

RESOLVED that the conclusion of the Committee be as set out in the Decision Notice attached as Appendix 1 to these Minutes.

COVENTRY CITY COUNCIL

DECISION NOTICE OF ETHICS COMMITTEE

A **Complaint by:** Cllr Tim Mayer
 ("the Complainant")

B **Subject Member:** Councillor Rois Ali

C **Introduction**

1. On 6 November 2018, the Ethics Committee of Coventry City Council considered a report of an investigation into the alleged conduct of Cllr Rois Ali, a member of Coventry City Council. A general summary of the complaint is set out below.

D **Complaint summary**

2.1 The Complainant alleged that Cllr Ali had failed to enter on his Register of Interests a Disclosable Pecuniary Interest (DPI): his ownership of Sudbury House, Upper York Street Earlsdon. Cllr Mayer alleged that Cllr Ali had failed to enter other DPIS on his Register of Interests and that he declared DPIS only after interventions by the Council's lawyers. Cllr Mayer alleged that Cllr Ali's failures in this regard showed "*...pure dishonesty and should be treated as such.*"

2.2 The complaint was referred to Mr Matt Lewin, a barrister practising from Cornerstone Chambers at 2-3 Grays Inn Square, London, for investigation. Following his initial consideration the matter was referred to the Police as it appeared that a criminal offence may have been committed. When the Police confirmed that they would not be taking any action, Mr Lewin resumed his investigation.

2.3 Mr Lewin concluded that Cllr Ali had breached 4 paragraphs of the Code of Conduct namely:
(a) Paragraph 2(f): honesty
(b) Paragraph 3(h): behave in accordance with all legal obligations
(c) Paragraph 5.1(a): register and where appropriate disclose those Disclosable Pecuniary Interests that are required to be declared under the Localism Act
(d) Paragraph 3(j): always treat people with respect.

2.4 In particular Mr Lewin concluded that Cllr Ali:

(a) failed to declare any DPIS within 28 days of his election, in

- breach of Section 30(1) of the Localism Act 2011;
- (b) failed to declare all of his DPIs promptly;
- (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 DPIs 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

15. **Hearing into complaint under Code of Conduct - Councillor W**

The Ethics Committee considered a report of the Chief Executive which detailed a complaint made against Councillor G Williams (the "Subject Member"). The complainant alleged that the Subject Member had breached the Code of Conduct for Elected Members and Co-opted Members.

A formal complaint was made on 5 March 2018 that a comment on social media by the Subject Member had breached the Code of Conduct for Elected Members.

A Stage 1 enquiry was undertaken by the Monitoring Officer. The matter was not able to be resolved by informal resolution and following comments by the Independent Person and a further review by an Independent Investigator, the matter was for consideration by the Ethics Committee to decide whether or not the Subject Member had breached the Code of Conduct for Elected Members and, if so, what sanctions should be applied.

The Committee considered the following:

- a) Presentation of the Investigation report
- b) Presentation of the Subject Member's response to the Investigation report
- c) Summing up from both the Investigation Officer and the Subject Member
- d) Views and submissions of the Independent Person

The Committee then determined the complaint and concluded that the Subject Member had not breached the Code of Conduct for Members.

RESOLVED that the conclusion of the Committee be as set out in the Decision Notice attached as Appendix 1 to these Minutes.

APPENDIX 1

COVENTRY CITY COUNCIL

DECISION NOTICE OF ETHICS COMMITTEE

A **Complaint by:** Councillor John Mutton
("the Complainant")

B **Subject Member:** Councillor Glenn Williams

C **Introduction**

1. On 6 November 2018, the Ethics Committee of Coventry City Council considered a report of an investigation into the alleged conduct of Cllr Glenn Williams, a member of Coventry City Council. A general summary of the complaint is set out below.

D **Complaint summary**

2.1 The Complainant alleged that Cllr Williams had tweeted a comment on social media that was a deliberate misrepresentation of what Cllr Mutton had said during a radio interview and used this to assert that Cllr Mutton was ignorant of the facts. Cllr Mutton had raised the matter informally with the Monitoring Officer who had asked Cllr Williams to delete the tweet and apologise. Cllr Williams was unwilling to do this and so, on 5 March 2018, Cllr Mutton submitted a formal complaint.

2.2 The Monitoring Officer conducted an initial review of the complaint and concluded that, while Cllr Williams' comments were misleading, his misinterpretation was not deliberate. She recommended no further action but recommended that Cllr Williams should be more careful when tweeting and be clear on his facts before so doing.

2.3 The matter was not able to be resolved by informal resolution and following comments by the Independent Person, a further review of the complaint was carried out by an Independent Investigator, Andrew Kinsey of Solihull Metropolitan Borough Council. Mr Kinsey concluded that the matter had not reached the threshold required to be considered as a potential breach of the Code of Conduct and that it was therefore not in the public interest to pursue the matter further. He did, however, suggest that, in the light of the comments of the Independent Person and the failure to agree an informal resolution, the Monitoring Officer could consider referring the matter for a hearing.

2.4 The hearing was therefore concerned with whether Cllr Williams' comments in his tweet breached the Code of Conduct in the following

respects:

- (a) *Paragraph 3(i): Value my colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government; and*
- (b) *Paragraph 3(j): Always treat people with respect, including the organisations and public I engage with and those I work alongside.*

E Hearing

3.1 The Ethics Committee consisted of:

- Cllr Allan Andrews
- Cllr Linda Bigham
- Cllr Damian Gannon

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 has reached with regard to whether there had been a breach or breaches of the Code.

3.2 Cllr Williams attended the hearing.

3.3 Ms Julie Newman, the Monitoring Officer attended the hearing, along with Mr Kinsey. Ms Newman outlined her investigation and her conclusions. She answered questions from both the Committee and from Cllr Williams. Cllr Mutton was present and made a statement explaining his concerns about the tweet.

3.4 Cllr Williams presented his case. He said that he accepted the transcript of the radio interview with Cllr Mutton but felt it was a pity that a recording was not available since he felt that it was the tone of way that Cllr Mutton talked about Band D property owners that was important. He had listened to the recording several times and this only strengthened his view about what Cllr Mutton had said. He did not feel the need to apologise or to delete the tweet. Cllr Williams said that he respected that Cllr Mutton had deeply held principles and beliefs which were very different from his. He was always prepared to engage in political debate with others but he was entitled to his opinion and should not be silenced. He had been asked to delete tweets before and had done so but not on this occasion because he felt that Cllr Mutton had, in his interview, not been prepared to acknowledge that some people in Band D properties could be struggling financially.

F Consultation with Independent Person

4.1 The Independent Person, Ms Ann Barton was asked for her opinion on the complaint. She referred the Committee to her written opinion at page 71 of the Committee papers. This can be summarised as follows:

- 4.2 Ms Barton had not heard the radio interview because it was no longer available. The transcript of the radio interview did not indicate that Cllr Mutton had suggested that Band D property owners were wealthy, neither did he refer to any members of the community in terms of their “class”. In her view he had tried to give the facts and did not appear to her to have given any indication that he was “ignorant” of the facts. Ms Barton felt that an investigation would establish whether Cllr Williams had misrepresented what Cllr Mutton had said and what evidence he had to support his statement. She felt it would give an opportunity to establish whether Cllr Williams had established the facts about Cllr Mutton’s beliefs and values before deciding to tweet. Ms Barton also thought that an investigation would help to show whether Cllr Williams’ tweet was malicious in intent or was in fact justified.
- 4.3 In addition Ms Barton stressed that she felt that it was the content of Cllr Williams’ tweet that should be considered in connection with the hearing and not the transcript of Cllr Mutton’s interview.

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 Williams had breached Paragraphs 3(i) and 3(j) of the Code of Conduct:***

The Committee found that Cllr Williams had not breached the requirements in Paragraphs 3(i) and 3(j) to value colleagues and staff and engage with them in an appropriate manner and to always treat people with respect.

G Reasons

6.1 **The Committee’s reasons for reaching its decision are as follows:**

- 6.2 The Committee considered that Cllr Williams’ remarks in his tweet were ill-considered and inappropriate. However, given that this was a “political” observation from one elected member about another, it considered that the remarks did not meet the threshold for this to be considered a breach of the Code of Conduct, such threshold being higher for political speech than it is for others.

6.3 **Nevertheless, the Committee recommends** that as this is not the first time that Cllr Williams has been asked to delete his tweets:

- (a) he should undertake social media training at the earliest opportunity; and
- (b) The Monitoring Officer be asked to report back to the Committee on completion of the training.

H Appeal

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

I Notification of decision

8. This decision notice is sent to:
- Councillor John Mutton
 - Councillor Glenn Williams
 - Ms Julie Newman and Mr Andrew Kinsey and
 - Ms Ann Barton

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

J Additional help

9. 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

16. **Complaints to the Local Government and Social Care Ombudsman 2017/18**

The Committee noted a report of the Deputy Chief Executive, People, which set out the number, trends and outcomes of complaints to the Local Government and Social Care Ombudsman 2017/18 (LGSCO).

The LGSCO was the final stage for complaints about councils, all adult social care providers (including care homes and home care agencies) and some other organisations providing local public services. It was a free service that investigated complaints in a fair and independent way and provided a means of redress to individuals for injustice caused by unfair treatment or service failure.

The City Council's Complaints Policy set out how individual members of the public can complain to the Council as well as how the Council handled compliments, comments and complaints. The Council informs individuals of their rights to contact the LGSCO if they are not happy with the Council's decision after they have exhausted the Council's own complaints process.

The LGSCO issued an annual letter to the Leader and Chief Executive of every Council summarising the number and trends of complaints dealt with. The latest letter covered complaints to this Council between April 2017 and March 2018 (2017/18) and was appended to the report together with the City Council's Complaints Handling Guidance and the LGSCO investigation decisions for 2017/18.

17. **Code of Conduct Update**

The Committee noted a report of the Director of Finance and Corporate Services which updated the Committee on national issues in relation to the ethical behaviour of elected members and the local position in respect of Code of Conduct issues.

18. **Six Monthly Review of Officers' Gifts and Hospitality**

The Committee noted the regular six-monthly update report of the Director of Finance and Corporate Services which set out the entries in the Register of Officers' Gifts and Hospitality.

19. **Six Monthly Review of Members' Declarations of Gifts and Hospitality**

The Committee noted the regular six-monthly update report of the Director of Finance and Corporate Services which set out details of declarations of gifts and hospitality made by members since 29 March 2018.

20. **Review of Guidance on Gifts and Hospitality for Members**

This matter was deferred to the next meeting of the Committee.

21. **Guidance on Declarations of Interests**

The Committee considered a report of the Director of Finance and Corporate Services which set out the guidance and information on registering and declaring interests currently available to members and made suggestions as to how this might be approved.

RESOLVED that the Committee delegate authority to the Monitoring Officer:

- (a) To update and streamline the 'Frequently Asked Questions' section as set out in the report.**
- (b) To produce a step by step guide to declarations of interests**
- (c) To delete the hard copy of register of interests form and guidance notes from the Member information pages of the Intranet.**
- (d) To present the revised and new documents to a future meeting of the Committee for approval and to make any recommendations for changes that it considers appropriate.**

22. Work Programme for the Ethics Committee

The Committee noted the Work Programme.

23. Any other items of public business which the Chair decides to take as matters of urgency because of the special circumstances involved

Vote of Thanks

The Committee conveyed their thanks to Ruth Wills, Independent Person, who had chaired the Meeting for the matters referred to in minutes 14 and 15 above.

(Meeting closed at 2.30 pm)