

Agenda Item No: 5

Report to: Standards Committee

Date of Meeting: 26 June 2013 at 18.00

Report Title: Complaint SC/01/13/2013

Report By: Christine Barkshire-Jones
Chief Legal Officer and Deputy Monitoring Officer

Purpose of Report

The Standards Committee has to decide what action to take in respect of a complaint alleging breach of the Code of Conduct.

Recommendation(s)

- 1. Members are requested to decide if there has been a breach of the Code, if so what paragraphs of the Code and to determine what is the appropriate action in relation to the complaint.**

Reasons for Recommendations

The assessment Committee held on 3 June 2012 considered that the complaint should be heard on 26 June 2013 as there was a case to answer.

2. Additional Papers attached:

1. Code of Conduct
2. Assessment Hearing report and papers

3. Procedure at Standards Committee

Chair to open meeting. The Monitoring Officer (or deputy) will read her report. The Chair will ask Mr Vallery-Peters if he wishes to comment further regarding his complaint. The members may ask him questions. Mr Vallery-Peters may leave the room.

The Chair will ask Councillor Westley if she wishes to comment further regarding the complaint made against her. The members may ask her questions. Councillor Westley will leave the room.

4. Tests

The Standards Committee will need to satisfy itself that:

- a) the complaint is against one or more named members of the Council
- b) the named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time
- c) the complaint, if proven, would be a breach of the Code under which the member was operating at the time of the alleged misconduct

5. Application of Test

In order to proceed the Standards Committee has to consider the following;

- a) is Councillor Westley an elected member of Hastings Borough Council?
- b) the Complainant had provided evidence as to when the offence took place on 7 April 2013

The first question is easily answered. The second happened at the weekend. However, the role of elected member does not just apply between office hours.

- c) Whether the conduct if proved would constitute a breach of the Code of Conduct

If the complaint passes these tests the Committee will go on to consider whether both or one paragraph/s of the Code of Conduct have been breached, namely;

Paragraph 3(1) You must treat others with respect

Paragraph 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into dispute

6. Sanctions.

The Standards Committee must consult the Independent Person before imposing any sanction and give Councillor Westley the opportunity to make representations.

The Standards Committee should consider all the mitigating and/or aggravating circumstances that appear to them to be relevant. For example they may wish to consider

- What were the actual and potential consequences of the breach?
- How serious was the breach?
- What is the attitude of the subject member now? Have they apologised?
- Has the subject member previously been dealt with for a breach of the code?

The following are examples of mitigating and aggravating factors but these lists should not be regarded as exhaustive.

Mitigating Factors

- an honest but mistaken belief that the action was not a breach of the code
- a previous record of good service
- evidence that they were suffering from ill health at the time of the breach

Aggravating Factors

- Dishonesty
- Continuing to deny the acts or blaming other people
- Evidence of a failure to follow advice or warnings

Sanctions

- The sanctions available to the Panel are:
- Publish its findings in respect of the member's conduct
- Write a formal letter to the Councillor found to have breached the Code
- Report its findings to Council for information
- Seek formal censure by motion
- Recommend to the Member's Group Leader the 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 particular Portfolio responsibilities
- Instruct the Monitoring Officer to arrange training, mediation or other appropriate remedy

7. Notice of Decision

As soon as reasonably practicable after the hearing, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of Standards and send a copy to the complainant, the Subject member and make the decision notice available for public inspection.

8. Reasons for Decision

The Standards Committee will give a written summary of their decisions which should include;

- a) the main points considered
- b) the conclusions on the complaint
- c) the reasons for the conclusions

Wards Affected

None

Area(s) Affected

None

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	No
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	Yes
Organisational Consequences	No
Local People's Views	Yes

Background Information

Appendix - Code of Conduct
Appendix - Assessment Hearing Report and Papers

Officer to Contact

Christine Barkshire-Jones

