

**Standards Sub-Committee – 18th September 2013**

**Report of the Monitoring Officer**

**Standards Investigation - Councillor R Burston**

**Purpose of Report**

1. To consider and determine the outcome of a standards investigation undertaken in respect of Councillor R Burston in accordance with the Members Code of Conduct and the local Standards Arrangements set out in the Council's Constitution.

**Background**

2. At the meeting of the Council held on 15<sup>th</sup> July, 2013, Councillor Burston made a personal statement to the meeting concerning internet searches that had been made on his Council-provided computer equipment to Internet sites of an adult nature. The accessing of these images had become apparent during maintenance work carried out by Council officers.
3. The relevant provisions relating to use of Council resources and IT facilities are as follows:
  - The Members Code of Conduct – Section 3 deals with Standards of Conduct and states that Members will behave in accordance with legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures, including on the use of the Council's resources.
  - The Guide for Members Internet Access, Use of E-mail and Councillors' Websites (paragraphs 11 and 12) provides that Members may use the IT facilities for Internet access, subject to the conditions set out in the Guide. One of the conditions is that Members must not misuse the Internet. The Guide states that misuse includes the creation, transmission, access, download or any other use of material which is illegal, obscene or offensive.
4. Following the statement made by Councillor Burston concerning the breach of the above provisions, the Monitoring Officer consulted an Independent Person appointed under the provisions of the Localism Act 2011 and it was subsequently determined that the matter required further formal investigation and referral to the Standards Sub Committee. Councillor Burston was informed that this investigation would take place in a timely and proportionate manner taking full account of the statement he made at full Council.

5. A sample of the searches and images accessed on Councillor Burston's computer were referred to the Internet Watch Foundation (IWF) for formal review. The IWF is a recognised independent self-regulatory body with specialist experience in this field. The organisation assessed the 50 URLs (Uniform Resource Locators or web addresses) referred as part of the investigation. The IWF have reported that there were a range of images of an adult nature on some of the websites, which included some artistic and naturist images. The URL's were reviewed for potentially Criminal Adult Content and the IWF did not find any images that would fall into that category. The IWF concluded that they would not be taking any further action as they did not find any images that they believed would breach UK Law in either the Protection of Children Act 1978 or the Obscene Publications Act 1956.
6. The outcome of the investigation supports the statement made by Councillor Burston at the Council meeting on 15<sup>th</sup> July, 2013. Whilst the images that have been downloaded are not of an illegal nature, the access does constitute a breach of the Council's protocols governing the use of its IT equipment and the standards set out in Section 3 of the Members' Code of Conduct.
7. The Sub-Committee is requested to determine the appropriate course of action in this case. In doing so, Members are reminded of the additional actions taken by Councillor Burston, as referred to in his statement to the Council, namely:
  - his acceptance that the conduct represents a breach of his personal, political and religious beliefs and a breach of trust for which a full apology was given to his friends, family, ward constituents and council colleagues.
  - his voluntary decision to step down from the Shadow Cabinet role as the opposition spokesperson on the Environment.
  - his decision to forego the Member's Allowances for the rest of the year and donate this to the Mayor's Charity.
8. The Sub-Committee is also reminded that any action, following a finding of a breach of the Code of Conduct, must be proportionate taking account of the facts and circumstances of each individual case. The Sub-Committee has no power to suspend or disqualify a Member from office. The Standards Arrangements, as contained in the Constitution state that the Sub-Committee may consider the following (although this is not an exhaustive list):-
  - Reporting the findings to Council.
  - Recommending to the Member's Group Leader that the Member in question be removed from the Cabinet, any or all Committees or Sub-Committees of the Council or Other Bodies subject to statutory and constitutional requirements.
  - Formal letter from the Council or the Chair of the Audit and Standards Committee to the Member in question.
  - Formal censure through a motion.
  - Withdrawal of facilities (eg: ICT).
  - Arrange training for the Member.

## **Finance**

9. The cost of the investigation has been met from within existing Directorate resources.

## **Law**

10. The Members' Code of Conduct and the Standards Arrangements have been adopted by the Council under the provisions of the Localism Act 2011 and associated guidance. These documents are set out in Part 6 of the Council's Constitution.

## **Equality Impact**

11. The procedure for Standards hearings takes account and is consistent with the Council's Equality and Diversity Policies.

## **Recommendation**

12. That the Sub-Committee determine the matter in relation to Councillor Burston based on the investigation referred to in this report.



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## **Background Papers**

Dudley MBC Constitution - Members' Code of Conduct and Standards Arrangements

Dudley MBC Guide for Members Internet Access, Use of E-mail and Councillors' Websites