

## **Minutes of the Standards Sub-Committee**

**Thursday 12<sup>th</sup> November, 2020 at 10.00am on  
Microsoft Teams**

### **Present:**

Councillor A Taylor (Chair)  
Councillors J Cowell and J Roberts

### **Council Officers:**

M Farooq (Monitoring Officer), M Wilcox (Deputy Monitoring Officer), S Griffiths (Democratic Services Manager) and L Jury (Democratic Services Officer)

### **Also in Attendance:**

Revd. A Hadley (Independent Person)  
P Oldham QC (Investigating Officer)  
Councillor C Elcock  
Councillor I Kettle (supporting Councillor C Elcock)  
Councillors P Bradley and D Vickers  
Councillor C Bayton, M Binnersley, K Pedley and S Lowe (Complainants)  
Together with members of the press and public

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#### 1. **Preliminary Matter**

The Chair sought clarification from Councillor C Elcock whether he wished to seek an adjournment to the proceedings as previously indicated. In response, Councillor C Elcock replied that he would like the proceedings to continue as the hearing had already been postponed due to the Covid-19 pandemic, and he now wished for the matter to be dealt with.

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#### 2. **Declarations of Interest**

No member made a declaration of interest in accordance with the Member's Code of Conduct.

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#### 3. **Minutes**

##### **Resolved**

That the minutes of the meeting of the Sub-Committee held on 27<sup>th</sup> February, 2018 be approved as a correct record.

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#### 4. **Standards Investigation**

Following introductions, the Chair referred to the procedure to be followed at the meeting, copies of which had been circulated prior to the meeting.

The Sub-Committee considered whether the meeting should be held in public or private session under the provisions of the Local Government Act 1972. The Sub-Committee agreed that the meeting should be conducted in public.

The Sub-Committee considered the outcome of a Standards Investigation undertaken in respect of Councillor C Elcock in accordance with the Members' Code of Conduct and the local standards arrangements set out in the Council's Constitution.

The Sub-Committee considered the Standards Investigation in accordance with the procedure as follows:

The Monitoring Officer presented his report to the Sub-Committee and referred to the information set out in the Appendices and confirmed that the four complainants were in attendance at the meeting.

The Monitoring Officer confirmed that having considered the complaints, a discussion was held with the Independent Person, who had been appointed under the Localism Act 2011, and following the consultation, it had been agreed that complaints merited formal independent investigation. Therefore, an Independent Investigator had been instructed to investigate the complaints formally and Councillor C Elcock had been informed that an investigation would be undertaken.

The Monitoring Officer referred to the Investigating Officer's report and it was noted that a copy of four independent draft reports had been sent to the complainants and Councillor C Elcock for consideration. As a result of consultation that had been held independently with all parties and the Investigating Officer, a final draft report was produced and presented to the Monitoring Officer by the Investigation Officer at the beginning of April 2020 during the COVID -19 pandemic lockdown. The Monitoring Officer made reference to the restrictions relating to the conduct of meetings during the pandemic, which had resulted in the delay in hearing the investigation.

Referring to the Investigating Officer's report, attached as Appendix 3, the Monitoring Officer confirmed that the Investigating Officer had concluded that there had been evidence that Councillor C Elcock had potentially breached a number of provisions of the Member's Code of Conduct. As a requirement of the procedure, a copy of the final report was sent to Councillor C Elcock by the Monitoring Officer, and in light of the Investigating Officer's findings, consultation was again undertaken with the Independent Person.

In conclusion, the Monitoring Officer outlined the action that the Sub-Committee could take should they find that the Member had breached the Code of Conduct.

The Investigating Officer presented his report and made specific reference to the four individual reports he had produced which had responded to each of the four complaints that had been received.

In conclusion, the Investigating Officer found that there had been evidence that Councillor C Elcock had breached specific provisions of paragraphs 1, 2 and 3 of the Member's Code of Conduct.

The Chair invited questions from Members of the Sub-Committee, Councillor C Elcock and the Independent Person.

The Chair then invited Councillor C Elcock to give his evidence and call any representatives to make representations to the Sub-Committee.

The Chair invited questions from Members of the Sub-Committee, the Monitoring Officer, the Investigating Officer and the Independent Person to Councillor C Elcock.

In response to the Chair's question as to whether Councillor C Elcock disagreed with any relevant facts in the Investigator's Report, Councillor C Elcock replied that he believed the report to be a true and fair record and expressed his gratitude to the Officer for the way in which the investigation had been carried out and the time that had been spent on the investigation and he also wished to express his deep regret and sorrow for his conduct.

The Sub-Committee adjourned to consider the findings of fact in private.

The meeting reconvened and the Chair reported that having considered the evidence presented, the Sub-Committee had made the following findings:

- Colin Elcock is an elected Member of Dudley Metropolitan Borough Council.
- He had signed his declaration of acceptance of office in May 2018. This included an undertaking to comply with the Member's Code of Conduct in the performance of his functions as a Councillor.
- The Members' Code of Conduct applied to Councillor C Elcock as he was acting in his capacity as a Member.
- The various comments on Twitter that had been considered by the Standards Sub-Committee were made using the account with the 'handle' Cllr. Colin Elcock.
- Councillor C Elcock accepted that the various Tweets and comments relating to Islam, Iran and various politicians/journalists were made by him and using the 'handle' Cllr. Colin Elcock.
- It was not in dispute that the Tweets/comments described as 'lewd' appeared on Cllr. Colin Elcock's Twitter account.
- The Sub-Committee noted that whilst Councillor C Elcock stated that the 'lewd' content was as a result of 'hacking', the content did appear on Councillor Colin Elcock's Twitter account over a number of days.
- The Sub-Committee noted that the Tweets had been removed and the account deleted following advice received from his friend.

The Chair stated that the Sub-Committee would consider whether, based on the facts it had found, that Councillor C Elcock had failed to follow the Members' Code of Conduct and invited Councillor C Elcock to give relevant reasons why the Sub-Committee should decide that he had not failed to follow the Code.

Following Councillor C Elcock's comments, the Chair invited representations from Members of the Sub-Committee, the Investigating Officer and the Independent Person.

The Independent Person confirmed that in his opinion, and to the best of his knowledge, the standards procedures had been followed in relation to the complaints that had been received.

The Chair invited Councillor C Elcock to make any final relevant points and following comments from Councillor C Elcock and his representatives, the Sub-Committee adjourned in private, to consider the representations and evidence presented as to whether Councillor C Elcock had failed to comply with the Member's Code of Conduct.

The meeting reconvened and the Chair announced that having taken account of all the evidence, information, written and verbal submissions that had been presented to the meeting, the Standards Sub-Committee decided:

- That in view of the Standards Sub-Committee's earlier findings of fact and having heard representations from Councillor C Elcock, the Independent Investigator and the Independent Person, the Sub-Committee resolved that Councillor C Elcock had breached the Members' Code of Conduct.
- That based on the information and representations submitted, the Sub-Committee had not been able to come to a finding on the "lewd" Twitter content.

The Sub-Committee had found that the following principles of the Members' Code of Conduct had been breached:

- **Selflessness** - The various tweets and comments relating to Islam, Iran, politicians and journalists were not made "solely in terms of the public interest."
- **Objectivity** - The various tweets and comments were not acts taken without discrimination or bias, by reason that they could be viewed as discriminatory and/or biased against Islam, Iran and female journalists.
- **Leadership** - The various tweets and comments did not exhibit selflessness and objectivity in Councillor C Elcock's own behaviour and were inconsistent with the promotion and support of these principles and willingness to challenge poor behaviour wherever it occurs.

The Sub-Committee had taken into account a Member's right of freedom of expression under Article 10 of the European Convention on Human Rights. The law fiercely protects the expression of even very robustly framed political views since this is a key part of democracy. However, the Sub-Committee was of the view that there does remain a distinction between the expression of such views and purely insulting language and swear words by a Councillor. The breach of the Members' Code of Conduct does not arise from Councillor C Elcock's beliefs but from his behaviour.

Therefore, Councillor C Elcock's behaviour fell short of the standards expected in the Members' Code of Conduct.

The Chair reported that as the Sub-Committee had decided that Councillor C Elcock had failed to follow the Code, it would now consider any verbal or written representations from the Investigating Officer as to whether the Sub-Committee should take any action and what form that action should take.

Following comments from the Investigating Officer, the Chair announced that the Sub-Committee would adjourn to consider whether to take any action in respect of Councillor C Elcock.

The meeting reconvened and the Chair announced that the Standards Sub-Committee, having considered the mitigation as to the conduct from Councillor C Elcock, and noting that he was sorry for his conduct:

**Resolved**

- (1) That a formal letter be sent to Councillor Elcock from the Chair of the Audit and Standards Committee.
- (2) That Councillor Elcock be required to undertake appropriate training on equality and diversity to include aspects of the Council's community cohesion strategy.
- (3) That the Council be recommended to review the provision of appropriate social media training for all Councillors.

The meeting ended at 3.23pm.

CHAIR