

TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

03 November 2015

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Matters For decision

1 RECOMMENDATIONS TO COUNCIL FOLLOWING HEARING OF JOINT STANDARDS COMMITTEE ON 12 OCTOBER 2015

1.1 Introduction

- 1.1.1 On 12 October the Hearing Panel of the Joint Standards' Committee met to determine an allegation that Councillor Mike Taylor had breached the Code of Conduct of this Council.
- 1.1.2 An independent external investigator (Wilkin Chapman Solicitors) was appointed to carry out the investigation into the allegation, and their report is set out at Annex 1 to this Report. Their report concluded there had been a breach of the Code of Conduct on the grounds of (i) bullying and (ii) bringing his office or the Council into disrepute.
- 1.1.3 The Panel found that there had been a breach of the Code of Conduct in respect of obligation 3(2)(f), *"You must not conduct yourself in a manner which would reasonably be regarded as bringing your office or the Authority into disrepute."*
- 1.1.4 The Hearing Panel did not find that Councillor Taylor had breached paragraph 3(2)(a) "You must not...(a) bully any person", as the evidence before the panel was that the officers whom Councillor Taylor's behaviour was directed at did not feel bullied. The Panel noted that had the behaviour in question been directed at less senior officers then they would be very likely to have come to a different conclusion as the behaviour in question had the essence of "bullying" about it.
- 1.1.5 The full reasons for the decision are contained in the Decision Notice which is annexed to this report as Annex 2.

1.2 Sanctions

- 1.2.1 Once the Panel have found that there has been a breach of the Code of Conduct the adopted arrangements for dealing with complaints require the Panel to hear representations from the Monitoring Officer ("MO") and the Independent Person ("IP") on whether there should be any sanctions and from the MO, IP and the Subject Member on what sanctions should be imposed. The representations

made to the Panel have been recorded in paragraphs 43 to 45 of the Decision Notice and the Annex to it.

- 1.2.2 The Council's adopted arrangements for dealing with Hearings contain the range of possible sanctions which the Panel can make. These are set out at Annex 3 in paragraph 4. The Panel are not entitled to apply or recommend any other sanctions.
- 1.2.3 At the Hearing the Panel imposed the four following sanctions:
- a) Recommending to Council that Councillor Taylor be issued with a formal censure by motion (i.e. the issue of an unfavourable opinion or judgement or reprimand);
 - b) Recommending to Council that Councillor Taylor be removed from Area 2 Planning Committee until the end of April 2017;
 - c) Recommending to Council that they issue a press release; and
 - d) Publishing the Panel's findings in respect of Councillor Taylor's conduct on the Council's website.
- 1.2.4 In coming to its decision the Panel must have regard to the questions which are set out in Annex 3 at paragraph 4.4.
- 1.2.5 The full reasons for their decision on sanctions are set out in paragraph 47 of the Decision Notice.
- 1.2.6 The matters at 1.2.3 a) to c) above are expressed as recommendations to Council as a result of the adopted arrangements which require the decision on sanctions to be ratified by Council. As to 1.2.3(d), the Decision Notice has been published on the Council's website.
- 1.3 **Legal Implications**
- 1.3.1 The Panel have determined that there was a breach of the TMBC Code of Conduct by Councillor Taylor. There is no right of appeal against that decision.
- 1.3.2 Council must consider the sanctions which the Panel imposed and should have regard to their reasoning and whether the sanctions are fair and proportionate and in line with the adopted arrangements at annex 4.
- 1.3.3 As Council will be confirming whether sanctions a) – c) above should be imposed it must also consider whether Councillor Taylor's right to freedom of expression, enshrined in Article 10 of the European Convention on Human Rights, will be interfered with. The representations of the Deputy Monitoring Officer to the Hearing Panel (which are attached to the decision notice) on this point are sound legal advice for Council to consider and the reasoning of the Panel on this point is at paragraph 47.6.3 of the Decision Notice.

1.4 Financial and Value for Money Considerations

1.4.1 The investigation in to this matter has been very thorough. It involved the appointment of external investigators, in the interests of ensuring an independent investigation. The total cost of their appointment (which was to cover this investigation plus another unrelated matter) was £11,100.

1.5 Recommendation

1.5.1 Council are requested to consider the recommendations of the Hearing Panel at paragraph 1.2.3. a) – c) above.

Background papers:

Nil

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