



FULL COUNCIL

Wednesday, 15 March 2023

Subject	Urgent Item of Business - report on the outcome of an investigation of a complaint
Report by	Councillor Geoff Lynch Chairman of Audit and Governance Committee
Supporting Officer	Christopher Bing Head of Legal and Democratic Services & Monitoring Officer chris.bing@eastsoffolk.gov.uk

Is the report Open or Exempt?	EXEMPT
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Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information.	<p>This report is to be considered during the CLOSED part of the Agenda because it contains exempt information as defined in Paragraph 1 (information relating to an individual) and 2 (information which is likely to reveal the identity of an individual) of Schedule 12A to the Local Government Act 1972.</p> <p>It is considered that the public interest in not disclosing the exempt information outweighs the public interest in disclosing the information.</p>
Wards Affected:	None

Purpose and high-level overview

Purpose of Report:

To report to Full Council the decision of Audit and Governance Committee, at its meeting on 13 March 2023, on an investigatory report into a code of conduct complaint against Councillor Beavan, in his capacity as an East Suffolk Council Councillor.

Options:

No other options were considered.

Recommendation/s:

That the Audit and Governance Committee's decision on this matter be noted.

Corporate Impact Assessment

Governance:

Under Section 27 of the Localism Act 2011 (the Act), East Suffolk Council must promote and maintain high standards of conduct including the handling of any allegations that a district, town or parish councillor has breached the adopted Suffolk Local Code of Conduct (the Suffolk Code).

Section 28(6) of the Act requires that authorities have arrangements in place under which allegations that a Member has failed to comply with the Code can be made.

The arrangements put in place for making decisions on allegations must include provision for the appointment of at least one "independent person", whose views must be sought, and considered, before any decision is made to investigate an allegation of breach of the Code. East Suffolk Council's current independent persons are Dr Peck and Mr Urey. Mr Urey is the Independent Person who has been consulted on this complaint.

Audit and Governance Committee's terms of reference provide that, in relation to its "Standards Functions", it "receives reports summarising the results of the allegations made and investigations conducted into possible breaches of the Members' Code of Conduct and to determine those cases referred to it by the Council's Monitoring Officer".

ESC policies and strategies that directly apply to the proposal:

Not applicable

Environmental:

Not applicable

Equalities and Diversity:

Not applicable

Financial:

Not applicable

Human Resources:

Not applicable

ICT: Not applicable
Legal: Not applicable
Risk: Not applicable

External Consultees: Mr Urey, East Suffolk Council's Independent Person
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Strategic Plan Priorities

Select the priorities of the Strategic Plan which are supported by this proposal: <i>(Select only one primary and as many secondary as appropriate)</i>		Primary priority	Secondary priorities
T01	Growing our Economy		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T02	Enabling our Communities		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input type="checkbox"/>	<input type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input type="checkbox"/>
T03	Maintaining Financial Sustainability		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>
T04	Delivering Digital Transformation		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T05	Caring for our Environment		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>

XXX	Governance		
XXX	How ESC governs itself as an authority	<input checked="" type="checkbox"/>	<input type="checkbox"/>
How does this proposal support the priorities selected?			
Section 27 of the Localism Act 2011 provides that East Suffolk Council is under a statutory duty to promote and maintain high standards of conduct by Members and co-opted Members of the district, town and parish councils.			

Background and Justification for Recommendation

1 Background facts	
1.1	On 31 May 2022, Councillor Kerry submitted a Councillor Code of Conduct complaint against Councillor Beavan to the Monitoring Officer of East Suffolk Council. Councillor Kerry alleged that Councillor Beavan had breached the Code of Conduct by his email of 30 May 2022 in which a reference was made to “fiddling the figures” in relation to the banding of an applicant seeking accommodation in the Southwold and Reydon ward. The email was sent to an officer in Housing Services, as well as the applicant seeking accommodation. Two housing managers were also copied into the email.
1.2	In response to the complaint, Councillor Beavan considered the complaint to be politically motivated and that his reference to “fiddling the figures” was followed by an exclamation mark which was intended to show it was not a serious accusation.
1.3	On 28 July 2022, the Monitoring Officer issued his initial assessment decision on the complaint. The Monitoring Officer, after consulting Mr Urey (the Council’s Independent Person), determined that paragraphs 1.2 (concerning Respect) and 3.1 (concerning the Impartiality of Officers of the Council) of the Code of Conduct had potentially been engaged by Councillor Beavan. The Monitoring Officer held that Councillor Beavan should retract and/or apologise to three officers in Housing Services for his inappropriate use of the word “fiddling”. The Monitoring Officer said the retraction and/or apology should be sent to the three officers, with he as Monitoring Officer copied in, by 4pm on Monday 15 August 2022.
1.4	On 24 August 2022, the Monitoring Officer asked Councillor Beavan to advise him whether he had complied, or would be complying, with his initial assessment decision of 28 July 2022. Councillor Beavan did not reply to this email.
1.5	On 28 September 2022, the Monitoring Officer raised the matter, in person, with Councillor Beavan on the evening of Full Council.
1.6	On 9 November 2022, the Monitoring Officer advised Councillor Beavan that to maintain the integrity of the complaints process, and after consulting the complainant and the Independent Person, he had decided to have the complaint independently investigated by an external lawyer to determine whether the Code of Conduct had been breached. In this email, the Monitoring Officer informed Councillor Beavan that if the investigator found that the Code had been breached, and if the Independent Person agreed, a report on the matter would be taken to ESC’s Audit and Governance Committee to consider. The Monitoring Officer also explained that councillors are required to co-operate with Code of Conduct investigations and/or determinations pursuant to paragraph 8 of the Code of Conduct.

1.7	On 9 November 2022, the Monitoring Officer instructed Wilkin Chapman LLP to carry out the investigation.
1.8	On 22 February 2023, Wilkin Chapman LLP sent the final investigation report and schedule of evidence to the Monitoring Officer. Prior to the issuing of the final report and schedule of evidence, a draft report was circulated by Wilkin Chapman to Councillor Kerry, Councillor Beavan and the Monitoring Officer for comment. Councillor Kerry and Councillor Beavan provided no comments on the draft report.
1.9	<p>The investigator found that Councillor Beavan had failed to comply with the following provisions of the Code of Conduct: paragraphs 1.2 (concerning Respect), 3.1 (concerning the Impartiality of Officers of the Council) and paragraphs 8.1, 8.2 and 8.4 (concerning Complying with the Code of Conduct).</p> <p>The investigator found that the Councillor had not brought his role or local authority into disrepute, contrary to paragraph 5.1 of the Code of Conduct, because the conduct which was the subject of the complaint had not been made public.</p>
1.10	On 24 February 2023, the Monitoring Officer sent a copy of the final report and schedule of evidence to Councillor Kerry and Councillor Beavan.
1.11	On 28 February 2024, the Independent Person was consulted on the outcome of the investigation. Mr Urey agreed with the investigation findings as to the breaches of the Code of Conduct. Mr Urey considered that the matter should be referred to Audit and Governance Committee. Mr Urey recommended to the Committee that Councillor Beavan be required to retract and/or apologise to affected officers in Housing Services for the use of the word 'fiddling'.
1.12	On 3 March 2023, Councillor Kerry and Councillor Beavan were notified that the complaint and the outcome of the investigation would be considered and determined by Audit and Governance Committee on 13 March 2023. It was explained that consideration by the committee would take place on the written material only. Councillor Beavan and Councillor Kerry were both given the opportunity to provide written comments for the committee's consideration. Councillor Beavan provided written comments for the committee's consideration.

2 Current position

2.1	<p>At its meeting on 13 March 2023, Audit and Governance Committee resolved by a majority vote that:</p> <ul style="list-style-type: none"> i) the way the complaint had been handled and investigated had been fair and thorough; ii) the investigation findings of fact and the breaches of the Code of Conduct were agreed; and <p>At its meeting on 13 March 2023, Audit and Governance Committee resolved by a unanimous vote that:</p> <ul style="list-style-type: none"> iiia) Councillor Beavan be required to provide a written apology to the Housing Needs Services Manager, the Housing Needs and Homelessness Advice Team
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	<p>Leader and the Housing Needs Monitoring Officer within two weeks of receipt of Audit and Governance Committee’s decision of 13 March 2023.</p> <p>iiib) Councillor Beavan be required to undertake training on the new LGA Model Code of Conduct, if he is re-elected.</p> <p>iiic) Audit and Governance Committee’s decision that Councillor Beavan be required to apologise to the three officers and undertake training be reported to Full Council on 15 March 2023 as an exempt matter but that if the Councillor does not comply with their decision in due course that the matter be reported in open session to a meeting of Full Council after the elections in May 2023.</p> <p>iv) Councillor Richardson to report Audit and Governance Committee’s decision to Full Council on 15 March 2023, in the absence of the Chairman of Audit and Governance Committee and the Vice Chairman of Audit and Governance Committee.</p>
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3 How to address current situation

3.1	For Full Council to note the Audit and Governance Committee’s decision of 13 March 2023.
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4 Reason/s for recommendation

4.1	To implement the resolution of Audit and Governance Committee on Report ES-1501 at its meeting on 13 March 2023.
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Appendices

Appendices:

None.

Background reference papers:

Date	Type	Available From
13/03/23	Audit and Governance Committee – Report ES-1501	CMIS