



**Arrangements for Dealing with Standards Complaints Against Members.**

**Hearings Sub-Committee Meeting held on Wednesday 8 December 2021**

**Determination Notice**

<b>Complainant</b>	<b>Subject Member(s) and Council</b>	<b>Reference</b>
Mia Sykes, Robert Walker, Cllr Sam Corcoran, Cllr Donal Hegarty, and Cllr Alan Smith.	Councillor David Jack, Sandbach Town Council	MO 049/20 MO 078/20 MO 010/20 MO 011/20 MO 012/21

On Wednesday 8 December 2021, an Audit & Governance Hearings Sub-Committee of Cheshire East Council ("the Hearing Sub-Committee), comprising Councillor Margaret Simon (Chair), Councillor David Marren, and Councillor Patrick Redstone considered a report of an investigation into the alleged conduct of Councillor David Jack, a member of Sandbach Town Council. Councillor Jack did not attend the hearing.

**Complaints**

The complaints are set out in the *Report of an investigation into an allegation concerning the conduct of Councillor Jack* ("the Report") prepared by the Independent Investigator, Simon Goacher.

The Report concludes that Councillor Jack failed to comply with the following paragraphs of Sandbach Town Council's Code of Conduct –

4.10 (leadership) You must promote and support high standards of conduct when serving as Member of the authority, by leadership and example, championing the interests of the community.

4.12 (respect for others) You must treat others with courtesy. You should engage with colleagues and staff in a manner that underpins mutual respect and courtesy, essential to good local government.

4.14 (information) You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

(i) you have the written consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a professional third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person, or

(iv) the disclosure is reasonable, in the public interest; and made in good faith and in compliance with the reasonable requirements of the authority.

### **Consultation with Independent Person**

At the hearing, the Independent Person, Margaret Rathbone, agreed with the Independent Investigator's conclusions that Councillor Jack had breached paragraphs 4.10, 4.12, and 4.14 of the Code of Conduct.

### **Findings**

After considering the submissions of the Independent Investigator, and having considered the contents of the hearing bundle, including the document headed *Defence of Cllr David Jack*, the Chair of the Hearing Sub-Committee read the following statement on behalf of the Hearing Sub-Committee:

“Following this morning’s hearing, the Hearing Sub-Committee has deliberated on the points made by Mr Goacher, the points made in the written evidence provided by Councillor Jack, and the advice given by the Independent Person, Margaret Rathbone. We had read the papers included in the Bundle ahead of the hearing.

I confirm that the Hearing Sub-Committee has determined that Councillor Jack did breach the Code of Conduct.

The Hearing Sub-Committee has determined that the emails sent, and the social media posts posted, by Councillor Jack were sent in his capacity as Councillor.

While the Hearing Sub-Committee did not consider every email to be offensive, we did consider that many of the emails and posts included in the Bundle were offensive and showed no respect for others. We therefore consider Councillor Jack breached paragraph 4.10 (which concerns high standards of conduct when serving of a Member) and paragraph 4.12 (which concerns treating others with courtesy) of the Code of Conduct.

In respect of the publication of the complaint made by Mia Sykes, the Hearing Sub-Committee determined that, in doing so, Councillor Jack breached paragraph 4.14 (which concerns the disclosure of information given in confidence). Indeed, Councillor Jack seemed to acknowledge this in the relevant social media post, which is shown on page 272 of the Bundle.

Regarding the application of Article 10 of the European Convention of Human Rights, the Hearing Sub-Committee followed the 3-stage approach suggested by Mr Goacher and concluded (i) that Councillor Jack’s conduct amounted to a breach of the Code (ii) the finding in itself or the imposition of a sanction is on the face of it a breach of Article 10 and (iii) the restriction is justified by reason of the requirements of Article 10(2).

In respect of the recording and publishing of the meeting, the Hearing Sub-Committee determined that this was not a breach of paragraph 4.12 of the Code”.

Councillor Simon then invited the Independent Person to give her views on the matter. The Independent Person advised that the Hearing Sub-Committee’s findings in respect of Councillor Jack’s conduct should be published and she advised that a recommendation be made to Sandbach Town Council that Councillor Jack be excluded from attending the Committees and Sub-Committees of which he is a member.

The Hearing Sub-Committee retired to deliberate and having done so, the Chair read the following statement on behalf of the Standards Hearings Sub Committee:

“The Hearing Sub-Committee is grateful for the Independent Person’s recommendations and the Hearing Sub-Committee is broadly in agreement with each

recommendation; however, it has decided to take a slightly different approach in respect of the recommendations to be made to Sandbach Town Council.

The Hearing Sub-Committee was disappointed by Councillor Jack's breaches of the Code of Conduct. As a community leader, there is no place for using abusive, belittling, or offensive language against fellow Councillors or members of the public."

### **Outcome**

"As recommended by the Independent Person, the Hearing Sub-Committee wishes its findings in respect of Councillor Jack's conduct to be published.

The Hearing Sub-Committee recommends that Sandbach Town Council, arrange training for Councillor Jack on the Code of Conduct and on Equality and Diversity.

The Hearing Sub-Committee recommends that Sandbach Town Council exclude Councillor Jack from attending the Committees and Sub-Committees mentioned in paragraph 19<sup>1</sup> of the Independent Investigator's Report until he has completed the training on the Code of Conduct and on Equality and Diversity."

### **Appeal**

There is no right of appeal against the Hearing Sub-Committee's decision.

### **Notification of decision**

This decision notice is sent to:

- Councillor Jack,
- The complainants (Mia Sykes, Robert Walker, Cllr Sam Corcoran, Cllr Donal Hegarty, and Cllr Alan Smith),
- The Clerk to the Sandbach Town Council, and
- Will be published with the minutes of the meeting.

Signed:



Monitoring Officer, Cheshire East Council

Date: 17 December 2021

**The Hearing Sub-Committee sat in public and announced its findings in public. Accordingly, the content of this notice is public, and will be uploaded to the Council website with a full copy of the minutes of the meeting.**

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<sup>1</sup> These are: the Assets & Services Committee, the Conditions Survey Sub-Committee, the Small Common Redevelopment Sub-Committee, the Community & Environment Committee, the Events Sub-Committee, and the Planning & Consultation Committee.