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24th March 2016

**Name of Cabinet Member:**

N/A - Ethics Committee

**Director Approving Submission of the report:**

Executive Director of Resources

**Ward(s) affected:**

None

**Title:** Code of Conduct update

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**Is this a key decision?**

No

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**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.

**Recommendations:**

The Ethics Committee is recommended to:

1. Note the cases determined under the new regime nationally and request that the the Legal Services Manager, Place and Regulatory in consultation with the Chair of the Ethics Committee, shares the case updates with all elected Members; 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 Legal Services Manager, Place and Regulatory in consultation with the Chair of the Ethics Committee.

**List of Appendices included:**

Appendix 1: Decision Notices in respect of standards hearings held by other authorities

Appendix 2: Decision Notice in respect of hearing held by the Ethics Committee on 30<sup>th</sup> November 2015 and 29<sup>th</sup> February 2016

**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 cover breaches of the individual Council's Code of Conduct in the following areas: failing to treat others with respect, bullying, intimidation of a complainant and bringing the councillor's office or authority into disrepute.

#### **1.2.3 Cllr L: Colchester Council**

In this case Cllr L received a penalty charge notice for parking in a restricted area. He later tweeted about the notice on his Twitter account. A fellow councillor complained about the tweet as he considered that it was targeting officers. Cllr L, on the advice of the Monitoring Officer, deleted his tweet and apologised. He said his tweet was aimed at the parking enforcement company rather than individual employees. The complainant was not satisfied and the matter went to a hearing.

At the hearing the Council's Governance Committee decided that Cllr L had been acting in his personal capacity when he tweeted the remark and so the Code of Conduct did not apply. However the Governance Committee made a number of recommendations regarding training for elected members which arose from the fact that Cllr L was relatively newly elected, he had been offered, but failed to attend, training on the Code of Conduct and he was a member of the Governance Committee itself.

The case shows that the increasing use of social media can lead to complaints about councillors and the importance of training for all members but especially those sitting on standards or ethics committees.

A copy of the Decision Notice is set out in Appendix 1.

#### **1.2.4 Cllr H: Twin Rivers Parish Council**

This was a complaint about a parish councillor where it was alleged that during the course of a discussion on site with another parish councillor, Cllr H failed to treat others with respect, was guilty of bullying behaviour and brought his office or authority in to disrepute.

After investigation, it was concluded that there had been no breach of the parish council's Code of Conduct. What is interesting about this case is that the complaint was made, not by the parish councillor who was alleged to have been bullied, but by another parish councillor who was not present at the meeting and who appears to have made the complaint after a discussion about the matter at a parish council meeting.

The full decision notice is set out in Appendix 1.

### **1.2.6 Cllr B: Oldham Council**

An investigation was carried out on behalf of Oldham Council into a complaint by a member of the public that a councillor:

- (a) Tried to obtain the complainant's email address from others
- (b) Approached the complainant in Manchester city centre
- (c) Approached the complainant on his way home in a manner calculated to intimidate him.

The investigator concluded that there was no breach of the Code of Conduct in connection with points (a) and (b) but that with regard to (c), the councillor had breached the Code by:

- (1) failing to treat the complainant with respect;
- (2) bullying the complainant;
- (3) intimidating someone who was likely to be a complainant in an alleged breach of the Code; and
- (4) bringing their office or authority into disrepute.

The Sub-Committee decided that Cllr Bates had breached the Code of Conduct in respect of (1), (2) and (3) but not (4). The Sub-Committee decided to:

- (i) Publish its findings on the Council's website;
- (ii) Report its findings to Council;
- (iii) Require the councillor to undertake training; and
- (iv) Censure the councillor.

The full decision notice is set out in Appendix 1 to this report.

## **1.3 The local picture**

- 1.3.1 At its meeting on the 20<sup>th</sup> February 2014, the Ethics Committee 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 six new complaints, since the date of the last Committee meeting:

- (a) three complaints about a councillor's behaviour at a council meeting. The complaints have been dealt with under Stage 1 of the Protocol and no further action will be taken;
- (b) a complaint alleging that a councillor had unduly influenced members of a committee in their decision-making. The complaint has been dealt with under Stage 1 of the Protocol and no further action will be taken;
- (c) a complaint about a councillor's behaviour in public. This matter is currently being investigated; and
- (d) a complaint that a councillor disclosed information without authority. This matter is to be resolved by way of an apology and training.

1.3.3 All complaints are handled in accordance with the agreed Complaints Protocol. No findings have been made by the Local Government Ombudsman in relation members of Coventry City Council. No complaints have been received by the Monitoring Officer in respect of Allesley or Keresley Parish Councils.

1.3.4 The Committee will also be aware that since its last meeting it has held a hearing over two days into complaints against two councillors on behalf of various complainants. A copy of the Decision Notice relating to the hearing is attached at Appendix 2.

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

Members of the Committee are asked to:

- (a) Note the cases determined under the new regime nationally and request that the Legal Services Manager ,Place and Regulatory, in consultation with the Chair of the Ethics Committee bring the case summaries to the attention of all elected Members; 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 Legal Services Manager, Place and Regulatory, 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 The case summaries will be shared with all elected Members as soon as possible and in any event before the next meeting of the Committee.

## **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

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This report is published on the council's website:  
[www.coventry.gov.uk/councilmeetings](http://www.coventry.gov.uk/councilmeetings)

## Appendix 1

### 1. Councillor L : Colchester Borough Council

The Committee considered the contents of a report by the Monitoring Officer requesting the Committee to consider a complaint received in relation to Councillor L.

Councillor G had made a complaint regarding a tweet that had been posted by Councillor L on his Twitter account following his receipt of a penalty charge notice for parking in a restricted area. Following a request by the Monitoring Officer, Councillor L had deleted his original tweet and published an apology on his Twitter account confirmed that his post had been aimed at the North Essex Parking Partnership (NEPP) as an organisation rather than at officers.

Councillor G did not find the apology acceptable which prompted the Monitoring Officer to take advice from the Council's Independent Persons who were appointed under the Localism Act to advise on Member Conduct issues. The Independent Persons agreed that, in view of the language used and that Councillor L was a member of the Governance Committee that the complaint should be referred to the Committee in accordance with the Council's Localism Act Arrangements.

The report also included a statement on the complaint from Councillor L and a letter from JN, a former Parliamentary candidate, to the Committee members. Under the Localism Act the Council had a duty to promote and maintain high standards of conduct by members and co-opted members of the authority. In order to discharge this duty the council had adopted a Code of Conduct for Members which set out the conduct expected of members and co-opted members of the authority when they were acting in that capacity.

Councillor L had been elected to the Council in May 2015 and, although the Monitoring Officer had offered all new councillors Code of Conduct training, he had not attended. The Committee needed to decide whether Councillor L's conduct amounted to a breach of the Code of Conduct for Members and if so, after taking advice from the Independent Persons, whether the complaint:

- (a) merited no further investigation
- (b) merited further investigation

The report also gave examples of possible actions available to the Committee in the event it determined that Councillor L's conduct was outside of the remit of the Code of Conduct for Members and that no further investigation was merited.

Councillor G attended the meeting and, with the consent of the Chairman, addressed the Committee. He explained that he did not consider the apology posted by Councillor L to be satisfactory and confirmed his Portfolio Holder responsibilities included the NEPP and, as such, his complaint had not been politically motivated. He voiced his concerns about encouraging abuse of council staff and that Councillor L had failed to acknowledge how his tweet may have been interpreted. He also referred to the comments made by Councillor W and Braintree District Councillor M which, in his view, acknowledged that that the complaint had been justified.



Councillor L attended the meeting and, with the consent of the Chairman addressed the Committee. He explained that he had recognized that the language he had used in his tweet had been offensive and he had regretted it. He also considered that his tweet had been sent in his personal capacity and had not been intended as a criticism of an officer. He referred to a further tweet that he had sent in order to emphasise his apology acknowledging he had been at fault and which had been received by all his followers.

He had been unaware of the complaint until nine days after it had been made and explained that he would have reached out personally to resolve the matter. He had opted to engage a barrister as initially he did not know the nature of the complaint or the identity of the complainant. His statement to the Committee included details of a legal precedent which supported his assertion that he had acted in his personal capacity and he stated his view that the matter would be overturned if it were considered at a tribunal. He considered he had placed on record a full apology for his inappropriate language and he confirmed he would be far more circumspect in future.

Discussion took place regarding the capacity in which Councillor L had been acting and as to whether any action needed to be imposed. Matters of particular consideration related to:

- Councillor L's future membership of the Governance Committee;
- The maintenance of high standards of conduct by members of the Governance Committee;
- The difficult job undertaken by the Civil Enforcement Officers and the instances of violence and abuse experienced by them whilst performing their duties;
- The position of Councillors generally and those other members of the Governance Committee in relation to up to date Code of Conduct training;
- The need to consider an additional requirement for Code of Conduct training in the same way that Licensing and Planning training are deemed to be requirements to membership of the Licensing and Planning Committees;
- The potential for Group leaders to be given the responsibility for ensuring Group members comply with corporate training requirements;
- Councillor L's full apology given in his representation to the meeting;
- The justifiable grounds for the complaint made by Councillor G;
- Councillor L's confirmation that he had intended no criticism of the Civil Enforcement Officers.

RESOLVED (UNANIMOUSLY) that-

- (i) Councillor L had not acted in his capacity as a Councillor;
- (ii) Councillor L be required to undertake training in the Code of Conduct from the Monitoring Officer within a period of 28 days from the date of this meeting;
- (iii) Other Councillors elected in 2015 as well as members of this Committee who had also not attended Code of Conduct training also be invited to do so by the Monitoring Officer within a period of 28 days from the date of this meeting;
- (iv) The Monitoring Officer be requested to report back on Councillors' Code of Conduct training status at the Committee's meeting on 24 November 2015;

- (v) Attendance on at least one Code of Conduct training session be a requirement for future membership of the Governance Committee.

## **2. Councillor H: Twin Rivers Parish Council**

1. Background
  - 1.1 In accordance with arrangements made under Section 28(6) of the Localism Act 2011, the complaint was referred to the Monitoring Officer of East Riding of Yorkshire Council for investigation. Mr JW (Senior Committee Manager) was appointed to investigate.
  - 1.2 The complainant has alleged that Councillor H has behaved improperly in his actions when dealing with a fellow councillor (Councillor B) and has thereby breached the Code of Conduct.
  - 1.3 Since the submission of the complaint Councillor B has resigned from the Parish Council but for ease of purpose he is still referred to as Councillor B throughout this report.
2. Code of Conduct
  - 2.1 The relevant paragraphs of the Code of Conduct as adopted by Twin Rivers Parish Council on 18 September 2012 are paragraphs 2(1), 2(2) and 2(3).
  - 2.2 Paragraph 2(1) states:-  
You must treat others with respect
  - 2.3 Paragraph 2(2) states:-  
You must not bully any person.
  - 2.4 Paragraph 2(3) states:-  
You must not conduct yourself in a manner that could reasonably be regarded as bringing your office or authority into disrepute.
3. The Complaint
  - 3.1 Councillor R, the complainant alleges that on Wednesday 7 January 2015, Councillor H went to Ousefleet play area following a request to attend by Councillor W.
  - 3.2 According to the complainant this was a deliberate attempt to gang up on a member of the public, Mrs X as well as Councillor B who were also at the site.
  - 3.3 The complainant alleges that Councillor H, who was accompanied by his Alsatian dog "went for" Councillor B. Councillor B was accompanied by his son, at the time of the alleged attack.
  - 3.4 The dispute is claimed to have arisen from differing views concerning the play area and the installation of play equipment which Councillors H and W were allegedly against.

- 3.5 The complainant was not a witness to the alleged incident.
- 3.6 The investigation has concentrated on the issues referred to in paragraphs 3.1 to 3.5.
4. Information Received
- 4.1 The Investigating Officer wrote to the various parties including the two persons who were the subject of the alleged incident to seek further information.
- 4.2 In his response Councillor H has confirmed that he attended Ousefleet play area on 7 January 2015. He was walking his dog when Councillor W contacted him to meet at the site in order to review the positioning of a zip wire which had not been agreed by the Parish Council.
- 4.3 He confirmed that whilst there Councillor W spoke with Mrs X, a member of the public but that he was unable to hear any of this exchange.
- 4.4 Mrs X's children were also in the vicinity of the site however they were in a car which was parked a little way away.
- 4.5 Councillor H confirmed that Councillor B was also present however he was not aware whether he was accompanied by a child or not. If Councillor B's child was present he surmised that the child must have been in Councillor B's car.
- 4.6 With regard to the claim that Councillor H "went for" Councillor B with his dog, Councillor H states that his dog 'certainly did not "have a go"', that the dog had been trained to be friendly to people and did not show aggression.
- 4.7 Councillor H spoke to Councillor B about the positioning of the additional zip wire and that its placement would impact on other uses of the field, particularly the available space to position the marquee for the annual village show. During this exchange Councillor H advised that both parties used some strong language when putting their views across but that this was as far as it went.
- 4.8 Councillor H has also advised that as far as he was aware there were no other witnesses to the alleged incident.
- 4.9 In a further response Councillor H has advised that he had never been against the play area and felt it was of great benefit to the community as a whole and willingly took his turn to voluntarily mow the grass around the play equipment.
- 4.10 Councillor H's presence at the play area on 7 January 2015 solely arose because of the need to monitor the development to ensure it complied with the development stipulations. His interest arose from his role of Vice Chairman of the Ousefleet Show Committee.
- 4.11 Councillor W has responded to confirm that she had been in contact with Councillor B by telephone when she had voiced concern about two elements of the play equipment relating to its siting and the fact that there was a funeral scheduled for 14 January 2015 and that she felt it would be appropriate if the work ceased on that date until after the funeral.

- 4.12 She also advised that Councillor B met with her at the site on 7 January 2015 as well as Councillor H. A member of the public, Mrs X, also attended, who spoke with Councillor W.
- 4.13 According to Councillor W, Councillors B and H walked around the corner of the hall onto the main field. Councillor H had his dog with him on a tight lead, however Councillor W was unable to hear the nature of the conversation, nor see them properly.
- 4.14 Councillor W also advised that Mrs X's children were in her car whilst Councillor B's youngest child was also in a car. She believed none of them would have been able to hear the conversation, as being a cold day both cars had their windows shut.
- 4.15 To the best of Councillor W's knowledge Councillor H's dog did not attack Councillor B. Councillor W spoke with Councillor B later on but he did not make any reference to any problems with Councillor H's dog.
- 4.16 Councillor W has also indicated that there may have been two other people adjacent to the site at a farm gate opposite the hall who may have observed Councillors B and H when they wandered around the hall to talk further.
- 4.17 Mrs X has confirmed that she visited the play site on 7 January 2015.
- 4.18 She had visited the play area to check on the progress of the construction and also because she had been telephoned that day because Councillor H had alleged that the location of the play equipment had been moved from the original design.
- 4.19 Mrs X had picked up her children from school at 3.30pm and then driven to the site. On arriving she parked up and started to approach the site staff to discuss how the work had progressed that day.
- 4.20 Councillor W allegedly stopped Mrs X on the ramp to the village hall and started to speak with her. Mrs X was not accompanied by her children who had remained in the car but they could see the exchange but she did not think that they would have been able to hear it.
- 4.21 Mrs X states that Councillor B was also at the site as well as Councillor H who was accompanied by his dog.
- 4.22 Whilst Councillor W was speaking with Mrs X, Councillors B and H walked around the village hall however she did not know if Councillor H's dog had "gone for" Councillor B. She was aware of raised voices but was unable to overhear what was said.
- 4.23 Mrs X was unable to recall whether Councillor B was accompanied by a child or not.
- 4.24 At the start of the exchange there were operatives at the site from Wickstead,

the company that was installing the equipment but they got into their van shortly afterwards. As far as Mrs X was aware there was no one else at the site who may have witnessed the incident.

- 4.25 Councillor B has also responded with his recollection about the incident. He visited the play area on 7 January 2015. Mrs X was present at the site as were her children and Councillors H and W.
- 4.26 The contractors were on site and had commenced the work. There was an issue concerning the placement of some of the play equipment and some people were upset and angry that the development of the play area was proceeding.
- 4.27 On arrival at the site Councillor W confronted Mrs X following which Councillor H started to add his views as well as waving his stick, so Councillor B thought it politic to split the group up and therefore took Councillor H around the side of the village hall to continue the discussion. At this stage Councillor H's dog started to jump and bark which may have looked worse than it was but it was just boisterousness on the part of the dog.
- 4.28 Following this, according to Councillor B, Councillor H calmed down and although he was rude he refrained from raising his voice and using bad language and although the exchange was heated it was a sensible conversation and Councillor H listened to and accepted that elements of the play area scheme were still being worked on and accepted the assurance from Councillor B that the play area was not going to extend the whole width of the field.
- 4.29 As far as Councillor B can recall, other than the participants in the exchange, there were no other witnesses present. He also confirmed that Mrs X's children and his son had stayed in their respective parents' parked cars.
- 4.30 Further information has also been sought from the complainant who has confirmed that Mr and Mrs X and Councillor B had informed him about the incident. It was also discussed at a Parish Council meeting on 20 January 2015 where it was determined that Councillor R should submit a complaint to the Monitoring Officer.

## 5. Findings of Fact

- 5.1 The findings of fact in relation to paragraphs 3.1 to 3.5 above are as follows:-
- (a) Councillor H is a member of Twin Rivers Parish Council.
  - (b) Councillor H met Councillor W at the Ousefleet play area on 7 January 2015.
  - (c) Mrs X, a member of the public, was at the play area on 7 January 2015.
  - (d) Mrs X was accompanied by her two children who were in a nearby parked car.
  - (e) Councillor B was at the play area on 7 January 2015.
  - (f) Councillor B was accompanied by his son who was in a nearby parked car.
  - (g) Councillor H was accompanied by his dog.
  - (h) Councillors B and H wandered off and discussed the play site.
  - (i) Twin Rivers Parish Council has adopted a Code of Conduct.

6. Reasoning
- 6.1 Evidence has been sought to ascertain if Councillor H has broken any elements of the Code of Conduct identified in paragraph 2 of this report.
- 6.2 It has been confirmed by all parties involved that a meeting was held at the Ousefleet play area on 7 January 2015 at which Councillors B, H and W and Mrs X were all present. It has not been possible to confirm with any certainty whether any other witnesses were present. Three of the attendees believe there was no one else in the vicinity. Although there were contract workers on site these were in the process of leaving the site at the time of the meeting. Councillor W refers to the possible presence of two people who may have been able to observe Councillors B and H however this line of enquiry has not been pursued as the statements from both Councillors are not contradictory and therefore would not appear to require any further validation.
- 6.3 The purpose of the meeting was to discuss the development of the play area including concerns that it was encroaching on land beyond its development limit.
- 6.4 Both Councillors B and H have confirmed that following the initial meeting the two of them wandered away from Mrs X and Councillor W continue their own conversation.
- 6.5 Both parties confirm that this was a robust discussion but that both had the opportunity to make their views known and according to Councillor B although heated, it was a sensible exchange following which there appeared to be a semblance of understanding between them as a result of it.
- 6.6 Both parties are also pretty clear in their comments that Councillor H's dog did not "go for" Councillor B; with Councillor B describing the dog as boisterous which he believed from a distance may have looked worse than it in fact was. Councillor W has also advised that Councillor H made no reference to any such incident when she subsequently spoke with him.
- 6.7 From the perspective of the Investigating Officer it is difficult to conclude that Councillor H has breached paragraph 2(1) of the Code of Conduct by treating others with a lack of respect. There appears to have been very limited interaction between Councillor H and Mrs X at the site and no communication exchange that either party refers to.
- 6.8 In terms of the exchange between Councillors B and H both concede that it was a frank exchange but that both parties were able to make their views known and explain their position. According to Councillor B there was a sensible exchange with a degree of understanding achieved on both sides. This exchange does not have the feel of one where there was a lack of respect shown, particularly if both sides were able to get their points of view across. Additionally there is an understanding that at times discussions between politicians can be robust and that this reflects the rough and tumble of political life particularly where parties hold differing views on an issue.
- 6.9 In terms of paragraph 2(2) and the suggestion that Councillor H bullied

Councillor B, this also appears unlikely. Both parties state that there was an exchange of views by both sides. The Investigating Officer feels this would not have occurred if Councillor B felt in any way cowed by Councillor H. The claim that Councillor H's dog may have been used as a means of intimidating Councillor B appears to have been a misunderstanding based upon the boisterousness of the dog rather than any intent on Councillor H's part to use the dog aggressively against Councillor B. Councillor B refers to the lively nature of the dog whilst Councillor W states that no reference was made by Councillor B to the dog being threatening in a later conversation between the two. The Investigating Officer feels that if something as significant as a threat from a dog had been made, then reference would have been made to it by Councillor B in his response to the Investigating Officer and it is also likely that it would be the subject of any conversation that subsequently took place between Councillors B and W. It would appear that the claim is based upon a misinterpretation of the dog's boisterousness.

6.10 It has also been suggested within the complaint that Councillor H has misused his position in that he was against the development of the play area but had not declared his position. There is no requirement for a councillor to declare their position in relation to an issue and they can also continue to hold and maintain such a view as well as pursuing issues to support it. Councillor H has advised that he had not and never had been against the play area which he feels is of great benefit to the community as a whole and that he willingly takes his turn in voluntarily mowing the grass around the play equipment. His actions, such as visiting the site formed part of this role of monitoring the development and ensuring that it complied with the development stipulations which is an entirely appropriate role for him to take.

## 7. Additional Information

7.1 The draft report was circulated to the complainant and Councillor H for their comments.

7.2 In his response Councillor R (the complainant) has stated that:-  
"I did not intend the wording Mr H and his dog went for Mr B to insinuate that Mr H's dog tried to attack Mr B. I meant it in the terms that Miss W went to talk to Mrs X and Mr H with his dog went to talk to Mr B. I am sorry that this wording was misunderstood, and have only just realised it was taken that way on reading this report. Can it be please be made clear to all concerned that it was not my intention that I was accusing Mr H's dog of trying to attack Mr B".

7.3 The Investigating Officer acknowledges the comments relating to Councillor H's dog and that there has been a misunderstanding in relation to the wording of the complaint in relation to Councillor H's dog and therefore the inclusion of this clarification within the report.

7.4 Councillor H, in his response confirmed that he had never been against the proposed play area and that his presence at the site was to monitor the development and ensure it complied with the development stipulations.

7.5 In terms of the impact of these additional comments there is nothing within them

that would alter the findings or conclusions of the Investigating Officer.

## 8. Independent Person's Comments

8.1 A copy of the report was forwarded to the Independent Person for comment and those comments are detailed below at paragraph 8.2

8.2 'The alleged complaint is that Councillor H has behaved improperly when dealing with Councillor B. It is noted the complaint was not actually submitted by Councillor B. Councillor B states in his correspondence with the investigating officer that in relation to the discussion when there were just the two of them that "...although he was rude he refrained from raising his voice and using bad language, in fact although it was heated it was a sensible conversation and Mr H listened...". This does not have the tone of someone who feels he was being 'ganged up on'. The investigating officer refers to the rough and tumble of political life and this seems a pragmatic phrase to encapsulate the exchange of views as neither Councillor has adopted an accusatory tone in investigation replies. The documentation from all parties makes little reference to a dialogue between Councillor H and Mrs X. It appears to have been a very short conversation. He may have been waving his walking stick around whilst talking but Mrs X raises no concern about this in her response to the investigating office dated 22/09/2015. Both that response and the response of Councillor W of 29/08/2015 however, refer to swearing on the part of Councillor W during the exchange between Councillor W and Mrs X. This again does not evidence an intention to 'gang up on' a member of the public on the part of Councillor H. It is the recommendation of the investigating officer that no further action be taken as it has not been established that Councillor H has breached the Code of Conduct of Twin Rivers Parish Council. I endorse this recommendation'.

## 9. Conclusion

9.1 From all the information available it is concluded that there has not been a breach of paragraphs 2(1), 2(2) and 2(3) of Twin Rivers Parish Council's Code of Conduct.

### **3. Councillor B: Oldham Council**

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

The Sub-Committee was advised that, following an investigation into the subject Member's alleged breach of the Code of Conduct, the Investigating Officer had concluded that:

1. In April 2015, Councillor B had more likely than not sought to obtain Mr C's personal email address from PK, Acting District Co-ordinator and LG. Having considered the explanation offered by the subject Member, a reasonable person would not consider there had been any failure to comply with the Code of Conduct in relation to this matter.



2. On 16 April 2015 Councillor B had more likely than not approached Mr C in Manchester City Centre.  
Having considered the explanation offered by the subject Member, a reasonable person would not consider there had been any failure to comply with the Code of Conduct in relation to this matter.
3. In early May 2015, when Mr C was walking home in Failsworth, he had more likely than not been approached by Councillor B in a manner that had been calculated to intimidate him. A reasonable person would consider the subject matter had breached paragraph 3.1, 3.2 (b), 3.2(c) and 5 of the code.

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

The Sub-Committee agreed with the findings of the Investigating Officer with regard to allegations (1) and (2) and RESOLVED that there had been no failure to comply with the Code of Conduct in relation to these allegations.

With regard to allegation (3), Mr C was called as a witness by the Investigating Officer and was questioned by the Subject Member's representative. The Subject Member did not give evidence.

The Sub-Committee took into account all of the oral and written evidence before them, and unanimously found, on the balance of probabilities, that the Subject Member had acted in the manner complained of. The Sub-Committee unanimously found that the Subject Member, in acting in this way, had breached the Code of Conduct in that

1. he failed to treat Mr C with respect (paragraph 3.1),
2. he bullied Mr C (paragraph 3.2(b)) and
3. he intimidated a person who was likely to be a complainant in relation to an allegation that a Member had failed to comply with the Code of Conduct (paragraph 3.2(c))

The Sub-Committee unanimously found that the Subject Member's conduct was not such as to reasonably be regarded as bringing his office or the Council into disrepute.

Neither the Investigating Officer nor the Subject Member wished to make submissions on the matter of sanctions.

RESOLVED –

That the following sanctions be unanimously agreed:

1. The findings (including the Investigating Officer's report, to be redacted by the Monitoring Officer to remove personal data) be published on the website by the Council
2. The findings (and the Investigating Officer's report) be report to the Council for information
3. Councillor B undertake one to one training on the Code of Conduct.

That the following sanction be agreed by the majority (Councillor W dissenting):

1. It be recommended to the Council that Councillor B be censured.

## Appendix 2

### COVENTRY CITY COUNCIL

#### DECISION NOTICE OF ETHICS COMMITTEE

- A**      **Complaint by:** Mishcon de Reya, Solicitors on behalf of  
Arvo Master Funding  
SISU |Capital Limited  
Sky Blue Sports and Leisure Limited  
Otium Entertainment Group Limited ( trading as Coventry  
City Football Club)  
Ms Joy Seppala  
Ms Laura Deering  
("the Complainants")
- B**      **Subject Members:** Councillor Ann Lucas OBE  
Councillor John Mutton
- C**      **Introduction**
1.      On 30<sup>th</sup> November 2015 and 29<sup>th</sup> February 2016, the Ethics Committee of Coventry City Council considered a report of an investigation into the alleged conduct of Cllr Ann Lucas, OBE and Cllr John Mutton, both members of Coventry City Council. A general summary of the complaint is set out below.
- D**      **Complaint summary**
2.      The Complainants made a number of allegations about the behaviour of Cllr Lucas and Cllr Mutton. These can be summarised as follows:
- 2.1      Cllr Mutton's conduct in meetings with Ms Seppala and Ms Deering was unacceptable;
- 2.2      Cllr Mutton failed to declare relevant interests;
- 2.3      Cllr Lucas and Cllr Mutton failed to make decisions in an objective and unbiased way;
- 2.4      Cllr Lucas and Cllr Mutton made public comments which were not appropriate for elected members to make and which were defamatory of, and prejudicial to some or all of the Complainants; and

- 2.5 Cllr Lucas and Cllr Mutton instigated and participated in a public smear campaign against the Complainants through the media.
- 2.6 The grounds for complaint set out at 2.1 to 2.5 above are taken from paragraph 2 of the Complainants' Response to the Investigating Officer's Report where the alleged breaches of the Code are summarised.
- 2.7 In addition, following the publication of the Investigating Officer's report, the Complainants further alleged that the complaints had not been fully or properly investigated by the Investigating Officer and that it was something of a "whitewash". They did not accept the findings in the report which could not be relied upon because it did not reflect a full and fair investigation. In particular there was:
- (a) A misunderstanding of the basis of the complaint;
  - (b) A failure to conduct the investigation properly;
  - (c) A failure to investigate the complaint fully including a failure to request; that Coventry City Council provide all relevant documents;
  - (d) Insufficient consideration and thought given to the relevant evidence;
  - (e) Introduction of and reliance on irrelevant evidence;
  - (f) A failure to apply the relevant law properly; and
  - (g) Reached incorrect or unsound conclusions.

## **E Hearing**

3. The Ethics Committee consisted of:
- Cllr Joe Clifford (Chair)
  - Cllr Allan Andrews
  - Cllr Linda Bigham
  - Cllr Damian Gannon
  - Cllr John McNicholas
- 3.1 The Independent Person, Mr Ken Sloan, attended the hearing.
- 3.2 Ms Joy Seppala and Ms Laura Deering (the Complainants) attended the hearing and were represented by Ms Fiona Laurence of Mishcon de Reya, Solicitors.
- 3.3 Cllr Lucas and Cllr Mutton attended the hearing and Cllr Mutton was accompanied by Cllr George Duggins.
- 3.4 Mr Simon Goacher of Weightmans, Solicitors, the Investigating Officer (IO), attended the hearing.

## **F Consultation with Independent Person**

4. The Independent Person, Mr Ken Sloan, stated in a letter dated 13<sup>th</sup> November 2015 that:

- 4.1 *“In completing his report, Mr Goacher has remained focussed on the allegations brought forward by the complainants insofar as they relate to the Coventry City Council Code of Conduct as adopted by the Council in July 2012. He states on several occasions that there are matters brought forward by the complainants which go beyond the requirements of the Code of Conduct but relates his conclusions only on matters as they pertain to the allegation of breaches of the Code of Conduct.*
- 4.2 *“The report highlights the documents that have been reviewed and the interviews that have been conducted. It states that all parties have had the opportunity to review the notes of their interviews and confirm that the details contained within the notes are accurate.*
- 4.3 *“It is not my role to re-examine or investigate the complaint. I am limiting my comments therefore to whether I have concerns on the report or the manner in which the investigation has been conducted. I can confirm that having read the report I have no concerns regarding it, its conclusions or the manner in which it has been conducted.”*
5. At the conclusion of the hearing the Independent Person was again asked for his views. He made the following points:
- 5.1 At the time the complaint was made, the issue of the timeliness of some of the complaints was raised. He thought it was appropriate to consider these complaints even though the last event complaint of was 2 or 3 years before the complaint was received.
- 5.2 This was a highly complex case and evidence base and it was a significant task for the Committee to come to a decision. He recommended that the Committee bear in mind at all times the opening statement of the Code which talks about the individual councillor agreeing to comply with the Code when undertaking their duties as a councillor. There was no process in the Code for taking into account the actions or roles of other bodies or of council officers. The Committee should be absolutely clear about the part played by Cllr Lucas and Cllr Mutton individually and their actions.

## **F Findings**

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

6.1 ***On the question of whether the investigation and report of the Investigating Officer were flawed:***

The Committee found that the Investigation and report of the Investigating Officer was sufficient for the purposes of establishing whether any breaches of the Code of Conduct occurred.

6.2 ***Whether Cllr Mutton’s conduct in meetings with Ms Seppala and Ms Deering was unacceptable:***

The Committee found that there was insufficient evidence to show that Cllr Mutton’s behaviour was unacceptable and there was no breach of the Code of Conduct.

6.3 ***Whether there was a failure by Cllr Mutton to declare relevant interests:***

The Committee concluded that Cllr Mutton did not fail to declare his interest as it was not one that he needed to declare. There was therefore no breach of the Code of Conduct

6.4 ***Whether there was a failure by both councillors to make decisions in an objective and unbiased way:***

The Committee decided that there was no failure by either councillor to make decisions in an objective or unbiased way. There was therefore no breach of the Code of Conduct.

6.5 ***Whether Cllr Lucas and Cllr Mutton made public comments which were not appropriate for elected members to make and which were defamatory of and prejudicial to some or all of the complainants:***

The Committee did not consider that the comments made by either councillor amounted to a breach of the Code of Conduct.

6.6 ***Whether Cllr Lucas and Cllr Mutton instigated and participated in a public smear campaign against the Complainants through the media:***

The Committee concluded that there is no evidence that either councillor instigated or participated in a public smear campaign against the complainants. There was therefore no breach of the Code of Conduct.

**G Reasons**

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

7.1 ***Finding at Paragraph 6.1***

7.1.1 The Complainants have alleged that the investigation and report of the Investigating Officer were flawed. The Committee heard representations on this point from the Complainants and the Investigating Officer.

7.1.2 The Committee is mindful that the local standards regime as set out in the Localism Act 2011 gives councils a certain amount of freedom in the way in which it investigates complaints about councillors’ behaviour but at the

same time the range of sanctions available to them is significantly smaller and weaker than it was under the previous regime. It is intended to be a light touch regime.

7.1.3 It is against this backdrop that the Committee has considered whether the investigation and report are sufficient for the purposes of coming to a view on whether there have been any breaches of the Code of Conduct.

7.1.4 The Committee has heard the Complainants' arguments that the Investigating Officer should have interviewed other potential witnesses, sought out additional documents and possibly asked additional questions of witnesses who were interviewed. However, it should be remembered that this was the Complainants' complaint and they were afforded every opportunity to put their case, both in writing and in interview. It was for the IO to determine who should be interviewed and the Committee accepts his view that there was no need to interview other witnesses in connection with the complaint. The Committee considers that it was not proportionate to expect the IO to ask the Council for additional documents in order to support the Complainant's case. The Committee also accepts the Investigating Officer's view that any investigation needs to be fair and proportionate bearing in mind the light touch regime that it forms part of.

7.1.5 The Committee has taken note of the Independent Person's views on the adequacy or otherwise of the Investigation and Report and in particular his observation that the Report has remained focussed on those aspects of the Complaint which relate to the Code of Conduct and the behaviour of the individual councillors. The Committee can only deal with these matters and has no authority to rule on complaints about decisions made by the Council itself or by officers. At times the Complaint has strayed into trying to ascribe to Cllr Lucas and Cllr Mutton responsibility for the decisions or actions of others. In this respect the Committee agrees that the Investigating Officer was right to confine his investigation and report to matters which could be dealt with under the Code.

7.1.6 For these reasons the Committee considers that the Investigation and Report are adequate for the purposes of this hearing and it would not be fair or proportionate to require further investigation.

## 7.2 ***Finding at Paragraph 6.2***

7.2.1 The allegation was that Cllr Mutton's behaviour in meetings with Ms Seppala and Ms Deering was unacceptable. He was said to have been "rude, unprofessional, unnecessarily and inappropriately argumentative, aggressive and appeared to be sexist as well."

7.2.2 The Committee has assumed that the allegation is, therefore, that Cllr Mutton breached paragraph 3(j) of the Code of Conduct in that he failed to treat people with respect.

7.2.3 These allegations relate to meetings which took place on 1<sup>st</sup> and 18<sup>th</sup> May and 24<sup>th</sup> July 2012. Ms Seppala and Ms Deering were both present at the

meetings in May. Ms Deering was present at the July meeting. Ms Seppala was not physically present but participated via the telephone.

- 7.2.4 The Committee has not had any evidence produced to it that sets out *why* Cllr Mutton's behaviour was considered to be so unacceptable as to constitute a breach of the Code of Conduct. There is no evidence of what he is said to have said or done to support the allegation, except that he, and Cllr Duggins, had berated both Ms Seppala and Ms Deering for the poor performance of the football club. Cllr Mutton has described this particular incident as a discussion of the "dire" performance of the football club and how things could be turned around. He said that he had not expected Ms Seppala or Ms Deering to apologise for the club's performance as they were not responsible for this.
- 7.2.5 At the hearing Cllr Mutton accepted that he was robust, but not rude, in these meetings. The Committee has also taken note of the accounts of Chris West and Cllr Duggins who were both present at those meetings and who considered that while the atmosphere of the meetings may have been "grumpy" at times, Cllr Mutton had not been rude. The fact that Ms Seppala asked Cllr Mutton to give her a hug after one of the meetings suggests that the relationship between them was not entirely antagonistic.
- 7.2.6 The Committee also noted that although Ms Deering took notes of the three meetings at which Cllr Mutton's behaviour was alleged to be unacceptable, those notes do not record any specific incidents. If Cllr Mutton's behaviour was as bad as has been suggested, the Committee feels that some note might have been taken of it. (pages 145 to 153 of the agenda documents)
- 7.2.7 The Committee has also noted that the Complainants did not complain about the alleged behaviour until nearly three years after the events complained of. While it accepts that the Complainants may not have wanted to make a formal complaint while negotiations were still continuing, the delay in so doing has contributed to a lack of evidence on this aspect of the Complaint.
- 7.2.8 The Committee has therefore concluded that there is insufficient evidence to support the allegation that Cllr Mutton's behaviour was unacceptable.

### 7.3 ***Finding at Paragraph 6.3***

- 7.3.1 The allegation is that Cllr Mutton failed to declare in his register of interests that he was a trustee of the Alan Higgs Centre Trust. The Investigating Officer had concluded that although this was not a disclosable pecuniary interest, it fell to be disclosed under Paragraph 5.1(b) of the Code of Conduct.
- 7.3.2 Paragraph 5.1(b) requires councillors to register details of their membership of any organisation or body whose rules or requirements of membership could be regarded as suggesting a degree of loyalty to that organisation or body. This could arise by reason of an organisation having

an obligation of secrecy about its rules, its membership or conduct and/or a commitment of allegiance or support to that organisation or body. Such organisations or bodies may or may not be charitable concerns and they may also have a local, regional, national or international aspect.

7.3.3 The Committee accepts Mr Goacher's finding that Cllr Mutton, by virtue of being a trustee of the Alan Higgs Centre Trust, did not have a disclosable pecuniary interest as defined by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012/1464.

7.3.4 However, the Committee considered that the wording of paragraph 5.1(b) gives a clear indication that it is intended to apply only to membership of organisations or bodies whose rules or requirements demand a degree of loyalty from its members which is greater than one would normally expect from other organisations or bodies. This view is supported by the example given in the Code to a body that expects its members to keep its rules secret. While as a trustee Cllr Mutton has a number of legal obligations to the Trust, he is not bound to it in the way contemplated by paragraph 5.1(b).

7.3.5 For these reasons the Committee considers that Cllr Mutton did not breach the Code of Conduct as he was under no obligation to register his position as trustee as an interest.

#### 7.4 ***Finding at Paragraph 6.4***

7.4.1 The allegation is that Cllr Lucas and Cllr Mutton failed to make decisions in an objective and unbiased way.

7.4.2 The Committee considers that this aspect of the Complainant's case was not touched upon to any great degree either in the Complainant's original complaint, their response to the IO's report or during the hearing. The Complainant has not indicated which *specific* decisions the two Councillors are alleged to have made in a subjective or biased way and why. There was reference to the decision to make the loan to ACL and the one to sell to Wasps but the Committee recognises that these were decisions of the Council, and were not made by either councillor alone. At best it has been suggested that the fact that both councillors were fans of the football club rendered them incapable of making unbiased and objective decisions. In addition it is suggested that Cllr Lucas and Cllr Mutton's participation in the decision of full Council was biased and lacked objectivity.

7.4.3 The Committee is clear that the Code of Conduct is intended to deal with the behaviour of individual councillors and cannot be used as a means to attack decisions made by the Council itself or any of its decision making bodies, such as Cabinet, committees or individual Cabinet Members. As the IO states in his report at paragraph 82 of his report (page 80 of the agenda documents):  
*"The Code is about Councillors' Conduct and not the quality of their decision making. There may be circumstances where decision making*



*could be so unsound that it becomes a breach of the Code, for example, where a decision is motivated purely by personal or political factors. However, generally the mere fact that a decision is not one which the complainant believes the council should have made is never grounds for a complaint for the Code. Even where a decision is found on JR to have been unlawful it will be rare that this will amount to a failure to comply with the Code, so long as the decision is honestly made.”*

7.4.4 The Committee agrees with the IO’s conclusion at paragraph 83 of his report that *“the Councillors, including Councillors Lucas and Mutton, made the decision which they did because they honestly believed, on professional advice, that it was in the best interests of the Council and the council tax payers.”* (Page 80 of the agenda documents.)

7.4.5 The Committee considers that the IO’s conclusions (at paragraph 90 of his report—page 82 of the agenda documents) that the councillors’ association with the football club did not amount to an interest under the Code of Conduct is correct. No evidence has been produced by the Complainants to show that any interest needed to be declared.

7.4.6 The Committee has therefore decided that there are no grounds for concluding that Cllr Lucas or Cllr Mutton failed to comply with the Code in reaching their decision on the Council’s actions in relation to ACL.

## 7.5 ***Finding at Paragraph 6.5***

7.5.1 The allegation is that Cllr Lucas and Cllr Mutton made public comments which were not appropriate for elected members to make and which were defamatory of and prejudicial to some or all of the complainants.

7.5.2 The Committee has taken note of the table of comments produced by the Complainants as part of their original complaint. (Pages 48 to 53 of the agenda documents) It has, however, only considered those comments which are ascribed to either Cllr Mutton or Cllr Lucas and has not considered the comments which are ascribed in the table to third parties who are not the subject of this hearing. This is because the Committee’s role is to consider whether Cllr Lucas and/or Cllr Mutton have breached the Code of Conduct by their actions, behaviour or words. It is not part of their remit to consider what others may have said.

7.5.3 The Committee accepts that the comments ascribed to Cllr Mutton and Cllr Lucas in table were in fact made by them with the following exceptions:

- The Committee accepts Cllr Lucas’ explanation that the comment that Coventry City Council should only “deal with SISU when hell freezes over” was one that had been put to her by fans of the football club. It was not an expression of her own views and she was merely reporting what had been said to her; and
- The Committee accepts that the question “Could SISU sell to another shyster” was one raised by another councillor at the Labour Group meeting and not made by Cllr Lucas. It also accepts

Cllr Lucas' assertion that this was not an expression she would have used.

- 7.5.4 With regard to Cllr Lucas, apart from the two comments referred to in paragraph 7.5.3 above, four other comments are cited in the table produced by the Complainants, namely:
- A press statement dated 12<sup>th</sup> June 2013
  - An article in the Guardian dated 2<sup>nd</sup> December 2013
  - An article in the Coventry Telegraph dated 27<sup>th</sup> November 2014
  - An article in the Coventry Telegraph dated 15<sup>th</sup> January 2015
- 7.5.5 The Committee accepts Cllr Lucas' assertion that all of these statements were made following advice and input from the Council's press office and legal officers (paragraph 63 at page 75 of the agenda documents). It can find no evidence to suggest that any of these statements were inappropriate as they all relate to the Council's view of the situation at the time. They reflect the Council's policy position and were statements that Cllr Lucas was entitled to make in her position as Leader of the Council. The Committee found no evidence to support the claim that these comments prejudiced the Complainants. While the Committee does not think that is for it to rule on whether any of the statements were defamatory, it does not consider that any of them could be said to be disrespectful.
- 7.5.6 With regard to Cllr Mutton, there are a number of comments referred to in the table produced by the Complainants namely:
- An article in the Independent dated 21<sup>st</sup> April 2012
  - Articles in the Coventry Telegraph dated 23<sup>rd</sup> April 2012, 23<sup>rd</sup> May 2012, 26<sup>th</sup> May 2012, 30<sup>th</sup> August 2012, 16<sup>th</sup> and 17<sup>th</sup> January 2013,
  - An article in the Coventry Observer dated 26<sup>th</sup> April 2012
  - Articles in the Guardian dated 27<sup>th</sup> April 2012, 12<sup>th</sup> December 2012
  - Radio interview on 13<sup>th</sup> March 2013
- 7.5.7 The Committee has considered these comments very carefully and concluded that there is no evidence that the comments reported on 21<sup>st</sup>, 26<sup>th</sup>, 27<sup>th</sup> April 2012, 23<sup>rd</sup> and 26<sup>th</sup> May 2012, 30<sup>th</sup> August 2012, 12<sup>th</sup> December 2012 and 16<sup>th</sup> January 2013 were inappropriate as they reflected the Council's view of the situation at the time. While there is a certain degree of robustness in the way that Cllr Mutton expressed himself on occasions, he was entitled to give his view as Leader of the Council. The Committee found no evidence to support the claim that these comments prejudiced the complainants neither did it feel that these statements amounted to a lack of respect.
- 7.5.8 With regard to Cllr Mutton's statement on 23<sup>rd</sup> April, the Committee accepts that when Cllr Mutton joined in with the rest of the crowd chanting "SISU out", he was not acting in his capacity as a councillor and so the Code did not apply. However when he repeated this to the press, he was acting as Leader of the Council and so his remark falls to be considered

by the Committee.

7.5.9 The Committee acknowledges that this statement (on 23<sup>rd</sup> April 2012) and that made in the radio interview on 13<sup>th</sup> March 2103 were in response to questions and were not pre-prepared statements. These, together with the statement made on 17<sup>th</sup> January 2013 are couched in forthright terms. In the Committee's view they indicate a degree of frustration with the situation and with what had been difficult negotiations over a period of time. The situation was one that had a great deal of public interest and attention in the media. Cllr Mutton's comments must be judged in this context.

7.5.10 The Committee accepts the IO's conclusions at paragraphs 93 to 104 of his report (pages 83 to 85 of the agenda documents) that although these comments were **close** to being disrespectful, they did not in fact amount to a lack of respect. The comments were a robust expression of Cllr Mutton's honestly held belief about the way in which SISU was operating the football club at the time. Neither were they inappropriate in that;

*"It is important that elected politicians are able to comment on issues of local concern. This is particularly important when the politician is the Leader of the Council and it relates to an issue of significant public interest.... The right to freedom of expression is not without limits but members must be able to express their opinions in a forthright manner without fear that they will be the subject of a complaint under the Code".* [Paragraph 103 at page 85].

In addition, the Complainants provided no evidence to support the claim that these comments were prejudicial to them.

7.5.11 The Committee accepts that the Complainants did not agree with what councillors said but that does not mean that either councillor failed to comply with the Code of Conduct. Under the circumstances the Committee found that none of the comments made by either councillor amounted to a breach of the Code.

## 7.6 ***Finding at Paragraph 6.6***

7.6.1 The final allegation is that Cllr Lucas and Cllr Mutton instigated and participated in a public smear campaign against the Complainants through the media.

7.6.2 The Complainants have relied to a large extent on extracts from a series of emails, mostly from Weber Shandwick (a PR company) to support their claim that there was a public smear campaign against the Complainants, and Ms Seppala in particular. These can be found at pages 99 to 127 of the agenda documents. The emails are heavily redacted and it is therefore difficult to read these in their proper context.

7.6.3 In addition the Complainants have argued that PowerPoint slides at weekly briefing meetings at Coventry City Council and minutes of an ACL

directors' meeting (Documents 4, 5 and 6 in the 28 October documents) show that there was a media campaign against the Complainants and that Cllr Lucas and Cllr Mutton must have instigated and been involved with it.

- 7.6.4 The Committee considers that there is no evidence that Weber Shandwick was ever instructed by the Council to deal with its PR in connection with the Ricoh Arena. The Committee accepts the evidence of Fran Collingham, the Council's Head of Communications that the Council does not use PR Consultants and that although she was kept updated about what Weber Shandwick were doing and had talked to and met them a couple of times, no joint media releases have been made and no joint publicity had been undertaken. (Paragraph 52 on page 72 of the agenda documents). The Complainants have produced no evidence to suggest that the Council (as distinct from ACL) was working with Weber Shandwick in a media campaign to publicly smear the Complainants.
- 7.6.5 Weber Shandwick were instructed by ACL and the Council's Chief Executive and Executive Director of Resources were both members of ACL's Board. The Committee considers that in their dealings with Weber Shandwick these two officers were acting in their capacity as directors and this does not entitle an assumption to be made that therefore Cllr Lucas and Cllr Mutton must have had knowledge of and instigated and participated in a public smear campaign.
- 7.6.6 With regard to the content of the emails from Weber Shandwick, it is not possible to know to whom they were sent and the very heavy redaction makes it difficult to put their content into context. Nevertheless, the Committee has noted the evidence of Chris West that he believed that many of the comments made by Weber Shandwick (and which the Complainants have drawn to the attention of the Committee during the hearing) arose because Weber Shandwick were monitoring a blog called Skyblue Talk for ACL. The comments were, in Mr West's view, a summary of what was being said on Skyblue Talk by fans. Mr West also believed that where emails had been copied in to council email addresses, they would have sent to him and Martin Reeves and possibly to Fran Collingham. He was not aware of Cllr Lucas or Cllr Mutton being copied in to these emails. (Paragraph 16, page 214 of the agenda documents) Neither Cllr Lucas nor Cllr Mutton could recall having any dealings with Weber Shandwick.
- 7.6.7 With regard to the PowerPoint slides used at weekly briefings, the Committee rejects the claim that these support the allegation that there was a deliberate strategy of targeting the Complainants and Joy Seppala in particular. The slides give headline points on a number of aspects of the Ricoh/ACL matter, including media and PR, but give no indication that either the Council (as opposed to ACL) had instructed Weber Shandwick or that Cllr Lucas or Cllr Mutton was working with or routinely being briefed by them. While the Committee accepts that the use of the words "Council/Higgs/ACL clearly winning the media war" may have been unfortunate, they must be seen in the context of the press and media attention being paid to this issue at the time. The Committee believes that

it was to be expected that the Council would develop a media strategy for dealing with this issue.

- 7.6.8 The minutes of the ACL directors' meeting indicate that ACL had instructed a PR agency and nothing more. In the Committee's view, it cannot be assumed from these minutes that this meant that Cllr Lucas and Cllr Mutton had instigated and participated in a public smear campaign.
- 7.6.9 If there had been a public smear campaign through the media as alleged, the Committee thinks that it would be reasonable to see actual examples of such tactics being used in the press. While the Complainants have produced a table of comments, for reasons set out in Section 7.5 the Committee does not accept that these comments were in any way inappropriate or lacking in respect. It follows, therefore that it does not accept that they amounted to a public smear campaign.
- 7.6.10 For these reasons the Committee finds that neither Cllr Lucas nor Cllr Mutton instigated or participated in a public smear campaign and there was therefore no breach of the Code.

## **H Sanctions applied**

The Committee has found that there was no breach of the Code of Conduct by either Cllr Lucas or Cllr Mutton and so no sanctions fall to be applied.

## **I Appeal**

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

## **J Notification of decision**

This decision notice is sent to:

Councillor Ann Lucas OBE  
Cllr John Mutton  
Mishcon de Reya, Solicitors on behalf of the Complainants

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

## **K Additional help**

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.

**Cllr Joseph Clifford  
Chair, Ethics Committee**

**29<sup>th</sup> February 2016**