Coventry City Council
Minutes of the Meeting of Ethics Committee held at 10.00 am on Friday, 8 July 2022

Present:

Councillor P Hetherton
Councillor M Mutton
Councillor S Nazir
Councillor P Seaman

Independent Person: P Wiseman (Chair)

Other Members: Councillor A S Khan

Employees (by Service Area):

Law and Governance: J Newman (Director), S Bennett, S Harriott

Others Present: R Foster, Browne Jacobson LLP Solicitors (via hybrid)

Apologies: Councillor S Walsh and D Welsh

Public Business

11. Declarations of Interest

There were no declarations of interest.

12. Chair of Meeting

In accordance with the Committee's standard procedure for Code of Conduct Hearings, the meeting was chaired by Peter Wiseman, Independent Person.

13. Hearing into Alleged Breach of the Code of Conduct

The Ethics Committee considered a report of the Director of Law and Governance which detailed complaints made against Councillor AS Khan (the "Subject Member"). The complainants made a number of allegations including that that the Subject Member had breached the Code of Conduct for Elected Members by "seeking to exert influence over officers in the Council with a view to receiving preferential treatment"

A Stage One review of the complaints concluded that an Independent Investigator should be appointed to investigate the complaints. An Independent Investigator was duly appointed to carry out the investigation and produced a report which concluded that one of the complaints did not engage the Code of Conduct and was not therefore considered in the investigation. The Investigator put the remaining complaints into three categories, which were numbered Allegations One, Two and Three in her report. She found that there was no evidence on the

balance of probabilities to substantiate Allegations One and Three. However, she found that there was evidence to confirm that
Allegation Two was founded on the balance of probabilities.

The Committee carefully 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) Written views and submissions of the Independent Person

The Committee then determined the complaint and concluded:-

1) That they concurred with the Investigating Officer and that there had been no breaches of the Code of Conduct in relation to Allegation 1 for the reasons set out in the Investigation report

2) That, whilst they recognise the influence of the Subject Member, they did not consider that the Subject Member's actions were seeking to use his position to influence officers but rather were to inform and be transparent in relation to the issues he was facing and that therefore that there had been no breaches of the Code of Conduct in relation to Allegation 2

3) That they concurred with the Investigating Officer and that there had been no breaches of the Code of Conduct in relation to Allegation 3 for the reasons set out in the Investigation report

Having considered these matters, the Committee considered that there should be more guidance and clarity for elected Members when dealing with matters that relate to their own personal interests that need to be raised with the Council.

RESOLVED :-

1) That the conclusion of the Committee in relation to this matter be as set out in the Decision Notice as attached as Appendix 1 to these Minutes.

2) That the provision of more guidance and clarity for elected Members when dealing with matters that relate to their own personal interests that need to be raised with the Council becomes part of the Ethics Committee Work Programme for 2022/23 to be addressed in the Officer/Member protocol.

14. **Any Other Items of Urgent Public Business**

There were no other items of urgent public business.

(Meeting closed at 1.45 pm)

APPENDIX 1

COVENTRY CITY COUNCIL

DECISION NOTICE OF ETHICS COMMITTEE

A **Complaint by:** Persons A, B and C
("the Complainants")

B **Subject Member:** Councillor Abdul Salam Khan

C **Introduction**

1. On 8 July 2022, the Ethics Committee of Coventry City Council considered a report of an investigation into alleged breaches of the Council's Code of Conduct for Elected and Co-opted Members (the "Code of Conduct") by Cllr Abdul Khan, a Member of Coventry City Council. A general summary of the complaint is set out below.

D **Complaint summary**

2.1 The complaints are against Councillor Abdul Salam Khan (the "Subject Member") and relate to a boundary dispute.

2.2 The Complainants have alleged the following:

1. Allegation One: when the Police were called to the properties regarding the boundary dispute on 3 April 2021, that the Subject Member said that he knew the Superintendent/Sergeant, would not be arrested and no action would be taken;

2. Allegation Two: the Subject Member sought to exert influence over officers in the Council with a view to receiving preferential treatment; and

3. Allegation Three: the Subject Member used his position to seek to persuade the neighbours to sell him land, on the basis that the Subject Member could secure planning permission for them in the event that they agreed to his proposal, alternatively that he would 'make life hell' for them in relation to planning if they did not.

2.3 Rosalind Foster, a Partner with Browne Jacobson LLP Solicitors, was appointed to carry out the investigation in the role of Independent Investigator (the "Investigating Officer"), and produced a report, dated 28 February 2022 (the "Investigator's Report"). The Investigating Officer did not uphold Allegations One and Three but in respect of the Allegation Two found that on the balance of probabilities the Subject Member had breached the Code of Conduct by primarily seeking to

exert influence over officers in the Council with a view to receiving preferential treatment.

2.4 The hearing was therefore concerned with the Committee:

(1) Hearing the complaints against the Subject Member and determining whether he has breached the Code of Conduct in relation to any or all of the complaints;

(2) If the Committee considered that there has been a breach or breaches of the Code of Conduct, determining what sanction or sanctions, if any, should be applied; and

(3) Authorising the Monitoring Officer, in consultation with the Chair of Ethics Committee, to publish the Full Decision on the Council's website at the same time that copies are made available to the parties to the hearing.

E Hearing

3.1 The Ethics Committee consisted of:

- Cllr Shakila Nazir
- Cllr Mal Mutton
- Cllr Patricia Seaman
- Cllr Patricia Hetherton

The hearing was chaired by Peter Wiseman, one of the Council's Independent Persons. Mr Wiseman 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 of Conduct.

3.2 Cllr Khan attended the hearing.

3.3 The Independent Investigator, Ms Foster attended the hearing virtually. Ms Foster outlined the evidential landscape and background to the investigation, the investigation itself and her conclusions. She expressed that the three allegations were distilled in paragraph 16 of her Report. She stressed that she had reviewed a large amount of evidence and her findings were based upon the written evidence, and less weight was given to the witness testimonies. She clarified that she only investigated matters relating to the Code of Conduct and that any matters in relation to Planning, determination of the Civil issues in dispute and / or potential Criminal Offences were beyond her remit. She answered questions from both the Committee and from Cllr Khan.

3.4 Cllr Khan presented his case. He gave some background to the dispute and indicated that the property belonged to his son but that he was advocating on his behalf. He stated that the neighbour had undertaken a number of works without permission / in breach of Planning Control and that the situation had escalated and Police had been called more than once. He said that the individual identified as Person H in the

Investigator's Report (ie the spouse of the Owner of the neighbouring property and a Witness) was an unreliable witness. He said that Person H had lied in their witness evidence, and he stood by this.

3.5 In relation to the Allegations, he said the following:

1. Allegation One:

   The Subject Member said that he had no special relationship with the Police, despite his position as Cabinet Member for Policing and Equalities. He said that he did not know the officers who attended at the properties, and he denied making comments about taking a Superintendent / Sergeant for dinner.

2. Allegation Two:

   The Subject Member denied that he sought to exert influence over officers in the Council with a view to receiving preferential treatment. He said that he contacted the Council because the Council was the proper authority to deal with the issues raised in his communications which included issues in respect of the Temporary Stop Notice on the neighbouring land and potential breaches of the same. He expressed that he was open and transparent about his interest in the property and dealt properly with Officers and was not trying to communicate in a "sideways" manner. He stated that it is standard practice to inform the Leader of the Council and Chief Executive Officer if there are any challenging issues that may make it to the press.

3. Allegation Three:

   The Subject Member denied using his position to seek to persuade the neighbours to sell him land in the way as alleged or at all. He said that he did not sit on the Planning Committee, never had, and had no influence over their decision making as they were completely separate from his decision-making responsibilities. If anything was said about his position by a third party, this statement was made without his authority and he could not be held responsible for this.

F Consultation with Independent Person

4.1 The Independent Person, Steve Atkinson was not present for the hearing and sent his apologies. His pre-written evidence was relied upon. The Monitoring Officer read this to the Committee. It was noted that he had not heard the evidence that was presented orally at the Committee.

4.2 Mr Atkinson concurred with the findings of the Investigating Officer in the Investigator's Report, particularly with regard the findings in respect

of Allegation Two.

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 Khan had breached the Code of Conduct in relation to any or all of the complaints:***

Having carefully considered the Investigator's Report and submissions at the hearing of Ms Foster and Cllr Khan as well as the comments of Mr Atkinson on the Investigator's Report, the following conclusions were made:-

1. Allegation One – the Committee concurred with the Report of the Independent Investigator and considered that the allegation did not meet the threshold for this to be considered a breach of the Code of Conduct.

2. Allegation Two – the Committee recognised the influence of the Subject Member however it did not consider that his actions were seeking to use his position to influence Officers but rather he was informing and being transparent in relation to the issues he was facing. The Committee therefore did not agree with the findings in the Report of the Independent Investigator and considered that the allegation did not meet the threshold for this to be considered a breach of the Code of Conduct.

3. Allegation Three – the Committee concurred with the Report of the Independent Investigator and considered that the allegation did not meet the threshold for this to be considered a breach of the Code of Conduct.

G Reasons

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

6.2 The Committee were clear that it did not matter who the Subject Member was, their focus was on the three salient points at Paragraph 16 of the Investigator's Report, namely Allegations One, Two and Three.

The Committee noted that the Subject Member had detailed some of the background to the events in the Investigator's Report, which provided some context and suggested that there were challenging circumstances in the background (although it was appreciated that none of the Complainants had attended and given oral evidence).

1. Allegation One – the Committee agreed that there was no

evidence to substantiate this allegation, as outlined by the Investigating Officer, who said that a witness alleged that the Subject Member made comments about knowing the Superintendent / Sergeant but there was no documentary evidence to support this.

2. Allegation Two – when interacting with Officers the Subject Member was honest and said he had an interest in the property, and this is also declared on his Register of Interests. He was therefore open and transparent. The Officers contacted by the Subject Member do not appear to have been unduly influenced from the way that they responded. The Committee considered that lots of Councillors are involved in disputes at some point. These are difficult to prove because it is often one person's word against another. The Committee agreed that it is standard practice at Coventry City Council for Councillors to keep the Leader of the Council and Chief Executive Officer updated if there is an issue that could potentially be high profile. The Committee felt that the opinion of the Investigating Officer in relation to the tone of the email, dated 30 March 2021 was subjective and unsubstantiated. The Committee concluded that on their reading, the email does not amount to an instruction but a request for clarification from a position of frustration where there has been a perceived injustice. The Committee commented that there should be more guidance and clarity for Elected Members when dealing with matters that relate to their own personal interests that need to be raised with the Council as there does not appear to have been any other way that the Subject Member could have expressed his concerns.

3. Allegation Three – the Committee agreed that there was no evidence to substantiate this allegation, as outlined by the Investigating Officer who said that a witness alleged that the Subject Member made comments about influence at Planning Committee. The Investigating Officer saw footage of a heated argument where comments were made. However none of these comments came from the Subject Member directly and he cannot be held responsible for unauthorised statements made.

6.3 The Committee further added that having considered these matters it considered that there should be more guidance and clarity for Elected Members when dealing with matters that relate to their own personal interests that need to be raised with the Council.

The Committee recommends: that this issue becomes part of the Ethics Committee Work Programme to be addressed in the Officer/ Member Protocol.

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:

- The Complainants
- Councillor Abdul Khan
- Ms Ros Foster
- Ms Julie Newman
- Steve Atkinson

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

8 July 2022