

Report to: Standards Panel

Date: 23 November 2021

Title: Hearing of an allegation that Cllr Linington failed to comply with the Code of Conduct for Members

Report of: Monitoring Officer

Purpose of report: To outline the allegations against Cllr Linington; and to set out the procedure for the Standards Panel hearing

Officer recommendation(s): That the Standards Panel–

- (1) Consider the investigation report set out in Appendix 1.
- (2) Hear the verbal submissions of the investigating officer, the complainant, Cllr Linington and her witness.
- (3) Determine whether Cllr Linington did in any respect fail to comply with the Code of Conduct for Members; and, if she did, determine whether to impose a sanction in respect of that failure.

Reasons for recommendations: To comply with the Council’s Hearings Procedure for code of conduct matters

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1 Introduction

- 1.1 In accordance with s.28 of the Localism Act 2011, the Council has arrangements under which allegations that a Member has failed to comply with the authority’s Code of Conduct can be investigated and decided.
- 1.2 These arrangements include provision for allegations to be assessed and, where necessary, formally investigated. The Council’s Independent Person, a statutory appointment under the Localism Act, advises the Council at the required steps during this process.
- 1.3 The role of the Standards Panel, as a sub-committee of the Council’s Audit and Standards Committee, is, on a referral from the Monitoring Officer, to hear and

determine allegations that a member has failed to comply with the Code of Conduct.

2 Information

- 2.1 On 15 July 2021, Cllr Phil Davis of Lewes District Council made a written allegation to the Monitoring Officer (MO) about the conduct of Cllr Isabelle Linington. The substance of the allegation is set out in paragraph 3.1 below.
- 2.2 The MO followed the Council's Arrangements for Dealing with Complaints about Councillor Conduct. In consultation with the Deputy Monitoring Officer and Independent Person, the MO considered that the complaint would, if proven, engage the Code of Conduct and that the serious nature of the allegation merited formal investigation. The MO commissioned Sandra Prail, a consultant with expertise in governance matters concerning elected Member conduct, to carry out the investigation on his behalf. The investigating officer's report, based on interviews and evidence gathering, is set out at Appendix 1.

3 Summary of Allegation

- 3.1 On 19 March 2021, the Council's Standards Panel met to hear allegations about the conduct of Cllr Stephen Gauntlett. Cllrs Phil Davis and Roy Burman were two of the three members of that Panel.

Cllr Phil Davis alleges that–

- on the evening before the Panel hearing, Cllr Linington phoned him to make it clear she expected him to find Cllr Gauntlett guilty and to insist on his resignation
- later the same evening, he received a call from Cllr Roy Burman who said that he had taken a similar call from Cllr Linington
- on the day after the hearing (by when the Panel's decision had been published), Cllr Burman told him that Cllr Linington had contacted him to say he had been weak for not doing as she had requested.

4 Investigating Officer's Conclusion

- 4.1 The investigating officer concluded that Cllr Linington had acted in breach of paragraphs 3(2)(c), 5 and 6(a) of the Council's Code of Conduct, in that–
- she made a call to Councillor Davis which a reasonable person would consider to have been an attempt to improperly influence the outcome of a Panel hearing
 - her conduct also breaches the Code's general obligations not to bring her office or authority into disrepute and not to attempt to use her position as a member improperly to confer on or secure for herself or any other person an advantage.

- 4.2 The Council's Code of Conduct is set out at Appendix 2.

5 Supplementary Evidence

- 5.1 The Hearings Procedure permits the Subject Member (Cllr Linington) to submit to the MO any evidence, in addition to that provided in the investigation report, she wishes to rely on at the hearing.
- 5.2 Cllr Linington did request that the Panel be provided with a written statement containing supplementary evidence; as MO, I considered that it would assist the Panel to see this evidence, and have therefore provided this to them and to the investigating officer in advance of the hearing. The evidence in question is set out at Appendix 3 and contains certain redactions to protect private and confidential information.
- 5.3 If any person taking part in the hearing needs to refer to any part of the redacted material, it may be necessary for the Chair to move that the Panel goes into closed session.

6 Statement from Cllr Burman

Cllr Burman is unable to attend the Panel hearing. He has, however, provided the MO with the following statement:

“I have carefully read the report of my contribution to the investigation and confirm it is a true and complete record of my evidence given in the interview with Sandra Prail.”

7 Hearing – Order of Proceedings

- 7.1 The Order of Proceedings for the hearing is set out at Appendix 4.

8 Role of the Independent Person

- 8.1 In accordance with section 28(7) of the Localism Act 2011–
- i. The Panel must seek and take into account the views of the Independent Person before it makes its decision on the allegation concerning Cllr Linington; and
 - ii. Cllr Linington, as the Subject Member, has been informed of her right to seek the views of the Independent Person.
- 8.2 To avoid any conflict of interests, the Independent Person who gives his views to the Panel is different from the Independent Person whom Cllr Linington may consult.

9 Potential Sanctions

- 9.1 If the Panel determines that Cllr Linington failed to comply with any part of the Code of Conduct, it may have regard to the failure in deciding–
- (a) whether to impose a sanction in relation to that failure; and

(b) what sanction to impose.

9.2 The factors the Panel should take into account before deciding on any sanction, and the actual sanctions they are permitted to impose, are set out in the Hearings Procedure at Appendix 5.

9.3 Whilst not a legal obligation, the Council's hearings procedure requires the Panel to seek and take into account the views of the Independent Person before it makes any decision on whether to impose a sanction and what any sanction should consist of.

10 Financial appraisal

10.1 The Panel's determination of the allegations against Cllr Linington and the imposition of any sanctions is unlikely to involve any significant expenditure by the Council. The investigating officer's fees for carrying out the investigation, the Independent Person's fees in connection with the hearing, and officers' staff costs are met from the Council's corporate budget.

11 Legal implications

11.1 The legislative framework for local authorities' codes of conduct for members and arrangements for dealing with alleged failures to comply is provided by Part 1, Chapter 7, of the Localism Act 2011. Both this report and the investigation report refer to the relevant parts of the Act.

12 Appendices

- Appendix 1 – Investigation report
- Appendix 2 – Code of Conduct for Members
- Appendix 3 – Subject Member's supplementary evidence (redacted)
- Appendix 4 – Order of Proceedings
- Appendix 5 – Hearings Procedure

13 Background papers

The background papers used in compiling this report were as follows:

- Localism Act 2011, section 28:
<https://www.legislation.gov.uk/ukpga/2011/20/section/28>
- Arrangements for Dealing with Complaints about Councillor Conduct:
https://www.lewes-eastbourne.gov.uk/_resources/assets/inline/full/0/261279.pdf
- Investigations procedure: https://www.lewes-eastbourne.gov.uk/_resources/assets/inline/full/0/261281.pdf