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| Meeting: | Standards Panel |
| Meeting date: | 18 December 2019 |
| Title of report: | Referral of complaint to the standards panel for determination |
| Report by: | Democratic services officer |

Classification

Open – Report

Appendices 1 to 7 are exempt from publication because doing so would disclose information which is confidential, being prohibited from publication under an enactment.

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

Key Decision

This is not an executive decision.

Wards Affected

All Wards

Purpose

To determine a complaint following referral by the deputy monitoring officer of a complaint which cannot be dealt with under monitoring officer resolution.

Recommendation

THAT the panel determine a complaint following a referral by the deputy monitoring officer

Options

1. It is for the panel to decide whether or not there has been a breach of the code of conduct.
2. There are no other options as the deputy monitoring officer has determined that the complaint cannot be resolved under monitoring officer resolution.

Key Considerations

3. The following appendices are attached to this report to assist the panel in its determination:

Appendix 1 – Summary of matter referred to Standards Panel for determination

Appendix 2 – Complaint

Appendix 3 – Investigation report

Appendix 4 – Subject Member's comments

Appendix 5 – Training presentation

Appendix 6 – letter from the complainant

Appendix 7 – code of conduct as applied at time of alleged breach

4. The monitoring officer will be present at the meeting to answer queries which the panel members may have.
5. It is for the panel members to determine whether or not there has been a breach of the code of conduct in relation to the complaint.
6. If the panel find that a subject member is in breach of the code of conduct, it may:
 - Publish its findings in respect of the member's conduct;
 - Report its findings to council (or to the town/parish council) for information;
 - Recommend to council that the member be censured;
 - Recommend to the member's group leader (or in the case of un-grouped members, recommend to council) that he/she be removed from any or all committees or sub-committees of the council;
 - Recommend to the leader of the council that the member be removed from the cabinet, or removed from their portfolio responsibilities;
 - Recommend that the subject member be replace as executive leader;
 - Instruct the monitoring officer to (or recommend that the town/parish council) arrange training for the member;
 - Recommend to council (or recommend to the town/parish council) that the member should not be appointed and/or be removed from all outside body appointments to which they have been appointed or nominated by the council (or by the town/parish council);
 - Withdraw (or recommend to the town/parish council that it withdraws) facilities provided to the member by the council, such as a computer, website and / or email and internet access;
 - Exclude (or recommend that the town/parish council exclude) the member from the council's offices or other premises, with the exception of meeting rooms as necessary for attending council, committee and sub-committee meetings.
 - Require an apology in suitable terms to the standards panel.
7. The above list is not exhaustive. However, it should be noted that the panel does not have the power to suspend a councillor or to withdraw any allowances which a subject member may be in receipt of.
8. If there is a finding of a breach of the code of conduct, details will appear as a decision of the standards panel, subject to any publication restrictions arising from the confidential nature of the matter.

Community Impact

9. Having an effective process for dealing with code of conduct complaints upholds principle A and G of the code of corporate governance by ensuring that councillors behave with integrity and that councillors are accountable for their actions. This should provide reassurance to the community that councillors are behaving in the best interests of their communities and that appropriate action is being taken to ensure that the code is being upheld.

Equality duty

16. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
17. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

18. There are no resource implications arising as a result of this report.

Legal Implications

19. The council's arrangements for dealing with code of conduct complaints enables a referral into the standards panel where the monitoring officer is unable to resolve the complaint.
20. The panel is asked to determine this complaint, taking account of the complaint and the subject members views against the code of conduct as applies.
21. No matter relating to this complaint can be publicised due to a restriction in an enactment. There is no discretion for the panel. This matter must be dealt with in private to ensure there is no breach in the obligation of confidence.

Right of Appeal

20. There is no right of review or appeal against the standards panel decision.

If either party remains unhappy about the process which has been followed, they may complain to the Local Government and Health and Social Care Ombudsman,

Risk Management

21. There are no risks arising directly from the report which is for information. Maintaining high standards of conduct mitigates risks to the reputation of the council.
22. The Council cannot publish the details of this complaint. There is no discretion. The meeting must be held in private to ensure that an offence is not committed.

Consultees

22. None.

Appendices

Appendix 1 – Summary of matter referred to Standards Panel for determination
Appendix 2 – Complaint
Appendix 3 - Investigation Report
Appendix 4 – Subject Member's comments
Appendix 5 – Training presentation
Appendix 6 – Letter from the complainant
Appendix 7 – Code of conduct as applied at time of the alleged breach

Background Papers

None