
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 a review by the Monitoring Officer and subsequent review by an Independent Investigator into a social media post made by Councillor Williams (the "Subject Member") on 13th February 2018.

Following a formal complaint made by Councillor Mutton that a comment on Social Media by Councillor Williams breached the Code of Conduct for Elected Members a Stage 1 enquiry was undertaken by the Monitoring Officer.

The matter was not able to be resolved by informal resolution and following comments by the Independent Person (Mrs Ann Barton) and a further review by an Independent Investigator (Mr Andrew Kinsey) the matter is now for consideration by the Ethics Committee as to whether or not Councillor Williams has breached the Code of Conduct for Elected Members; and if so should any sanctions be applied.

Recommendations

The Committee is requested to:

- (1) Determine whether or not Councillor Williams has breached the Code of Conduct for Elected Members
- (2) If concluding that Councillor Williams has breached the Code of Conduct for Elected 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: Stage 1 Report of the Monitoring Officer

Appendix 2: "Tweet" by Councillor Williams

Appendix 3: Transcript of Radio Interview

Appendix 4: Written opinion of the Independent Person on the Stage 1 Report

Appendix 5: Review by Independent Investigator

Appendix 6: Code of Conduct for Elected Members

Appendix 7: 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 7** 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 8**.
- 1.2 On 13th February 2018 in the run up to the Council’s budget setting meeting Councillor Mutton (the “complainant”) was invited to speak on a local radio show to discuss the proposed rise in Council Tax. Following this interview Councillor Williams used social media to make a comment that Councillor Mutton considers was a deliberate misrepresentation of what was actually said and that Councillor Williams then used this to assert that Councillor Mutton was ignorant of the facts.
- 1.3 As part of his interview on the local radio show Councillor Mutton was asked about struggling families and Council Tax rises of £90 and he sought to clarify that this level of council tax rise related to “Band D” housing whereas the majority of houses in “band A and B” would see a rise of £50. Following this exchange Councillor Williams tweeted the comment *“Socialist Cllr Mutton displays all his class envy to @AdudTrish by suggesting people in Band D properties must be wealthy, such ignorance !”*
- 1.4 Councillor Mutton raised his concern with the Monitoring Officer that he had been deliberately misrepresented and accused of being ignorant as a result. The Monitoring Officer having considered a transcript of the radio interview tried to deal with the matter informally by asking Councillor Williams to remove the tweet and clarifying any misunderstanding to Councillor Mutton. Councillor Williams did not consider that he had misrepresented what was said in the interview and refused to delete the post.
- 1.5 As a result on the 5th March 2018 Councillor Mutton made a formal complaint that the actions of Councillor Williams had breached the Code of Conduct for Elected and Co-opted Members. The Monitoring Officer carried out an investigation into the incident and concluded that:
 - (a) Councillor Williams was representing himself as a Councillor and acting in his official capacity and so the Code of Conduct does apply.
 - (b) Councillor Williams’ comments on social media were misleading. His interpretation of the comments made in the interview was not logical, however it was not deliberate.
 - (c) Cllr Williams’ comment did not constitute a breach of the Code of Conduct, however he should be more cautious in what he is tweeting and clear on the factual basis before posting comments.
- 1.6 As Councillor Williams is not a member of political group and has no group leader to agree with the recommended actions the Stage 1 report was considered by one of the Council’s Independent Persons (Mrs Ann Barton).
- 1.7 Mrs Barton considered the report of the Monitoring Officer and did not agree with the recommendations. Mrs Barton suggested that the matter should proceed to a full investigation to consider if Councillor Williams was either misinformed or it was “a matter of misconduct”. Mrs Barton concluded that “Overall, I consider that this is a potential breach of the Code of Conduct that is serious enough to warrant a full investigation”.
- 1.8 In light of the comments of Mrs Barton, further discussions took place with Councillor Williams to see if he would re consider his position on the misleading nature of his tweet

and apologise to Councillor Mutton. Councillor Williams felt unable to do so and did not consider that he was at fault.

- 1.9 As a result of the position of the Independent Person and Councillor Williams, a referral was made to an Independent Investigator (Mr Andrew Kinsey) to review the complaint. Mr Kinsey agreed with the conclusions of the Monitoring Officer's Stage 1 report and did not consider that this matter reached the threshold to be considered as a potential breach of the Code of Conduct or that it was in the public interest to pursue the matter further. However in light of the concerns raised by the Independent Person and the inability to reach an informal resolution, the Monitoring Officer could consider referring the matter for a hearing.
- 1.10 Councillor Williams and Councillor Mutton have no further comments to make on the reports.

2.0 Alleged Breaches of the Code of Conduct

(a) The paragraphs of the Code of Conduct that Councillor Mutton considers to have been breached were:

- 3i. Value my colleagues and staff and engage with them in appropriate manner and one that underpins the mutual respect between us that is essential to good Local Government;
- 3j. Always treat people with respect, including the organisation and public I engage with and those I work alongside;

2.2 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 Williams as complained about by Councillor Mutton amount to a breach of the Code of Conduct for Elected Members.

3 Hearings Procedure

- 3.1 The Committee is asked to consider whether or not Councillor Williams has failed to comply with the Code of Conduct and if so what if any sanctions should be imposed, if any. Before doing so the Committee will invite the Monitoring Officer and Independent Investigator to outline their investigation and review and to call any witnesses as necessary. Councillor Williams will then be invited to state his case before a summing up of the case by the Independent Investigator and Councillor Williams.
- 3.2 The Committee must take advice from the Independent Person before making a decision about whether or not Councillor Williams has breached the Code. 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 Williams has breached the Code of Conduct then the Committee will move on to consider whether or not any sanctions should be imposed. Councillor Williams will be asked to make any representations and the Committee can ask for more information from Councillor Williams or the investigating officers.

- 3.4 The Committee must take advice from the Independent Person before making any decision on sanctions and Mrs Barton 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 (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.

- 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 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 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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