

Standards Hearing Sub-Committee

11 February 2019

Code of Conduct Complaint against a Councillor

Head of Service/Contact:	Amardip Healy, Monitoring Officer
Annexes/Appendices (attached):	Annex 1: Members Code of Conduct Annex 2: Arrangements for dealing with a complaint about a councillor Annex 3: Investigator's Report (exempt from publication for reason set out on the Agenda) Annex 4: Investigation Bundle (exempt from publication for reason set out on the Agenda)
Other available papers (not attached):	None Stated

Report summary

To consider a Member's Code of Conduct complaint against Councillor Mountain.

Recommendation (s)

The Sub Committee is asked to consider the Investigating Officer's report and resolve what action, if any, is required.

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 The Code of Conduct is a way of ensuring the business of the Council is undertaken in a professional manner and clarifies and reinforces the ethical standards in local government.
- 1.2 It defines a set of practical guidelines and clearly sets out the councillor's responsibilities as a representative of the residents of Epsom and Ewell. It also requires that appropriate interests in jobs, property and businesses are declared.
- 1.3 It is important that the public have confidence in all Members of the Council who are duty bound to follow the Council's Members Code of Conduct.

Standards Hearing Sub-Committee

11 February 2019

2 Background

- 2.1 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the Council, or of a Committee or Sub-Committee (or, additionally, in the case of this authority, Advisory Panel) of the Council, has failed to comply with that Council’s Code of Conduct can be investigated and decisions made on such allegations.
- 2.2 Following the adoption of the Epsom and Ewell Borough Council Member Code of Conduct, the Council also approved a process for investigating complaints in July 2012. The Member Code of Conduct can be found at Section A of Part 5 of the Constitution. A copy of the Code is attached at **Annex 1** and the arrangements for investigation and determination are attached at **Annex 2**.
- 2.3 Guidance on how to make a complaint against a member and the processes for such are on the Council’s website.

3 Complaint

- 3.1 A complaint was made against Councillor Mountain by a planning agent, Mr Lewis, acting for a resident on a planning application.
- 3.2 In light of the nature of the complaint, it was referred on for investigation. The Monitoring Officer appointed Ms Beesly, Solicitor, as the Investigator and a copy of her report is attached at **Annex 3 (exempt from publication for the reason set out on the Agenda)** and the bundle of supporting evidence is at **Annex 4 (exempt from publication for the reason set out on the Agenda)**.
- 3.3 There were seven individual parts to the complaint, and these are set out in the Investigator’s report at page 1. The matters are interrelated in that they all relate to an allegation that Councillor Mountain failed to call in a planning application when asked to do so by an applicant who lived in Councillor Mountain’s Ward.
- 3.4 The allegations of the breach of the Members’ Code of conduct related to ‘Openness’ and a failure to comply with the Model Code of Practice in respect of Planning Matters, which the Member Code of Conduct requires to be complied with.
- 3.5 The Investigator found on one of the seven matters. As a result of the arrangements for dealing with a complaint about a councillor, the matter has had to be referred to the Standards Sub Committee for determination.
- 3.6 It is clear from the Investigator’s report that Councillor Mountain accepts that she did not respond to emails to her Council email address. As a result she was unable to engage fully with the complainant over the issues being raised, which ultimately resulted in the complaint being made.

Standards Hearing Sub-Committee

11 February 2019

4 Financial and Manpower Implications

- 4.1 There are no financial or staffing implications arising out of this report.
- 4.2 **Chief Finance Officer's comments:** *None arising from the contents of this report.*

5 Legal Implications (including implications for matters relating to equality)

- 5.1 None arising from the contents of this report.
- 5.2 **Monitoring Officer's comments:** *It is important the public have the necessary levels of trust and confidence in the system of support from their Councillors when needed.*
- 5.3 *There is often a balance to be had, and it may not always be possible for a Councillor to achieve the outcome a resident may be wishing to secure. However, it is important for correspondence to both document and provide responses to those who seek to contact their local representative and for Councillors to be contactable by the methods of communication they have available.*
- 5.4 *Councillor email addresses are designed to be the route for contact for all Council related activity, be it casework or Council business. All Councillors are now registered as Data Controllers in their own right and it is important for Councillors to understand the risks and obligations which flow from this.*

6 Sustainability Policy and Community Safety Implications

- 6.1 N/A

7 Partnerships

- 7.1 N/A

8 Risk Assessment

- 8.1 N/A

9 Conclusion and Recommendations

- 9.1 The Sub Committee is asked to consider the evidence presented and to come to a decision on what action, if any, should be taken in this matter.
- 9.2 The Council has delegated to the Sub-Committee powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct.
- 9.3 Paragraph 10 of the “Arrangements for dealing with a complaint about a councillor” sets out the options open to the Sub Committee. Accordingly, the Sub-Committee may –

Standards Hearing Sub-Committee

11 February 2019

- Decide that no further action is required;
- Publish its findings in respect of the member's conduct;
- Issue a statement of censure;
- Report its findings to Council;
- Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Withdraw facilities provided to the member by the Council, such as a computer, and/or email and Internet access; or
- Exclude the member from some or all of the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

Ward(s) affected: (All Wards);