

---

19 December 2014

**Name of Cabinet Member:**  
Ethics Committee

**Director Approving Submission of the report:**  
Executive Director of Resources

**Ward(s) affected:**  
None

**Title:** Code of Conduct update

---

**Is this a key decision?**  
No

---

**Executive Summary:**

This report updates members of the Ethics Committee on any national issues in relation to the ethical behaviour of elected members and the local position in Coventry with regard to Code of Conduct issues. It also sets out actions taken in connection with Code of Conduct matters arising from the previous meeting of the Committee.

**Recommendations:**

The Ethics Committee is recommended to:

1. Note the cases determined under the new regime nationally and delegate any actions arising from these to the Assistant Director for Legal and Democratic Services in consultation with the Chair of the Ethics Committee; and
2. Note the local position relating to the operation of the Council's Code of Conduct and to delegate any actions arising from these to the Assistant Director for Legal and Democratic Services in consultation with the Chair of the Ethics Committee.

**List of Appendices included:**

Appendix: Decision Notices of Cases Considered in Report

**Other useful background papers can be found at the following web addresses:**

None

**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?**

No

## **Report title: Code of Conduct update**

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

1.1 The Council's Ethics Committee agreed that the Monitoring Officer would provide a regular update on cases relating to the Members' Code of Conduct on a national basis. This is to facilitate the Ethics Committee's role in assisting the Council with its duties under section 27 of the Localism Act 2011 to promote and maintain high standards of member conduct.

### **1.2 The national picture**

1.2.1 Since the abolition of the Standards Board for England, national statistics and case reports are no longer collated. Therefore the cases reported are taken from general research.

1.2.2 Cases reviewed include consideration of alleged breaches of bringing the office of councillor or the Council into disrepute, misuse of Council resources and bullying or abusive behaviour. There is also a short report on a possible prosecution of a councillor with another authority for alleged offences under the Localism Act 2011 which could be the first of its kind, and one where a council and fire authority are taking action against a councillor in his personal capacity. The cases also include an update on the issue of notices by the Secretary of State for alleged breaches of the Local Authority Publicity Code, which were referred to at the last meeting of the Committee on 29<sup>th</sup> August. Extracts from the published record of cases, where available, have been attached as an Appendix to this report if members wish to view the cases in more detail.

#### **1.2.3 Wigan Council: Bringing Office or Council into Disrepute and Misuse of Council Resources**

On 5 September 2014, Wigan Council's Standards Ad Hoc Sub Committee issued a decision notice in relation to a complaint against a Wigan councillor. The Councillor was found to have breached the Code of Conduct by conducting himself in a manner which could reasonably be regarded as bringing his office or the Council into disrepute and by misusing council resources.

The Councillor used his Council issued mobile phone to make premium rate calls and sent inappropriate text messages in direct contravention of the Council's Acceptable Use of IT Policy. Despite the Council's policy in this respect having been communicated to the Councillor on at least two occasions, he continued to make premium number calls at a substantial cost to the Council. It was not until challenged directly by the Chief Executive about the high cost of his bills that he arranged to reimburse the Council for the costs incurred.

The Investigating Officer had pointed out that if an employee had behaved in this way, they would have been subject to disciplinary proceedings and could face dismissal. The Committee imposed a long range of sanctions including withdrawing the councillor's access to the internet via the Council's ICT facilities until the end of his current term of office and intercepting and vetting of any emails sent by the

councillor to officers. Full details of the sanctions are set out in full in the Appendix and reflect the fact that this was not the first time the councillor had been investigated and found guilty of a breach of the Code of Conduct.

#### **1.2.4 Wigan Council: Bullying or Abusive Behaviour and Bringing Office or Council into Disrepute**

On 7 October 2014, Wigan Council's Standards Ad Hoc Sub Committee issued a Decision Notice in relation to a complaint against a Wigan councillor. The Councillor was found to have breached the paragraphs of the Code of Conduct relating to bullying or abusive behaviour and bringing his office or the Council into disrepute.

The Committee concluded that the Councillor had acted improperly by behaving in an intimidating manner towards a council employee one evening when she was not at work but out with her daughter.

The Committee did not impose any sanction on the Councillor other than to publish the decision because a number of other cases against him were yet to be considered. The final set of sanctions is set out in 1.2.5 below.

#### **1.2.5 Wigan Council: Bringing Office or Council into disrepute**

On 21 October 2014, Wigan Council's Standards Ad Hoc Sub Committee issued a decision notice in relation to a complaint against the same Wigan councillor referred to in 1.2.4. The Councillor was found to have breached the Code of Conduct by conducting himself in a manner which could reasonably be regarded as bringing his office or the Council into disrepute.

The Committee decided that the councillor had acted improperly by visiting the complainant at his home and place of work and engaging in a heated exchange with him. Whilst the Committee accepted that councillor had been provoked to a certain extent, his behaviour fell below that which was expected of an elected representative.

The Committee considered a number of other cases against the Councillor and on 4<sup>th</sup> November imposed the following sanctions in connection with a total of 6 cases:

- (a) The formal Decision Notice of the outcome of the hearing is to be published on the Council's website and details of the outcome in a newspaper circulating in the Hindley Green area;
- (b) The Member be asked to submit unconditional written apologies (assisted by the Monitoring Officer) to all those who have been offended, which the Council may publicise for circulation to all the complainants by 5th December 2014;
- (c) That a report is to be submitted to the Standards Committee and Council setting out the outcome from the hearing and noting whether the Member has submitted written apologies to the Monitoring Officer;
- (d) That the report to Council include a recommendation that the Member be censured;

- (e) The Member is to engage with a programme facilitated by an external provider that will address his issues and behaviour with a signed agreement as to what outcomes are to be achieved. This is to be done within six months of receipt of his apologies;
- (f) Due to his continued pattern of unreasonable behaviour, it is to be recommended that the Councillor continues to engage with specialist support to help him address his issues;
- (g) The Sub Committee endorsed the process whereby all emails the Councillor sends to officers continue to be managed before delivery to the officer. They should only be forwarded on to the relevant officer to respond to if they are respectful and courteous and do not contain abuse, rudeness or ridicule and are not considered to be harassing either in the content of the email or volume of emails he sends to the officer. Officers are to respond to emails from the Councillor only to the Councillor's Council email address;
- (h) Having particular regard to the nature and pattern of bullying behaviour consistently shown, the Sub Committee endorsed the process whereby any contact by the Councillor with Council officers should be restricted to emails, except for urgent matters requiring an immediate response, which may be made by telephone, but only to a named officer or officers supplied to him by the Council, from time to time;
- (i) That the removal of the Councillor's ability to support Brighter Borough applications for funding be continued until the end of his current term of office in May 2016, or if the Councillor complies with the remaining sanctions and exhibits markedly improved behaviour, the Sub Committee may meet to consider whether it should be reinstated;
- (j) That the Councillor on line biography be removed from the 'Your Councillor' page on the Council website;
- (k) Failure by the subject Member to abide by the sanctions will trigger a re-convened Sub Committee before the New Year so that further actions may be considered should the Member fail to comply with the above requirements. The potential sanctions may include, but will not be not limited to, for example, recommending to Council that the Councillor be withdrawn from the Confident Place Scrutiny Committee and that any Council resources such as IT be removed.

#### **1.2.6 Stoke on Trent City Council: Bringing Office or Council into disrepute**

On 13 October 2014, Stoke on Trent City Council's Hearings Panel issued a decision notice in relation to a complaint against a Stoke councillor. The Councillor was found to have breached the Code of Conduct by conducting himself in a manner which could reasonably be regarded as bringing his office or the Council into disrepute.

The Panel decided that the Councillor had behaved improperly in sending a series of texts to a local radio debate programme using false names. The texts were in

support of council policies and criticised opposition councillors. It is understood that an employee of the radio station recognised the councillor's telephone number when he was texting under false names. The Panel decided that, as well as publicising its decision, the Councillor should be reprimanded and undertake training. His political group was recommended to not permit him to sit on Cabinet or act as chair of any committee for the rest of the municipal year.

### **1.2.7 Dorset County Council and East Dorset District Council**

The Crown Prosecution Service has authorised the police to institute proceedings against the leader of Dorset County Council for three offences under the Localism Act. The Councillor was accused of three offences under sections 31 and 34 of the 2011 Act. These offences relate to the Councillor's involvement with East Dorset District Council as well as the county.

It is alleged that whilst the Councillor was leader of East Dorset District Council, he failed to declare his interest in Zebra Property Solutions LTD, a company for which he was a Non-Executive Director. It is also alleged that he failed to declare his interest in the same company to Dorset County Council. The third allegation relates to the Councillor failing to disclose his interest in Synergy Housing Ltd, a company in which he was also a Non-Executive Director, before a meeting of Dorset County Council on 25 February 2013 at which its Core Strategy for the provision of social housing was discussed. It is alleged that the Councillor participated and voted during this meeting.

The Crown Prosecution Service has said that it is satisfied that there is sufficient evidence for a realistic prospect of conviction and that it is in the public interest to prosecute the Councillor for these three offences. At a hearing at Bournemouth Magistrates' Court on 2 December 2014, his solicitor entered not guilty pleas to all three charges. The trial will take place on 24<sup>th</sup> April 2015. If convicted, the Councillor faces a maximum fine of £5000 for each offence and could be disqualified from holding office for up to 5 years. He has now resigned as leader of Dorset County Council.

### **1.2.8. Boston Borough Council and Lincolnshire Fire and Rescue**

The joint deputy leader and finance portfolio holder at Boston Borough Council has been removed from his posts after the authority and the local fire and rescue service brought legal action against him. Boston BC and Lincolnshire Fire and Rescue brought proceedings against a Councillor in his personal capacity for alleged breaches of housing legislation.

Boston's Leader said the decision to remove the Councillor was "good practice in pursuit of continued good governance". The decision was initially pending completion of the proceedings. However, it has become permanent now that the Councillor has left the ruling Conservative group and is an 'unaligned independent'.

Officers will update the Committee at the meeting if any further information is received on this case.

### 1.2.9 Publicity

At its last meeting, the Committee was informed that the Secretary of State for Communities and Local Government had issued notices to 5 local authorities informing them of his intention to issue directions under the Local Audit and Accountability Act 2014. These notices required the authorities to comply with the Code of Recommended Practice on Local Authority Publicity. All of the authorities are alleged to have breached the Code by publishing their newsletters more frequently than quarterly. In addition one authority, Tower Hamlets, is alleged to have breached the Code by publishing a political advertisement. Since then the Secretary of State issued in August letters to a further 7 local authorities and , in late September, issued further notices to 11 of the 12 authorities , advising them that he will issue directions if they do not comply with the Code by 1 January 2015.

### 1.3 The local picture

1.3.1 At its meeting on the 20 February, the Ethics Committee also requested that the Monitoring Officer report regularly on any complaints received relating to Members of Coventry City Council.

1.3.2 The Monitoring Officer has received three new complaints, since the date of the last Committee meeting:

- (a) a written complaint which was found not to have disclosed any evidence of a sustainable complaint/breach of the Code of Conduct against the member. It has been dealt with under Stage 1 of the Complaints Protocol
- (b) another written complaint regarding Disclosable Pecuniary Interests where the Monitoring Officer is currently considering the matter at Stage 1; and
- (c) a written complaint regarding a member's behaviour where the Monitoring Officer is currently considering the matter at Stage 1. The complainant has made a further complaint against the councillor in connection with use of social media and that is also being considered at Stage 1.

1.3.3 All complaints are handled in accordance with the agreed Complaints Protocol. No complaints have been made to the LGO in relation members of Coventry City Council.

1.3.4 Since the last meeting, officers have updated the Code of Conduct training course for members to include information about behaviour and conventions at meetings of full Council as well as guidance on use of social media, as requested by the Committee. The training course due to take place in late September had to be cancelled due to unforeseen circumstances of the external co-trainer and so officers are unable to report back on uptake on the course at this stage. Officers are trying to reschedule the course for early in the New Year. A report back will be made to a future meeting of the Committee.

1.3.5 At its last meeting, the Committee asked that Code of Conduct training should be mandatory for all members. Officers have checked the position and it is already compulsory for all members to attend Code of Conduct training at least every 3 years. The Committee is asked to consider how members can be encouraged to attend the training.

1.3.6 An item appeared in the 10 October edition of the Members' Weekly Bulletin drawing members' attention to the standards cases that were reported to the Committee at its last meeting.

## **2. Options considered and recommended proposal**

Members of the Committee are asked to:

(a) Note the cases determined under the new regime nationally and delegate any actions arising from these to the Assistant Director Legal and Democratic Services in consultation with the Chair of the Ethics Committee; and

(b) Note the local position relating to the operation of the Council's Code of Conduct and to delegate any actions arising from these to the Assistant Director, Legal and Democratic Services in consultation with the Chair of the Ethics Committee.

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

3.1 There has been no consultation as there is no proposal to implement at this stage which would require a consultation.

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

4.1 Not relevant

## **5. Comments from Executive Director, Resources**

5.1 Financial implications

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

5.2 Legal implications

There are no specific legal implications arising from this report. The issues referred to in this report will assist the Council in complying with its obligations under section 27 of the Localism Act 2011.

## **6 Other implications**

None

**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?**

There is no direct risk to the organisation as a result of the contents of this report.

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

No direct impact at this stage

**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 at this stage

**Report author(s): Carol Bradford**

**Name and job title:** Solicitor, Place & Regulatory Team, Legal and Democratic Services

**Directorate:** Resources

**Tel and email contact:** 02476 833976 [carol.bradford@coventry.gov.uk](mailto:carol.bradford@coventry.gov.uk)

Enquiries should be directed to the above person.

| <b>Contributor/approver name</b>                                 | <b>Title</b>                                     | <b>Directorate or organisation</b> | <b>Date doc sent out</b> | <b>Date response received or approved</b> |
|--|--|------------------------------------|--------------------------|---|
| <b>Contributors:</b>   |  |                                    |                          |   |
| Gurdip Paddan  | Governance Services Officer                      | Resources                          | 10.12.14                 | 11/12/14                                  |
| Helen Lynch  | Place and Regulatory Team Manager                | Resources                          | 31.10.14                 | 11.11.14                                  |
| <b>Names of approvers for submission:</b> (officers and members) |  |                                    |                          |   |
| Finance: Carolyn Prince  |  | Resources                          | 28.11.14                 | 08.11.14                                  |
| Legal: Christine Forde   | Assistant Director Legal and Democratic Services | Resources                          | 25.11.14                 | 10.12.14                                  |
| Director: Chris West   |  | Resources                          | 10.12.14                 | 11/12/14                                  |

This report is published on the council's website:

[www.coventry.gov.uk/councilmeetings](http://www.coventry.gov.uk/councilmeetings)

## APPENDIX

### 1. WIGAN COUNCIL STANDARDS AD HOC COMMITTEE 5 SEPTEMBER 2014

The Sub Committee considered a report of the Investigating Officer which requested Members to consider allegations against a Member that he had breached the Council's Members' Code of Conduct.

The Sub Committee took into account the oral and written representations on behalf of the Investigating Officer, which set out the details of the complaint. The Assistant Director of Finance (the complainant) was called as a witness on behalf of the Investigating Officer and was questioned by the panel. Councillor B did not attend the hearing. At his request the Sub-Committee considered written observations submitted by the Subject Member.

The Sub Committee also took into account written representation of the Subject Member, which set out which of the representations made by the Investigating Officer and her witnesses were disputed by the subject Member.

Having heard all the facts and responses the Sub Committee agreed the following facts:-

- The Subject Member used his Council issued mobile phone to make premium rate calls and sent inappropriate text messages in direct contravention of the Council's Acceptable Use of IT Policy;
- Despite the Council's policy in this respect having been communicated to the subject member on at least two occasions, he continued to make premium number calls at a substantial cost to the Council; and
- It wasn't until challenged directly by the Chief Executive about the high cost of his bills that the subject member arranged to reimburse the Council for the costs incurred.

The Sub Committee then heard further evidence from the Investigating Officer and took account of written submissions submitted by the Subject Member. The Sub Committee was advised that following her investigation into the Subject Member's alleged breach of the Code of Conduct, the Investigating Officer had concluded that the subject Member had breached the following paragraph of the Council's Code of Conduct under the following article:-

- Paragraph 5 – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.
- Paragraph 6 (b) - You must, when using or authorising the use by others of the resources of your authority.

The Sub Committee then invited the Investigating Officer to make representations on the actions to be taken in respect of the breach.

The Investigating Officer advised that any sanction needed to be appropriate and in line with the severity of the breach of the code. She advised that if a member of staff had

behaved in a similar fashion that they would have faced disciplinary proceedings and potential dismissal.

Following consideration of the evidence the Sub Committee was mindful of the fact that this was not the first time that the Subject Member had breached the Code in similar circumstances. In March 2014 he was found in breach of the Code for having accessed pornographic material on his Wigan ICT equipment. The Sub Committee was concerned that the Subject Member had shown no remorse following that decision. To the contrary, even though he knew that he was under investigation for accessing pornography and misuse of IT resources on his Council supplied computer he continued to use his phone in an inappropriate manner clearly demonstrating his contempt for the Council's policies.

The Subject Member's reference to the Sub Committee as a "toothless Neo Nazi style labour kangaroo court" showed his further contempt for the Committee and its role. The Sub Committee also expressed its frustration and disappointment with the Subject Member's attack on the investigating officer who the Sub Committee considered to be a well-qualified and dedicated officer of the Council, undeserving of such vindictive and bullying behaviour.

The Sub Committee considered the action available to it and taking into account the seriousness of the complaint and the requirement that any action should be relevant and proportionate to the complaint, and having consulted with the Independent Person resolved the following actions to be taken.

Resolved: The Sub Committee agrees that the following sanctions are to be imposed:-

- (1) The Subject Member's access to the internet via the Council's ICT facilities be withdrawn from his ICT permissions until the end of his term of office;
- (2) The Subject Member be directed to return any ICT equipment supplied to him by the Council that allows access to the internet and in the meantime any such access be disabled. The equipment be not returned to him before the end of his current term of office;
- (3) All emails the Subject Member sends to officers should be intercepted before delivery to the officer and should only be forwarded on to the relevant officer to respond to if they are respectful and courteous and do not contain abuse, rudeness or ridicule and are not considered to be harassing either in the content of the email or volume of emails he sends to the officer;
- (4) Having particular regard to the discriminatory and sexist nature of the text messages he has sent on his Council supplied mobile telephone any contact by the Subject Member with Council officers should be restricted to emails, except for urgent matters requiring an immediate response which may be made by telephone but only to a named officer or officers supplied to him by the Council, from time to time;
- (5) Having particular regard to the discriminatory and sexist nature of the text messages he has sent on his Council supplied mobile telephone female officers should be made aware that if they receive a telephone call from the Subject Member they should transfer the call to the said named officer(s) of the Council if urgent or, if not urgent, inform the Subject Member that he should make his request by email;

- (6) The Subject Member's Council supplied landline be restricted such that his ability to call premium rate numbers be disabled. If this is not possible his use of such landline should be monitored;
- (7) Because of the discriminatory and sexist nature of the text messages he has sent on his Council supplied mobile telephone the Subject Member be directed to attend equal opportunities training;
- (8) The Subject Member's group leader be informed of this decision and the Sub Committee's concern over his behaviour;
- (9) A press release of the outcome of the hearing is to be published;
- (10) Details of the outcome of the hearing are to be published in a newspaper circulating in the Tyldesley area;
- (11) The formal decision notice of the outcome of the hearing and the investigator's report (excluding the appendices), redacted as considered necessary by the Monitoring Officer, is to be published on the Council's website;
- (12) The formal decision notice of the outcome of the hearing and the investigator's report (excluding the appendices), redacted as considered necessary by the Council's Monitoring Officer, to be submitted to the next meeting of the Standards Committee and Full Council and that Full Council be recommended to censure Councillor B for his misconduct and breach of the Members' Code of Conduct; and
- (13) All sanctions will be monitored and the Sub-Committee should be re-convened, so that further sanctions may be considered, should the Member fail to comply with the above requirements

## **2. WIGAN COUNCIL STANDARDS AD HOC COMMITTEE 7 OCTOBER 2014**

The Sub Committee considered a report of the Investigating Officer which requested Members to consider allegations against a Member that he had breached the Council's Members' Code of Conduct.

The Sub Committee was notified by the Subject Member that he was unable to attend the Hearing but had indicated that he would be represented. The Sub Committee allowed 20 minutes after the advertised time before commencing the meeting, to allow the Subject Member's representative time to attend, but he did not arrive. The Sub Committee then took the decision to hear the matter in the Subject Member's absence.

The Sub Committee considered representations from the Investigating Officer as whether the Hearing should be open to the public or held in private. The Sub Committee also took into account the preference of the witness that the Hearing should be held in private. The Sub Committee had not received notification from the Subject Member as to whether he wanted the hearing to be held in public or private. Following legal advice, the Sub Committee agreed to hold the hearing in private on the grounds that Paragraphs 1 and 2 of Schedule 12a of the Local Government Act 1972 applied (information relating to any individual or which is likely to reveal the identity of any individual) as in this case, discussion would involve details of individual(s), including not just the Subject Member, but the witnesses and individuals referred to in the investigation report.

The Sub Committee took into account the oral and written representations on behalf of the Investigating Officer, which set out the details of the complaint. A Council Officer was called as a witness on behalf of the Investigating Officer.

The Sub Committee agreed the following facts:-

- the Subject member did have a site visit with a Senior Technical Officer Safer Environment and residents on the 18 June at around 1pm;
- on the evening of 18th June 2013, the Subject Member pulled up in his car alongside the Officer and her daughter;
- the Subject Member told the Council Officer about an article in the papers regarding Haigh Hall;
- the Subject Member told the Officer, the Labour Political Group would be out of the next election and that she would be working for him;
- the Subject Member subjected the Officer and her daughter to intimidatory behaviour and their perception of the Council and its Members was now tainted by the experience.

The Sub Committee reached these findings on the balance of probabilities. In doing so the Sub Committee found the witness to be credible. The Sub Committee considered the information provided by the Subject Member, but as he had chosen not to attend, was unable to hear oral evidence from him or question him. The Sub Committee considered that there were inconsistencies in the information provided by Councillor BR.

The Sub Committee considered that the Subject Member had been acting in his official capacity at the relevant time and were advised that following his investigation, the Investigating Officer had concluded that the Subject Member had breached the Code of Conduct under the following two articles:-

- Paragraph 3(1)(b) – You must not bully or be abusive to any person
- Paragraph 5 – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

Following legal advice, the Sub Committee considered additional issues raised by the Investigating Officer that had come to light following his investigation. These issues related to the Subject Member issuing confidential information in respect of this complaint to all Members of the Standards Committee, other Members of the Council and the local press. However, the Sub Committee felt it inappropriate to reach any finding upon these issues at this time.

Having consulted with the Independent Person, the Sub Committee was of the view that the Member had failed to comply with Paragraph 3(1)(b) and Paragraph 5 of the Council's Code of Conduct. The Sub Committee felt, that where further issues were discovered during the course of the investigation, which revealed further potential breaches of the Code of Conduct, those should be put to the Monitoring Officer to give him the opportunity to decide whether the scope of the investigation should be broadened to cover those further allegations and, if so, advise the Subject Member accordingly.

Resolved: The Sub Committee having consulted with the Independent Person agrees:-

- (1) that the formal Decision Notice and the Investigator's report (to be redacted, as considered necessary by the Monitoring Officer, in order to remove personal information), is published on the Council's website;
- (2) that details of the outcome to be published in the press and also in a newspaper circulating in the Hindley Green area;
- (3) that the decision on appropriate sanctions be deferred until the final Hearing of the Subject Member on 4 November 2014.

### **3. WIGAN COUNCIL STANDARDS AD HOC COMMITTEE 21 OCTOBER 2014**

The Sub Committee considered a report of the Investigating Officer that requested the Sub Committee consider allegations against a Member, that he had breached the Council's Members' Code of Conduct.

The Sub Committee had been notified by the Subject Member, that neither he nor his representative would be attending the hearing. The Sub Committee decided to hear the matter in the Subject Member's absence, and in doing so took into account the following matters;

- the Subject Member had been offered a number of opportunities to engage with the process;
- it had been at Subject Member's request (through the Chair of the Standards Committee) that hearings against him take place separately, one per week;
- the complaint had been outstanding for a considerable period;
- the Subject Member had been aware of the date and time set for the hearing for a reasonable time;
- the investigating officer was in attendance and had prepared for the hearing to take place; and
- the hearing had already been postponed on a previous occasion at Subject Member's request.

The Sub Committee then took into account the oral and written representations of the Investigating Officer, which set out the details of the complaint.

The Sub Committee agreed the following facts:-

- the Subject Member did visit the complainants' address;
- the Subject Member did engage in a heated argument with one of the complainants; and
- the Subject Member did attend one of the complainant's place of work.

The Sub Committee reached these findings taking into consideration the information provided by the Subject Member, but as he had chosen not to attend, they were unable to hear oral evidence from him or question him.

Having considered the view of the Investigating Officer, the written statements provided, the response from the Subject Member and the legal advice provided, the Sub

Committee concluded that the Subject Member was acting in his capacity as a Councillor during the incident. This was on the basis that:

- the Subject Member's actions were all related to making representations on behalf of a resident;
- the Subject Member had attended one of the complainant's place of work in his official capacity;
- the Subject Member had attended the complainants' home in response to a request from a neighbour, which related to a Council service; and
- the Subject Member had not denied that he was acting in his official capacity.

Having determined that the Subject Member had been acting in his official capacity at the relevant time the Sub Committee were advised that following his investigation, the Investigating Officer had concluded that the Subject Member had breached the Code of Conduct under the following article:-

- Paragraph 5 – *You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.*

In reaching this conclusion, the Sub Committee took into account the evidence that the complainants' child had been upset by the confrontation. The Sub Committee also took into account that one of the complainants had accepted that he had contributed to the situation escalating into a heated argument. Nevertheless, although provoked by the behaviour of the complainant, the public expected and should receive certain standards of behaviour from a Wigan Councillor and the Subject Member's actions fell below that expected of a Councillor. The Sub Committee felt that in becoming involved in a heated exchange in a public place, and in raising his voice to one of the complainants, the Subject Member had brought his office and the Council into disrepute.

The Sub Committee, having consulted with the Independent Person, resolved the following actions to be taken:

- (1) The formal Decision Notice is to be published on the Council's website;
- (2) Details of the outcome to be published in the press and also in a newspaper circulating in the Hindley Green area;
- (3) The decision on any further appropriate sanctions to be deferred until the conclusion of the final hearing of the Subject Member in November 2014.

#### **4. STOKE ON TRENT CITY COUNCIL HEARINGS PANEL 13 OCTOBER 2014**

The Hearings Panel met to hear and determine a complaint that Councillor S had breached paragraph 5 of the Members' Code of Conduct, which states 'You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute'.

The Panel was informed that Councillor S had contacted the Monitoring Officer prior to the Hearing to confirm that he would not be attending.



A motion moved by Councillor D and seconded by Councillor H that in the interests of expediency the case be considered in Councillor S's absence was carried.

In summary, the alleged breach of the Members' Code of Conduct was that Councillor S had sent texts to a Radio Stoke debate programme under various aliases in support of the City Council and its policies and criticising opposition councillors. On receipt of the complaint, the Monitoring Officer had met with the Independent Person to determine whether or not there was a prima facie breach of the Members' Code of Conduct. It was agreed that there was and the Deputy Monitoring Officer was therefore appointed to undertake an investigation.

The Panel was provided with the Deputy Monitoring Officer's report of the investigation, the Pre-Hearing Process Summary and the proposed order of proceedings, in advance of the hearing. In accordance with the order of proceedings, the Panel considered the report of the Deputy Monitoring Officer. Having considered the report, the evidence presented and having read the submissions made by Councillor S; and having announced their findings – that the complaint made by Councillor C be partly upheld and that Councillor S's actions could be perceived as acting in an official capacity and therefore could be reasonably regarded as bringing his office or authority into disrepute - the decision of the Panel was as follows:-

**Resolved**

- (i) - That Councillor S be reprimanded.
- (ii) - That the Hearings Panel publish its findings in respect of Councillor S's conduct.
- (iii) - That the Hearings Panel reports its findings to Council for information.
- (iv) - That the Hearings Panel recommends to the Leader of the Council that Councillor S holds no Cabinet position or any Chair's position for the remainder of the current municipal year.
- (v) - That the Hearings Panel instructs the Monitoring Officer to arrange and conduct appropriate training for Councillor S.