

CHESHIRE EAST COUNCIL

Council

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| Date of Meeting: | 17 December 2015 |
| Report of: | Standards Hearings Sub-Committee |
| Subject/Title: | Outcome of Standards Hearing |

1.0 Report Summary

- 1.1 To report the outcome of a standards complaint heard before a meeting of the Standards Hearing Sub-Committee on 24 November 2015.

2.0 Recommendation

- 2.1 Council is invited to note the report.

3.0 Reason for Recommendation

- 3.1 The outcome of the hearing is being reported to Council in compliance with one of the sanctions imposed by the Hearing Sub-Committee, having found the subject member to have breached Cheshire East Council's Members' code of conduct.

4.0 Code of Conduct Complaint CEC/14-15/MO11

- 4.1 A complaint was submitted to the Monitoring Officer in December 2014 by Mrs L Butcher ('the complainant') concerning the actions of a member of Cheshire East Council, namely Mr Brian Silvester (the 'subject member').
- 4.2 It was alleged that the subject member had breached Cheshire East Council's Members' code of conduct by -
- i) Calling for a council employee to be sacked during a radio interview on 16 December 2014;
 - ii) Repeating these views in a party political press release issued by him on 16 December 2014; and
 - iii) Exacerbating the issue further by publishing a letter sent to him by the Council's solicitors on 19 December 2014 concerning his remarks.

- 4.3 The paragraph of the code of conduct which the complainant alleged the subject member had breached was paragraph 7 (respect for others)

sub paragraph a) 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; and

sub paragraph d) you must not bully any person, including other councillors, officers of the authority or members of the public.

- 4.4 Having initially assessed the complaint, the Monitoring Officer in consultation with the Independent Person, concluded that the matter should be referred for external investigation. The Investigating Officer's report was received by the Monitoring Officer in June 2015 and was referred to the Standards Hearing Sub-Committee for consideration on 24 November 2015.

5. Findings of fact

- 5.1 The subject member has confirmed to the Monitoring Officer that he agreed with the findings of fact set out in the Investigating Officer's report i.e. that he had -

- i) Called for the sacking of a Council officer in the radio interview on 16 December 2014;
- ii) Repeated these views in a party political press release issued by him on 16 December 2014; and
- iii) Published a letter sent to him by the Council's solicitors on 19 December 2014 concerning his remarks.

6. Outcome of the hearing

- 6.1 Having considered representations from the Investigating Officer (Mr Simon Goacher), the subject member and his witness Mr S McQuade, and having sought the views of the Independent Person, the Hearing Sub-Committee found that the subject member had breached paragraph 7 (respect for others);

sub paragraph a) 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; and

sub paragraph d) you must not bully any person, including other councillors, officers of the authority or members of the public

of Cheshire East Council's Members' Code of Conduct.

7. Reasons for the unanimous decision

- 7.1 Mr Silvester considered that, in making his comments, he was speaking up for and voicing the concerns of his constituents. Whilst the right to freedom of expression is contained within Article 10 of the Human Rights Act, this has to be weighed against the interests of open discussion of matters of public concern against the right of the council officer to be protected from unjustified public comment. In this case, the Hearing Sub-Committee found that the subject member's comments were excessive and unjustified.
- 7.2 Accordingly the Hearing Sub-Committee considered that Mr Silvester had crossed an important line in respect of a Councillor's duty of care to employees which had resulted in a breach of the code of conduct.
- 7.3 Furthermore, Mr Silvester was found to have failed to follow appropriate procedures in that he had not taken any steps to raise his concerns through the proper channels prior to making his views public in a radio interview.

8.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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