

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/2011/05 and 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/2011/05 and Complaint Number CEC/2011/08) that the Subject Member Mrs Jill Waits, formerly of Bunbury Parish Council had 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 Appendix C of the Investigating Officer's report refers to example emails from Mr James Walton. These documents have been withdrawn from the report at the request of the Complainant and have not been taken into consideration by the Investigating Officer in respect of his conclusions drawn.
- 3.3 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 may appeal to the Audit and Governance Standards Appeals Panel.
- 3.4 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 This legislation was repealed and replaced with the Localism Act 2011 under which this hearing will be conducted.

- 3.5 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 Investigator's Report

- 5.1 A complaint was received on 21 November 2011 from the Clerk to the Parish Council, Mrs Alex Stubbs on behalf of the Chairman of the Parish Council, Councillor Erica Partridge alleging that Councillor Jill Waits may have breached the Model Code of Conduct (CEC/2011/05 refers). A further allegation of a potential breach of the Code against four members of Bunbury Parish Council, namely Councillor Waits, Councillor Sally Beard, Councillor David Ellis and Councillor Gary McCormack was received on 23 November 2011 again from the Clerk and on behalf of the Chairman (CEC/2011/08 refers).

- 5.2 The paragraphs of the Model Code of Conduct which the Complainants alleged the Subject Member (Jill Waits) had breached were -

<u>Paragraph</u>	<u>Conduct</u>
3(1)	You must treat others with respect
3(2)(b)	You must not bully any person
3(2)(d)	You must not compromise the impartiality of those who work for your authority
4(a)	You must not disclose confidential information
5	You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute'
7(1)(a)	You must have regard to any relevant advice provided by
7(1)(b)	your authority's chief finance officer and your authority's monitoring officer
9(1)	Govern disclosure of personal interests
12(1) 12(2)	Govern the effects of prejudicial interests on participation

- 5.3 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 the matters to the Monitoring Officer for investigation.

- 5.4 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 of no breach, two possible options were available to the Sub-Committee; an acceptance of no breach or to convene a hearing. However, where the finding was that a breach had occurred, the option of acceptance of no breach was not available.

5.5 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) the Subject Member had failed to comply with paragraphs **9(1)**, **12(1)(a)** and **12(1)(a)(ii)** of the Model Code of Conduct; and
- b) there had been no failure to comply with paragraphs **3(1)**, **3(2)(b)**, **3(2)(d)**, **4(a)**, **5**, **7(1)(a) & (b)**, **12(1)(c)** of the Model Code of Conduct

and that a hearing should be convened to consider the matters at (a) above.

5.6 No further action will therefore be taken in respect of the paragraphs listed in paragraph 5.5(b) above. The Sub-Committee is only required to determine the allegations in respect of the paragraphs listed in 5.5(a).

6. Parties attending the Hearing

6.1 The Subject Member has confirmed that she will not be present at the meeting but has requested that a short statement be read out on her 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), 12(1)(a) 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 Member has not breached the Model Code of Conduct, no further action will be taken.

8.2 If a breach is found, the Member's 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 It should be noted that the Hearing Sub-Committee has no power to suspend or disqualify a Member or to withdraw allowances.

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