

<b>Subject:</b>	<b>Hearing of Allegation that a Councillor has failed to comply with the Code of Conduct for Members - Case BHC-008869</b>		
<b>Date of Meeting:</b>	<b>18 March 2013</b>		
<b>Report of:</b>	<b>Monitoring Officer</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Brian Foley</b>	<b>Tel: 29-1229</b>
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**FOR GENERAL RELEASE****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This report deals with an allegation that Councillor Wealls has failed to comply with the Members' Code of Conduct.

**2. RECOMMENDATIONS:**

- 2.1 That the Panel determine the allegation that Councillor Wealls has failed to comply with the council's Code of Conduct for Members.

**3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 This report concerns a set of allegations regarding the conduct of Councillor Wealls in chairing a meeting between managers of the EF International Language School, residents of St Aubyns, Police Officers and Council Officers on 03 October 2012.
- 3.2 The allegations were initially considered by the Monitoring Officer as a potential breach of the Code of Conduct for Members, and he referred the matter for investigation. He appointed an Investigating Officer, whose full report on the matter is at Appendix 1. A summary of the key points from that report are as follows.
- 3.3 Ms Pereira complained that Councillor Wealls:
- a) Had formed an opinion that only the EF students were responsible for causing noise disturbance at St. Aubyns.
  - b) Did not react well to any interjections made by EF Managers during the meeting.
  - c) At one point said to Ms Pereira "you keep quiet".
  - d) Did not give Ms Pereira an opportunity to speak when she raised her hand.
  - e) Knew the residents of St Aubyns on a personal level.

- f) Had an accusatory tone towards her and showed a lack of professionalism.
- 3.4 The investigation found that with regard to complaint (c) Councillor Wealls had asked Ms Pereira to be quiet, but the context was that Councillor Wealls was asking Ms Pereira to stop interrupting whilst residents were stating the points they wished to make. Officers who recalled Councillor Wealls making this request said he was firm in the way he made the request but he was not impolite or disrespectful.
- 3.5 The investigation found that with regard to complaint (d) there were times where Ms Pereira was not invited to speak when she held her hand up. Witnesses said Councillor Wealls was not being dismissive but that time was limited and the discussion needed to be moved along. The evidence indicated that Councillor Wealls was not disrespectful, that he took account of EF Managers' wish to speak and allowed them opportunity to do so at points in the meeting where it was relevant to receive their representations.
- 3.6 The investigation concluded that allegations (a), (b), (e) and (f) could not be substantiated and there had not been a breach of the code of conduct in respect of those issues. Furthermore it concluded that whilst issues (c) and (d), could on a balance of probabilities be substantiated Councillor Wealls actions had not amounted to a breach of the code of conduct in that he had not acted disrespectfully towards Ms Pereira.
- 3.7 The Investigating Officer has concluded that there has not been a breach of the Members Code of Conduct.
- 3.8 Councillor Wealls accepts the findings of the report. He is unable to attend the Hearing Panel but has no objection to it taking place in his absence.
- 3.9 Ms Pereira was invited to make any comments about the Final Report and to indicate if she would be attending the Hearing Panel. There has been no response from her. It is assumed that Ms Pereira will not be attending the Hearing Panel.
- 3.10 The allegation is now referred to a Hearing Panel of the Audit & Standards Committee to decide the matter.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 5.1 There are none.

### Legal Implications:

- 5.2 The legislative framework under which the allegation has been investigated and referred to the Standards Panel for determination is Part 1, chapter 7 of the Localism Act 2011.

The local procedure for investigating such allegations was agreed and adopted by Audit & Standards Committee on 25 September 2012.

*Lawyer Consulted: Oliver Dixon*

*Date: 27/02/2012*

Equalities Implications:

5.3 There are none.

Sustainability Implications:

5.4 There are none.

Crime & Disorder Implications:

5.5 There are none.

Risk and Opportunity Management Implications:

5.6 There are none.

Public Health Implications:

5.7 There are none.

Corporate / Citywide Implications:

5.8 There are none.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Investigating Officer's report together with appendices.

### **Documents in Members' Rooms**

1. None

### **Background Documents**

1. None

