

Report for Resolution

Report to Standards Committee

Item

2

Report of Head of Legal and Democratic Services

Subject Code of Conduct Allegation – Case Reference AS0802

Purpose

To report the results of an investigation into an alleged breach of the Code of Conduct and to recommend to Members a course of action.

Recommendations

That Members consider the report.

Financial Consequences

There are no financial consequences of this report.

Strategic Priority and Outcome/Service Priorities

The report helps to meet the strategic priority to provide strong and ambitious leadership to make the City proud of its Council.

NOTE

Appendices B & C are not attached to the published version of the report as they are deemed not for publication by virtue of Para 11.5 (5) of the Council's constitution"

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Report

Executive Summary

1. The allegation made against Councillor Jago by Councillor Steve Morpew was that he failed to report relevant information to the Monitoring Officer or the Chief Executive of the Authority. The finding of this report is that there has been no breach of the Code of Conduct.

Member's Details

2. Councillor Jago was first elected as Councillor for Mancroft Ward in May 2006. Councillor Jago signed the current Code of Conduct on 9 May 2006 and received training on the new Code on 1 October 2007.

Councillor Jago serves on the following committees:-

- Regulatory Committee
- Licensing Committee

Relevant Legislation and Protocols

3. The Council has adopted the revised model Code of Conduct which is set out in full as Appendix A to this report. This report is made under regulation 14(8) of the Standards Committee (England) Regulations 2008.

The Allegation

4. The allegation against Councillor Jago is set out as Appendix B to this report. The relevant paragraph is paragraph 2. The allegation is that Cllr Jago “..failed to comply with the code of conduct in that, despite his expressing in the media his concern (for this), he failed to report it to the monitoring officer or chief executive”. Also he “failed to report what had happened into the investigation that is being held into Greyhound Opening and so has been withholding material evidence. The manner of his actions have also brought the council into disrepute”.

The Code of Conduct

5. The question is, what paragraph of the code is engaged by this allegation? There is no specific paragraph of the code which stipulates that an Elected Member must ‘alert’ the Authority or designated officers of the Authority if that Member becomes aware of matters of concern. The only provision of the Code which it appears possible may be engaged is paragraph 5 ‘Conducting yourself in a manner which could reasonably be regarded as bringing your office or authority

into disrepute’.

The Evidence Gathered

6. Councillor Jago was interviewed and the notes of that interview are appended as Appendix C to this report.

Summary of the Material Facts

7. As part of my investigation I made the following findings of material facts:-

- i. Councillor Jago was aware of the proposal to develop Greyhound Opening via attending a briefing for Ward Councillors.
- ii. Councillor Jago was aware of the letting of Greyhound Opening properties to Council officers from his conversation in the Green Party room in July 2007.
- iii. Councillor Jago was not aware that the letting scheme had not been properly authorised.
- iv. Councillor Jago did not know the identity of any Council Officers living at Greyhound Opening.
- v. Councillor Jago was not in possession of information which was unavailable to other Members upon reasonable enquiry. He did not believe himself to be in possession of exclusive or privileged information.
- vi. Councillor Jago did not make any report or alert any officer of the proposed lettings.

Additional Submissions by Councillor Jago

8. Councillor Jago made his response to the case during the interview the notes of which are appended to this report. He has made no further submissions or representations except to approve the interview notes with some agreed amendments.

Reasoning as to whether there have been failures to comply with the Code of Conduct

9. As noted in paragraph 5 of this report the only possible relevant paragraph of the Code of Conduct is paragraph 5. There is no other paragraph of the Code requiring a Member to make notifications or alerts when information comes into their possession.

B. When paragraph 5 of the Code uses the word ‘conduct’ that term must imply some reprehensible element whether that is a breach of another provision of the Code or other unlawful or similar conduct. Entirely innocent and ethical conduct on

the part of a Member cannot constitute a breach of the Code. That would be contrary to all reason.

C. Councillor Jago did not notify any officer or make any alert because he was unaware that the letting of properties at Greyhound Opening to officers had not been authorised. It was in my view entirely reasonable of Councillor Jago to hold this belief as the notification of the proposed lettings to Officers and invitations to apply was distributed to all staff via the Council's intranet. No person seeing that item would have been given any clue or hint that the lettings were unauthorised but, on the contrary, would in my opinion have had its apparent legitimacy strengthened by its open appearance on the intranet. From the publically available reports on the Greyhound Opening affair there is no indication that any person at all (whether Officer, Member or otherwise) saw this advert and made an 'alert'.

D. There is no obligation on an Elected Member either in the Code or at Common Law or otherwise to make formal notifications of matters to a Monitoring Officer or Chief Executive Officer. The only positive obligation of that nature in the previous Code of Conduct was the obligation in the old Code to refer to the Standards Board for England breaches of the Code on the part of other Members – and that provision was removed when the current Code was re-enacted. If the allegation is that there has been a failure to alert then that allegation could be made against all of the Council's Elected Members, none of whom have ever made an alert relating to Greyhound Opening.

10. In conclusion, therefore, in the absence of any obligation upon Elected Members to make notifications or alerts to the Chief Executive or the Monitoring Officer, the fact that they did not do so cannot constitute a breach of the Code. Using the normal everyday meaning of the word, a 'failure' to do something implies in the first place a duty to act or do something and a breach of that duty.

11. My finding is therefore that there has not been a failure to comply with the Code of Conduct of the authority.

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