
Date

6 November 2018

Name of Cabinet Member:

N/A- Ethics Committee

Director Approving Submission of the report:

Chief Executive

Ward(s) affected:

None

Title: Code of Conduct Hearing

Is this a key decision?

No

Executive Summary:

This report sets out brief details of investigation into a complaint made that Councillor Ali (the "Subject Member") has breached the Code of Conduct for Elected Members.

A formal complaint was made on the 28 January 2018 by Councillor Mayer that Councillor Ali had failed to enter on his register of interests certain Disclosable Pecuniary Interests (DPIs) that he held.

Following consideration of the complaint by the Monitoring Officer this matter was referred for a Stage 2 investigation to an independent investigator Mr Matt Lewin.

Following his investigation Mr Lewin found that Councillor Ali had breached four paragraphs of the Code, Councillor Ali accepts that he is in breach of two of these paragraphs but denies a breach of the other two. The matter is now to be presented to the Ethics Committee to consider whether or not Councillor Ali has breached the Code of Conduct for Elected and Co-opted Members; and if so, should any sanctions be applied.

Recommendations

The Committee is requested to:

- (1) Determine whether or not Councillor Ali has breached the Code of Conduct for Elected and Co-opted Members;
- (2) If concluding that Councillor Ali has breached the Code of Conduct for Elected and Co-opted Members, to determine what sanction or sanctions, as set out in paragraph 4.1 of the report, if any, should be applied; and
- (3) authorise the Monitoring Officer, in consultation with the Chair of Ethics Committee, to publish the Full Decision on the Council's website at the same time that copies are made available to the parties to the hearing.

List of Appendices included:

Appendix 1: Report by Independent Investigator, Mr Matt Lewin

Appendix 2: Response of Councillor Ali

Appendix 3: Code of Conduct for Elected and Co-opted Members

Appendix 4: Complaints Protocol for use when dealing with Code of Conduct complaints

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 at **Appendix 3** to this report. In addition the Ethics Committee on 17 March 2017 approved a revised Complaints Protocol for use when dealing with Code of Conduct complaints. This is attached as **Appendix 4**.

- 1.2 On 28 January 2018 Councillor Mayer submitted a complaint to the Council's Monitoring Officer that alleged that Councillor Ali had failed to enter onto his register of interests a DPI, namely his interest in a property known as Sudbury House. Councillor Mayer also alleged that there were other DPIs that Councillor Ali had failed to register.
- 1.3 The Localism Act 2011 requires councillors to disclose their DPIs within 28 days of their election, to fail to do so without a reasonable excuse is a criminal offence.
- 1.4 Councillor Ali was elected as the member for Cheylesmore ward on 5th May 2016. He should have registered all his current DPIs upon his register of interest by the 2nd June 2016; he did not do so. Councillor Ali is a prominent businessman and landowner in Coventry and he has a number of interests throughout Coventry; Councillor Ali in his response felt that the requirements around registering his various interests were confusing and complex.
- 1.5 When Mr Lewin was first appointed to investigate the complaint he considered that there were reasonable grounds to suspect that Councillor Ali had committed a criminal offence. A referral was therefore made to West Midlands Police who considered the material provided in the referral and subsequently confirmed that they would not on this occasion be taking any action to progress a prosecution.
- 1.6 Mr Lewin proceeded with his investigation and interviewed Councillor Ali as part of his enquiries. Councillor Ali in this interview confirmed that he had "sorted out" his register and provided reasons for not having completed his register within the required timescale. In his conclusion Mr Lewin did not accept the reasons provided by Councillor Ali and was concerned that he appeared to not to appreciate the important point of principle that his duty to the public must take priority over his private interests.
- 1.7 During the interview Councillor Ali also made comments in respect of Councillor Mayer who had made the complaint including that he would "stamp on him" and "take him to the cleaners". Mr Lewin found these comments to also constitute a breach of the Code.

2.0 Alleged Breaches of the Code of Conduct

- 2.1 The Code of Conduct can be found at Appendix 3. The four paragraphs of the Code of Conduct that Mr Lewin has found that Councillor Ali has breached are:
 - a) Paragraph 2 (f) – Honesty - I will declare any private interests relating to my public duties and take steps to resolve any conflict arising in a way that protects the public interests.
 - b) Paragraph 3 (h) – Behave in accordance with all my legal obligations, alongside any requirements contained within the Councils' policies, protocols and procedures, including on the use of the Council's resources.
 - c) Paragraph 5.1 (a) – Register and where appropriate, disclose those disclosable pecuniary interests that I am obliged to declare under the Localism Act and associated regulations.
 - d) Paragraph 3 (j) Always treat people with respect, including the organisation and public I engage with and those I work alongside;
- 2.2 Mr Lewin did not consider the Councillor Ali had acted dishonestly in that he had not made any personal gain by his failing to declare his DPIs and that he had not deliberately sought to conceal his interests; so in this respect Mr Lewin did not find that Councillor Ali had breached the code under paragraph 6 or 7.

- 2.3 Councillor Ali accepts that he “technically “ breached the code in respect of paragraph 3(h) and 5.1 (a) however he does not accept that he has breached the code in respect of paragraph 2(f) or 3 (j).
- 2.4 As the parties are not in agreement with the findings of the Report, the committee is being asked to decide if the actions of Councillor Ali amount to a breach of the Code of Conduct for Elected and Co-opted Members as found by the Independent Investigator.

3 Hearings Procedure

- 3.1 The Committee is asked to consider whether or not Councillor Ali has failed to comply with the Code of Conduct and if so what if any sanctions should be imposed. Before doing so the Committee will invite the Independent Investigator to outline his investigation. Councillor Ali will then be invited to state his case before a summing up of the case by the Independent Investigator and Councillor Ali.
- 3.2 The Committee must take advice from the Independent Person before making a decision about whether or not Councillor Ali has breached the Code. Mr Peter Wiseman has been appointed as the Independent Person in this matter and will be in attendance at the hearing. The decision should be announced in public with short reasons for the decision.
- 3.3 If the Committee decides that the Councillor has not failed to follow the Code, the Committee may then consider whether or not to make any recommendations to Council with a view to promoting high standards of conduct amongst councillors.
- 3.3 If the Committee finds that Councillor Ali has breached the Code of Conduct then the Committee will move on to consider whether or not any sanctions should be imposed. Councillor Ali will be asked to make any representations and the Committee can ask for more information from Councillor Ali or the investigating officer.
- 3.4 The Committee must take advice from the Independent Person before making any decision on sanctions and Mr Wiseman will be in attendance at the meeting.
- 3.4 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.
- 3.5 The Committee will consider what action it should take from the list of possible sanctions set out in paragraph 4.1 below. The Committee has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.

4. Sanction Options Available to the Committee in the event that a Breach of the Code of Conduct is found

- 4.1 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;
- (vi) recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular portfolio responsibilities;
- (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.

- 4.2 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.
- 4.3 Within 14 days of the Committee's announcement of its decision and recommendations, the 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 of the Ethics Committee, prior to publication.
- 5.4 No later than the date on which the Full Decision is published on the Council's website, the 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 the Director of Finance and Corporate Services

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 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 if a Councillor has breached the Code of Conduct for Elected and Co-opted Members and as such may potentially have a reputational impact upon 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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