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9 December 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 Investigation and Sanctions

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**Is this a key decision?**

No

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**Executive Summary:**

This report sets out brief details of an investigation by the Acting Monitoring Officer into remarks alleged to have been made by Cllr Glenn Williams (the "Subject Member") to the Coventry Telegraph in July 2016 in relation to a private WhatsApp conversation in May 2016.

On 14 July 2016 the Coventry Telegraph published a story about the conversation having first asked Cllr Williams for his response. On 15 July Cllr Williams was interviewed on the BBC Coventry and Warwickshire Radio Breakfast Show in relation to the story.

The Acting Monitoring Officer did not receive a complaint in respect of the comments reported in the media. However, there was some negative publicity regarding the comments. The City Council has a statutory duty to promote and maintain high standards of conduct by Elected Members. It was therefore considered appropriate (despite the lack of complaint) to investigate the comments made to establish whether they amount to a breach of the code.

The Acting Monitoring Officer carried out an investigation into the incident and concluded that:

- (a) Cllr Williams was not acting in his official capacity during the WhatsApp conversation and so the Code of Conduct did not apply on that occasion.

- (b) Cllr Williams was acting in his official capacity when he was speaking to the Coventry Telegraph journalist and when he was interviewed on BBC Coventry and Warwickshire Radio and so was bound by the Code of Conduct on those occasions.
- (c) Cllr Williams' comments set out in paragraph 24 iii), iv) and v) of the Acting Monitoring Officer's Investigation Report amounted to a breach of the Code of Conduct.
- (d) Cllr Williams' remarks set out in paragraph 24 vi) and vii) did not constitute a breach of the Code of Conduct.

Cllr Williams has accepted the findings of the Acting Monitoring Officer. The Ethics Committee is now asked to consider what sanctions, if any, should be applied in respect of this matter.

**Recommendations**

The Committee is requested to:

- (1) determine what sanction or sanctions, as set out in paragraph 5.1 of the report , if any, should be applied; and
- (2) authorise the Acting Monitoring Officer, in consultation with the Chair of Ethics Committee, to publish the Full Decision on the Council's website at the same time that copies are made available to the parties to the hearing.

**List of Appendices included:**

**Appendix 1:** Final Investigation Report of the Acting Monitoring Officer

**Appendix 2:** Exhibits to the Final Investigation Report

**Appendix 3:** Written opinion of the Independent Person on the Draft Investigation Report

**Appendix 4:** Response of Cllr Williams to the Draft Investigation Report

**Appendix 5:** Response of Cllr Williams to the Final Investigation Report

**Appendix 6:** Response of the Independent Person to the Final Investigation Report

**Other useful background papers:**

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 Investigation and Sanctions

### 1. Context (or background)

- 1.1 The Council adopted the Code of Conduct for Elected and Co-opted Members (“the Code”) at its meeting on 3 July 2012. A copy of the Code is attached to this report as **Exhibit HL1 at Appendix 2** to this report. In addition the Ethics Committee on 30 August 2012 approved a Complaints Protocol for use when dealing with Code of Conduct complaints. This is attached as **Exhibit HL2 at Appendix 2**.
- 1.2 The relevant comments were made in a private WhatsApp conversation between Cllr Williams and another member of the Conservative Party on 22 May 2016, to the Coventry Telegraph which were published on 14 July 2016 and during an Interview on the BBC Coventry and Warwickshire Breakfast show on 15 July 2016.
- 1.3 The Acting Monitoring Officer did not receive a complaint that Cllr Williams had breached the Code of Conduct for Elected and Co-opted Members. However, there was some negative publicity regarding the comments made, calls for Councillor Williams to resign and suggestions from a local MP to the media that Councillor Williams’ comments amounted to a breach of the code. An Extraordinary meeting of Council was held on 3 August 2016 to call for Councillor Williams’ resignation. The City Council has a statutory duty to promote and maintain high standards of conduct by Elected Members. It was therefore considered appropriate (despite the lack of complaint) to investigate the comments made to establish whether they amount to a breach of the code.

### 2. Investigation into the Complaint

- 2.1 The Acting Monitoring Officer investigated Cllr Williams’ remarks during the WhatsApp conversation, statements that he made to the Coventry Telegraph and in the interview on BBC Coventry and Warwickshire Radio’s Breakfast Show. The report of the investigation is attached as **Appendix 1** to this report. Documents considered as part of the investigation are also attached as **Appendix 2**.
- 2.2 The Acting Monitoring Officer interviewed Cllr Williams and a signed record of that interview is attached as **Exhibit HL13 to Appendix 2**. She also considered a number of documents which are also set out in **Appendix 2**.
- 2.3 The Acting Monitoring Officer issued her report on 28 October 2016. She concluded that:
  - (a) Cllr Williams was not acting in his official capacity during the WhatsApp conversation and so the Code of Conduct did not apply on that occasion.
  - (b) Cllr Williams was acting in his official capacity when he was speaking to the Coventry Telegraph journalist and when he was interviewed on BBC Coventry and Warwickshire Radio and so was bound by the Code of Conduct on those occasions.
  - (c) Cllr Williams’ comments set out in paragraph 24 iii), iv) and v) of the Acting Monitoring Officer’s Investigation Report (**Appendix 1**) amounted to a breach of the Code of Conduct.

- (d) Cllr Williams' remarks set out in paragraph 24 vi) and vii) did not constitute a breach of the Code of Conduct.
- (e) The paragraphs of the Code of Conduct that the Acting Monitoring Officer considered to have been breached were:
  - 3h. To behave in accordance with all my legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures including the use of Council resources;
  - 3j. Always treat people with respect, including the organisation and public I engage with and those I work alongside;
  - 3k. Provide leadership through behaving in accordance with these principles when championing the interests of the communities with other organisations as well as within the Council.
- (f) The Acting Monitoring Officer also concluded that her finding that Cllr Williams had breached the Code of Conduct did not amount to a disproportionate interference with Councillor Williams' right of freedom of expression under Article 10 of the European Convention on Human Rights.

**The full Report is attached at Appendix 1 together with the documents referred to in the Report which are attached as Appendix 2.**

### **3. Response to the Investigating Officer's Report**

- 3.1 Under the Council's Complaints Protocol, all parties have an opportunity to consider the draft Report and make a formal Response to the Report if they so wish. They may also comment on the final report when it is issued. In this case, Cllr Williams' comments on the draft report are included at **Appendix 4** and on final report at **Appendix 5**. Cllr Williams has accepted the conclusions of the final Investigation Report.
- 3.2 The Council's Co-opted Independent Person, Mr Peter Wiseman OBE, LLB, was provided with a copy of the draft Report and was asked to give his views on it. **His written opinion on the draft report is attached at Appendix 3 and his response to the final report is at Appendix 6.**
- 3.3 As all parties are in agreement with the findings of the Report, it now falls to the Committee to decide what, if any, sanctions should be applied in this case.

### **4. Sanctions Hearings Procedure**

- 4.1 The Committee is asked to consider what action, if any, it should take as a result of Cllr Williams' failure to comply with the Code of Conduct. Before doing so the Committee will invite the Independent Person and the Subject Member to make their representations as to whether or not any sanctions should be applied and, if so, what form they should take. Mr Peter Wiseman, the Co-opted Independent Person, will be in attendance at the meeting.
- 4.2 When deciding whether to apply one or more sanctions, the Committee will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour.

- 4.3 The Committee will consider what action it should take from the list of possible sanctions set out in paragraph 5.1 below. The Committee has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.

## **5. Options Available to the Committee**

- 5.1 The sanctions available to the Committee are to:

- (i) decide to take no action;
- (ii) publish its findings in respect of the member's conduct;
- (iii) send a formal letter of censure to the member;
- (iv) report its findings to the Council either for information or to recommend censure of the member;
- (v) recommend to the member's Group Leader that the member be removed from any or all Committees or Sub-Committees of the Council (not applicable);
- (vi) recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular portfolio responsibilities (not applicable);
- (vii) recommend the Monitoring Officer to arrange training for the member.

Any recommendation made under (v) to (vii) above will require the cooperation of all parties.

- 5.2 Where a Subject Member does not accept a sanction which has been imposed upon him/her by the Ethics Committee, the Monitoring Officer will submit a report to full Council which will then consider what action, if any, it should take as a result of the Subject Member's failure.
- 5.3 Within 14 days of the Committee's announcement of its decision and recommendations, the Acting Monitoring Officer will publish the name of the Subject Member and a summary of the Committee's decision and recommendations and reasons for the decision and recommendations ("the Full Decision") on the City Council's website. The Full Decision must be agreed with the Chair, prior to publication.
- 5.4 No later than the date on which the Full Decision is published on the Council's website, the Acting Monitoring Officer will provide a copy of the Full Decision to the Subject Member.

## **6. Results of consultation undertaken**

- 6.1 The Subject Member has been consulted at each stage of these proceedings.

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

- 7.1 Any decisions of the Committee will be implemented within an appropriate time frame.

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

## 8.1 Financial implications

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

## 8.2 Legal implications

The Council is required under Section 28 of the Localism Act 2011 to adopt a suitable Code of Conduct and to have in place arrangements under which allegations of failure to comply with the Code may be investigated and decisions on allegations can be made. The sanctions hearing meets this requirement and assists the Council in promoting and maintaining high standards of ethical behaviour as is required under section 27 of the Act.

## 9. Other implications

### 9.1 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.

### 9.2 How is risk being managed?

Failure to consider and deal appropriately with complaints about councillors' behaviour could lead to damage to the Council's reputation as well as that of individual councillors. The hearing into this complaint is designed to ensure that the Council discharges its duty to promote and maintain high standards of conduct.

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

The hearing is to consider what sanctions, if any, to impose on a Subject Member who has been found to have breached the Code of Conduct and as such will have no direct impact on the organisation.

### 9.4 Equalities / EIA

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

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

None

### 9.6 Implications for partner organisations?

None

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Helen Lynch	Legal Services Manager (Place and Regulatory) and Acting Monitoring Officer	Resources	29.11.16	29.11.16
Director: Chris West	Executive Director, Resources	Resources	30.11.16	1.12.16
Members: Councillor Walsh	Chair, Ethics Committee	Elected Member		

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