

EAST HERTS COUNCIL

STANDARDS COMMITTEE –16 SEPTEMBER 2009

REPORT BY LEGAL OFFICER

7. COMPLAINT IN RESPECT OF A COUNCILLOR, REFERENCE
EHDC/04/2008

'D' RECOMMENDATION - that

1.0 Purpose/Summary of Report

1.1 To consider a complaint in respect of Councillor J Hedley, a Member of East Hertfordshire District Council.

2.0 Contribution to the Council's Corporate Objectives

2.1 **Fit for purpose, services fit for you**

Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.

3.0 Background

3.1 The Committee previously agreed a procedure for considering complaints.

The Committee will conduct a hearing concerning allegations made about Councillor Hedley and make one of the following findings:

- a) that the Member has not failed to comply with the Council's code of conduct;
- b) that the Member had failed to comply with the Council's code of conduct but that no action needs to be taken in respect of the matters considered at the hearing; or
- c) that the Member had failed to comply with the Council's code of conduct and that a sanction should be imposed.

Accompanying evidence has already been provided to the Committee which supports the Investigating Officer's findings of fact.

4.0 The complaints

4.1 Mr Hughes has made a complaint to the Assessment Sub-Committee that Councillor Hedley breached the following paragraphs of the Council's Code of Conduct:

- 3(1) Failing to treat others with respect
- 3 (2)(B) Bullying
- 3 (2)(C)Intimidating, or attempting to intimidate a person involved in an allegation against you
- 5 Bringing an office or authority into disrepute.

4.2 Mr Ibrahim has made a complaint that to the Assessment Sub-Committee that Councillor Hedley breached the following paragraphs of the Council's Code of Conduct:

- 3(1) Failing to treat others with respect
- 3 (2)(B) Bullying
- 3 (2)(C)Intimidating, or attempting to intimidate a person involved in an allegation against you
- 5 Bringing an office or authority into disrepute
- 6 Using his position as a Member improperly to confer or secure an advantage or disadvantage.

4.3 The complaints are set out in the Investigating Officer's report.

5.0 The Investigating Officer's Report

5.1 The Council's Assessment Sub-Committee decided that these complaints should be investigated. An investigating officer was appointed under Section 82A of the Local Government Act 2000. Following the investigation, the Investigating Officer concluded that in all the circumstances of this case is that in accordance with the Local Government Act 2000 there has been a failure to comply with the Members' Code in that Councillor Hedley has breached the following provisions of the Code;

Clause 3 (1) General Obligations – failed to treat others with respect.

Clause 3 (2) (b) – been responsible for bullying behaviour

Clause 5 - conducted himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.

The Investigating Officer did not find any evidence of breach of Clause 3(2)(c) relating to intimidation of potential complainants or of Clause 6 (a) - using his position as a Councillor improperly to seek advantage. The Investigating Officer has referred the matter to the Standards Committee under regulation 14 of the Standards Committee (England) Regulations 2008.

6.0 Pre-Hearing

6.1 In preparation for this hearing, Councillor Hedley has been provided with a copy of the Investigating Officer's report. In order to attempt to simplify the hearing process and identify those matters which are agreed, Councillor Hedley has been requested to identify any points of disagreement relating to the findings of fact. Councillor Hedley was also asked if he wished additional evidence to be considered and if there were any representations to be taken into account if he is found to have breached the code of conduct.

6.2 Councillor Hedley agrees with most of the findings of fact. He does not agree that the Officers can be described as Junior Officers. He does not agree with the description of the telephone calls.

6.3 Councillor Hedley does not believe that he has breached the code. In his submission, he refers to Appeals Tribunal Decisions APE 0414 and APE 0399. Copies of these decisions are included in Appendix 'E7' (Pages 7.28 - 7.45). These submissions are contained in Appendix 'C7' (Pages 7.24 - 7.25) to the report.

6.4 The subject Member will attend the hearing. The Investigating Officer will not attend the hearing or be represented at the hearing. No witnesses have been asked to give evidence.

7.0 Procedure for the Hearing

7.1 A copy of the procedure which the Standards Committee has adopted for the conduct of such hearings is attached at Appendix 'B7' (Pages 7.17 - 7.23). A copy of the Investigating Officer's report is attached at Appendix 'C7' (Pages 7.24 - 7.25). Councillor Hedley's

response is contained in Appendix 'C7' (Pages 7.24 - 7.25). The sanctions which the Committee may impose are set out in Appendix 'D7' (Pages 7.26 - 7.27).

The issues for the Committee to determine are:

- a) the material facts;
- b) whether, on the facts, Councillor Hedley has breached the following paragraphs of the code of conduct:
 - 3(1) Failing to treat others with respect
 - 3(2)(B) Bullying
 - 3 (2)(C)Intimidating, or attempting to intimidate a person involved in an allegation against you
 - 5 Bringing an office or authority into disrepute
 - 6 Using his position as a Member improperly to confer or secure an advantage or disadvantage.
 - c) If the Committee finds that there has been a breach of the code of conduct, what action, if any, should be taken;
 - d) whether any recommendations should be made to the Council.

8.0 Consultation

8.1 There has not been any consultation.

9.0 Legal Implications

9.1 The procedures are in accordance with the regulations.

10.0 Financial Implications

10.1 None.

11.0 Human Resource Implications

11.1 None.

12.0 Risk Management Implications

12.1 There are risks of an appeal if the investigation and the hearing are not conducted in accordance with the regulations.

Background Papers

Appendix 'A7' - Procedure for Local Investigations

Appendix 'B7' - Report of the Ethical Standards Officer

Appendix 'C7' - Councillor Hedley's correspondence

Appendix 'D7' - Sanctions for Local Investigations

Appendix 'E7' - Copies of Appeals Tribunal Decisions APE 0414 and
APE 0399

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