

CHESHIRE EAST COUNCIL

Minutes of a reconvened meeting of the **Hearing Sub-Committee**
held on Wednesday, 8th December, 2021 in the Council Chamber, Municipal
Buildings, Earle Street, Crewe CW1 2BJ

PRESENT

Councillor David Marren
Councillor Patrick Redstone
Councillor Margaret Simon (Chair)

Mrs Margaret Rathbone, Independent Person

Mr Simon Goacher, Independent Investigator

Mr Emyr Thomas, Independent Legal Advisor to the Hearing Sub Committee

Gavin Happe, Legal Services
Rachel Graves, Democratic Services Officer

5 CONSIDERATION OF COMPLAINT

The Chair opened the meeting by explaining that this was a reconvened meeting of the Hearing Sub Committee to consider the code of conduct complaints made against Councillor David Jack of Sandbach Town Council.

As the directions had not been complied with by the specified date, on 15 November 2021 the Monitoring Officer issued further directions requiring provision of all material by 24 November 2021. On that date Councillor Jack had provided the evidence he intended to reply on at the hearing.

The Chair explained the procedure which would be followed at the hearing was set out in the Council's document 'Arrangements for Dealing with Standards Complaints against Members'.

The Chair informed that Councillor David Jack was not present at the meeting and confirmed that the members of the Hearing Sub Committee had read the evidence provided by Councillor Jack.

As the adjourned meeting had taken place over two months ago, the Chair asked the members of the Hearing Sub Committee and officers present to declare if they had any declarations of interest to make. No declarations of interest were made.

The Chair invited the Investigating Officer to present their report to the Hearing Sub Committee.

The Investigating Officer stated that he had been asked by the Council's Monitoring Officer to investigate three separate complaints made against

Councillor Jack, each alleging that he had broken the code of conduct for Sandbach Town Council. He had initially been asked to investigate one complaint and subsequent to that investigation two further complaints were added to the investigations as it was felt appropriate to deal with all complaints together in one report. Details of the complaints were set out in the Investigating Officer's report.

The Investigating Officer confirmed that he had reviewed all the material submitted, which were mostly emails and social media posts and interviewed the complainants. He had interviewed Councillor Jack in relation to the initial complaint and subsequently contacted him when the additional complaints were referred but Councillor Jack declined the opportunity to be interviewed in respect of them.

The Investigating Officer report had found that there was a failure to comply with paragraphs 4.10, 4.12 and 4.14 of Sandbach Town Council's Code of Conduct and advised that the Hearing Sub Committee should consider whether or not there had been a breach of the code.

The Chair invited the Independent Person to provide their view on the matters being considered.

The Independent Person stated that they had considered the documentation provided very carefully and had listened to what had been said by the Investigating Officer and was of no doubt that Councillor Jack had been acting in his role as councillor in the correspondence provided, and there was evidence of non-compliance with the code of conduct and that they agreed with the conclusions of the Investigating Officers report and his comments made today.

The Chair adjourned the meeting to allow the members of the Hearing Sub Committee to consider the evidence presented to them and decide if the code of conduct had been breached.

The meeting was adjourned at 10.44 am and reconvened at 2.02 pm.

The Chair confirmed that the members of the Hearing Sub Committee had deliberated on the points made by the Investigating Officer, the points made in the written evidence provided by Councillor Jack, and the advice given by the Independent Person, and stated that the Hearing Sub Committee had determined that Councillor Jack had breached the code of conduct.

The Hearing Sub Committee determined that the emails sent, and the social media posts posted by Councillor Jack were sent in his capacity as a Councillor. Whilst it did not consider every email to be offensive, it did consider that many of the emails and social media posts were offensive and showed no respect for others and therefore concluded that Councillor Jack had breached paragraphs 4.10 and 4.12 of the code of conduct.

The Hearing Sub Committee determined in respect of the publication of the complaint made by Mia Sykes, that in doing so Councillor Jack had breach paragraph 4.14 of the code of conduct.

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

Hearing Sub Committee in respect of the recording and publishing of the meeting determined that this was not a breach of paragraph 4.12 of the code of conduct.

The Chair invited the Independent Person to give their views on the matter.

The Independent Persons stated that they agreed that there had been breaches of the code of conduct on numerous occasions and considered that action should be taken.

The Chair stated that before the Hearing Sub Committee considered what action should be taken, she would again invite the Independent Person to offer their opinion of this matter and that if Councillor Jack had been in attendance would have given him the opportunity to make representations.

The Independent Persons stated that they would recommend that that Councillor Jack should be removed from all committees he sits on and that the Hearing Sub Committee findings should be published.

The Chair adjourned the meeting to allow the members of the Hearing Sub Committee to consider what actions should be taken as a result of their findings that the code of conduct had been breached.

The meeting adjourned at 2.07 pm and reconvened at 2.42 pm.

The Chair confirmed that the members of the Hearing Sub Committee had considered the Independent Person's recommendations and stated that the Hearing Sub Committee was broadly in agreement with each recommendation, however it had decided to take slightly different approach in respect of the recommendations to be made to Sandbach Town Council.

The Hearing Sub Committee was disappointed by the breaches of the Code of Conduct by Councillor Jack. They considered that as he was a community leader there was no place for using abusive, belittling or

offensive language against fellow councillors and members of the public and had decided that their findings in respect of Councillor Jack's conduct should be published.

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

The Hearing Sub Committee recommended that Sandbach Town Council exclude Councillor Jack from attending Committees and Sub Committee until he had completed the training on the Code of Conduct and Equality and Diversity.

The Chair thanked the Investigating Officer, Independent Person, Independent Legal Officer, and officers for their attendance and closed the meeting.

The meeting commenced at 10.00 am and concluded at 2.45 pm

Councillor M Simon