

EAST HERTS COUNCIL

STANDARDS SUB-COMMITTEE

REPORT BY THE MONITORING OFFICER

COMPLAINT IN RESPECT OF COUNCILLOR W ASHLEY

WARD(S) AFFECTED: NONE

Purpose/Summary of Report

- *To consider complaints in respect of Councillor W Ashley, a Member of East Herts Council*

1.0 Background

1.1 Council has received complaints alleging that a District Councillor has breached the Authority's Code of Conduct.

2.0 Report

2.1 The Council has agreed a procedure for considering complaints.

2.2 The Sub-Committee will consider the reports and decide what action to take.

3.0 The Complaint

3.1 A complaint was made that Councillor Ashley breached the Council's Code of Conduct.

3.2 Details of the complaint are set out in the attached Investigation Officer's report.

3.3 A copy of the report has been supplied to the complainant and to the subject member.

4.0 Investigating Officer's Report

4.1 A investigation officer was appointed to carry out an investigation. Following the investigation, the Investigating Officer concluded

that, in all the circumstances of this case, there has been a failure to comply with the Members' Code of Conduct.

4.2 The report concludes at paragraph 9.20 that the Investigating Officer does not find any breach of the Code of Conduct in respect of the complainant's allegation that

- Councillor Ashley has gained a pecuniary advantage in manner in which he obtained various planning permissions bringing himself, East Herts Council and members of the Development Management Committee into disrepute. Statements made in obtaining permissions appear to be very misleading.
- He abused his position by ambiguous means in changing the fundamental framework of implementing such permissions. Some of the permission appear to have been covered up by misleading and ambiguous statements to officers, the press and others
- He flagrantly breached conditions imposed on particular permissions and in doing so appears to have obtained substantial financial gain.

4.3 The Investigating Officer believes that Councillor Ashley's correspondence after the meeting of 6th November 2013 was inappropriate. The correspondence took place between 7th November 2013 and 21st February 2014 and it therefore falls to be considered under the current Code of Conduct, the relevant terms of which are noted at paragraph 9.5 as follows:

- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.

4.4 The Investigation officer concludes that Cllr Ashley's conduct fell short of reasonable expectation as to how he should treat his colleagues and that he was using his position as Councillor to pursue that correspondence

4.5 Accordingly, the Investigating officer finds Councillor Ashley to be in breach of the Code of Conduct in relation to that correspondence, in that he did not value colleagues and staff, did not engage with them in an appropriate manner and failed to treat them with respect.

5.0 Recommended action

5.1 It is recommended that the Sub-Committee deal separately with the finding of no breach and the finding of a breach.

5.2 In relation to the finding of no breach the Sub-Committee needs to decide whether or not to accept the finding of the Investigating Officer. In so doing it must consider whether it wishes to hear further from the Investigating Officer or any other parties before it makes a decision.

5.3 In relation to the finding of a breach the Sub-committee must arrange a hearing in accordance with the council's procedures at which the Investigating Officer will present his report, calling evidence as necessary and the subject member will have the opportunity to present his case.

5.4 In so far the report makes a finding of breach it, after a hearing, that finding is upheld by the Standards Sub-Committee, the Sub-Committee will consider the following actions:

- A formal letter to the Councillor found to have breached the code;
- Formal censure by motion;
- Removal by the authority of the Member from Committee(s) subject to statutory and constitutional requirements;
- Press release or other appropriate publicity;
- Request an apology by the Member

6.0 Other action

6.1 The report also recommended that the Monitoring Officer consider whether the allegations that other Disclosable Pecuniary Interests were not disclosed should be investigated further. Members are asked to consider this request.

- 6.2 The report makes recommendations to the Council on Code of Conduct arrangements and other matters.
- 6.3 The Investigation Officer recommends that the Monitoring Officer seek the initial comments of the subject Member before deciding whether to investigate a complaint unless to do so would prejudice any formal investigation.
- 6.4 The Investigation Officer recommends that the Council reviews its procedure to ensure that if the complainant requests not be identified, that request be adhered to until the appropriate officer or Committee has considered the request.
- 6.5 It is suggested that the Council may wish to consider and review its procedures noting that the Localism Act 2011 places responsibility on the Council to keep its procedures under review.
- 6.6 It is also recommended that the Council remind Members of the conditions on which computer facilities and Council email accounts are provided to Members.
- 7.0 Implications/Consultations
- 7.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

None

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