

CHESHIRE EAST COUNCIL

AUDIT AND GOVERNANCE

STANDARDS HEARING AD-HOC SUB-COMMITTEE

Date of meeting: 14 November 2012
Report of: Borough Solicitor and Monitoring Officer
Title: Allegation of a Breach of the Model Code of Conduct
(Complaint CEC/2011/08)

1. Purpose of the Report

- 1.1 To enable the Hearing Sub-Committee to consider the Investigating Officer's report and to determine what action, if any should be taken.

2. Decision Required

- 2.1 The Sub-Committee is invited to consider the Investigating Officer's report in accordance with the hearing procedure and relevant legislation/guidelines in force at the time and determine whether or not there has been a breach of the Model Code of Conduct.

3. Introduction

- 3.1 This hearing arises out of allegations made by the Complainants Mrs Erica Partridge and Mrs Alex Stubbs (Complaint Number CEC/2011/08) that the Subject Members, Mrs Sally Beard and Mr David Ellis, formerly of Bunbury Parish Council have breached the Model Code of Conduct, as adopted by that Council. The details of each case are set out in the report of the Investigating Officer attached.
- 3.2 The Sub-Committee has full powers delegated to it by the Audit and Governance Committee to determine this complaint and must deliver its verbal decision on the day of the hearing; to be followed by a written decision. In the event of an adverse finding, the Subject Member(s) may appeal to the Audit and Governance Standards Appeals Panel.
- 3.3 The Sub-Committee is asked to note that the complaints were made and the investigation conducted under the provisions of the Local Government Act 2000 and the Standards (England) Regulations 2008. This legislation was repealed and replaced with the Localism Act 2011 under which this hearing will be conducted.
- 3.4 A copy of Cheshire East Council's Code of Conduct Complaints Procedure, adopted by Council on 19 July 2012 is also appended to the report (paragraphs 24 to 29 apply).

4. Hearing Procedure

- 4.1 The hearing procedure to be followed will be circulated at the meeting.

5. Complaint and Investigators Report

5.1 A complaint was received on 23 November 2011 from the Clerk to Bunbury Parish Council, Mrs Alex Stubbs on behalf of the Chairman of the Parish Council, Councillor Erica Partridge which asserted that four members of Bunbury Parish Council, namely Councillor Jill Waits, Councillor Sally Beard, Councillor David Ellis and Councillor Gary McCormack had breached the Code of Conduct.

5.2 This report deals with the Investigator's findings in respect of Councillor Sally Beard and Councillor David Ellis. The complaints relating to Councillor Jill Waits and Councillor Gary McCormack are the subject of separate reports.

5.3 The Complainants assert that the Subject Members may have breached the following paragraphs of the Model Code of Conduct:

| <u>Subject Member</u> | <u>Paragraph</u> | <u>Conduct</u> |
|-----------------------|------------------|--|
| Cllr Sally Beard | 9(1) | Disclosure of personal interests |
| | 12(1) | Effect of prejudicial interests on participation |
| | 12(2) | |
| Cllr David Ellis | 9(1) | Disclosure of personal interests |
| | 12(1) | Effect of prejudicial interests on participation |
| | 12(2) | |

5.4 As the complaints appeared to relate to linked or overlapping issues, the Assessment Sub-Committee of the Standards Committee considered the complaints as part of the same report on 24 January 2012, its decision being to refer matters to the Monitoring Officer for investigation.

5.5 Mr Mike Dudfield was appointed to conduct the investigation and his report was submitted for consideration to the Hearing Consideration Sub-Committee of the Standards Committee on 25 June 2012. In accordance with Regulation 17 of the Standards Committee (England) Regulations 2008, where the Investigating Officer's findings were that a breach had occurred, a hearing must be convened.

5.6 Having taken into account the report's contents and Members' obligations under the Regulations, together with relevant Guidance issued by Standards for England, the Sub-Committee's decision was that it concurred with the conclusions of the Investigating Officer in that -

- a) Councillor Sally Beard had failed to comply with paragraph **9(1)** and paragraph **12(1)(a)(ii)** of the Model Code of Conduct; and
- b) Councillor David Ellis had failed to comply with paragraph **9(1)** and paragraph **12(1)(a)(ii)** of the Model Code of Conduct

and that a hearing should be convened to consider the matters.

6. Parties attending the Hearing

- 6.1 The Subject Members have confirmed that they will not be present at the meeting but each has requested that a short statement be read out on their behalf. The Monitoring Officer has agreed to this request.
- 6.2 The Complainants have been notified of the date of the hearing but have intimated that they do not wish to be present. There is no power to compel any party to attend.
- 6.3 The Investigating Officer will be in attendance but does not intend to call any witnesses.

7. Matters for Determination

- 7.1 The Sub-Committee needs to determine whether or not it is satisfied that a breach of the Model Code of Conduct has occurred in respect of paragraphs 9(1) and 12(1)(a)(ii) of the Code.

8. Decision and Sanctions

- 8.1 If, having considered the matter, the Sub-Committee finds that the Subject Members have not breached the Model Code of Conduct, no further action will be taken.
- 8.2 If a breach is found, the Members' Parish Council would be the body to determine what, if any sanction should be applied. It should be noted that the Parish Council has no power to impose a sanction against a person who is no longer a member of it.
- 8.3 The sanctions available to the Sub-Committee are -
 - (1) Formal censure e.g. through a motion;
 - (2) Send a formal letter to the Member;
 - (3) Recommend a course of action to the Members' Group Leader/ Town/Council;
 - (4) Report findings to Council/Town or Parish Council for information;
 - (5) Issue a press release of its findings in respect of the Member's conduct.
- 8.4 The Hearing Sub-Committee has no power to suspend or disqualify a Member or to withdraw allowances.

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