

CONDUCT COMMITTEE

28 SEPTEMBER 2012

REPORT OF THE HEAD OF RESOURCE MANAGEMENT

A.1 ALLEGATION OF FAILURE TO COMPLY WITH THE CODE OF CONDUCT COMPLAINT NUMBERS 03/2012 AND 04/2012

(Report prepared by Mike Gibson-Davies)

1.0 PURPOSE OF THE REPORT

To refer the above complaints to the Conduct Committee so the Committee can assess them and decide how the complaints will be dealt with.

2.0 BACKGROUND

Two complaints were received on 21 August 2012 regarding comments made by Councillor Stock at the full Council meeting on 3 July 2012 in response to an urgent question to him from Councillor Garry Calver regarding how the e-mail referred to in the next sentence below got into the public domain. The question related to (1) the allocation of funding for flood defence (2) how an e-mail concerning the allocation got into the public domain and (3) a Portfolio Holder. The question and Councillor Stock's response are recorded in Minute 29 of that full Council meeting.

3.0 THE COMPLAINTS

The comments complained about comprise two sentences recorded in Minute 29 of the full Council meeting held on 3 July 2012 which state that the e-mail "*has been inappropriately and illegally obtained*" and which state that Councillor Stock has to assume that" *Someone acting on behalf of.....[see Minute for details] ..has been hacking Conservative Group e-mails*". The complaints allege that the comments complained about are unfounded allegations and that they breach the Members' Code of Conduct. A copy of the Code of Conduct comprises Appendix A to this report.

4.0 REFERRAL TO THE CONDUCT COMMITTEE

The Statutory Officers' Conduct Panel (SOCP) met on 22 August 2012, considered the complaints, and decided as follows:

"That the complaints be referred straight to the Conduct Committee for consideration, since the Officers Panel considered it would not be appropriate/transparent for them to assess or deal with the allegations. The reason was because officers on the Panel have had previous dealings with aspects of this matter and have been identified in the allegations."

5.0 CONCLUSION

Under the new arrangements for dealing with complaints against Councillors alleging a breach of the Code of Conduct, the next step countenanced by the new arrangements which the full Council put in place is for the Conduct Committee to assess the complaints and to decide what action (if any) to take. The options available to the Committee to decide are as follows:

1. Decide (giving reasons) that the complaint is not sufficiently serious to warrant investigation or other action
2. That the complaints should be investigated on such basis as the Committee considers

appropriate (in which case the Committee must specify the terms of reference)

3. Refer the complaints to the Independent Panel either for investigation, report and recommendation or on such other specific terms of reference as the Committee considers appropriate
4. Decide that arrangements should be made with a view to agreeing terms for an agreed mediation or settlement of the complaints between the relevant parties on such basis as the Committee decides

It should be noted that under 28(7) of the Localism Act 2011, the Committee cannot make any finding or determination on an allegation that has been investigated or which involves a finding that the Code has been breached before the Committee has consulted at least one Independent Person.

RECOMMENDATION

That the Committee decides how to deal with the complaints.

TENDRING DISTRICT COUNCIL**MEMBERS' CODE OF CONDUCT**

You are a member or co-opted member of the Tendring District Council and hence you shall be committed to behaving in a manner which is consistent with the following principles:-

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's or is the pecuniary interest of somebody with whom you are living as a husband or wife or as if you were civil partners and of which you are aware.

Even if an interest has been entered in TDC's register of Members' Interests or formal notification of the interest has been given to the Monitoring Officer, then you must disclose the interest to any meeting of the authority at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'¹

Following any disclosure of an interest not on TDC's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

CODES AND PROTOCOLS

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions TDC places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

If you are at a meeting of the authority and the business or matter under consideration involves another organisation in which you have a decision-making role or where you can influence its finances, you are required to disclose the nature and extent of your interest in it so that the public and others present at the meeting have confidence in the fairness and transparency of the proceedings.

If you are at a meeting of the authority and have a pecuniary interest in the business under consideration, which is a disclosable pecuniary interest or an interest which a member of the public with knowledge of the relevant circumstances is likely to consider would distort your judgement of the public interest, you must disclose the interest.