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**REPORT TO:** FULL COUNCIL

**DATE:** 2 MARCH 2017

**SUBJECT:** PART 'B' REFERRALS FROM CORPORATE GOVERNANCE STANDARDS SUB-COMMITTEE ON 9 FEBRUARY 2017

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#### 4 **Monitoring Officer's Report Regarding Complaint Alleging Breach Of The Members' Code Of Conduct**

A procedural motion was moved and seconded that the Sub-Committee go ahead with the hearing in the absence of the complainant, Councillor Luke Ives. Councillor Ives had been invited to attend if he wished, although it was not a requirement for him to do so. On being put to the vote, the procedural motion was carried unanimously.

The Monitoring Officer introduced his report regarding the complaint alleging breach of the Members' Code of Conduct.

Councillor John Clark had been allowed to speak at the Sub-Committee at the discretion of the Chairman. Councillor Clark addressed the Sub-Committee and answered a question on his statement. A copy of his statement had been provided to the Sub-Committee and the interested parties present at the meeting.

The investigating officer then presented the findings of his investigation and answered questions from the Sub-Committee. This presentation was taken in three stages:

1. **Facts stage** – relating to the finding of facts and providing a summary of agreed facts including any documentary evidence or other material;
2. **Code stage** – relating to the issue of whether or not there is a breach of the Members' Code of Conduct;
3. **Sanction Stage** - relating to the issue of recommended sanctions.

The issue of whether or not voting twice at a Council meeting was a criminal offence had been considered. The Monitoring Officer had taken independent legal advice and discussed the matter with the Police. Having looked into the matter, the Police did not consider that it reached the threshold for Police involvement and would not be looking into it any further. They suggested that the Council's Member disciplinary procedures would be sufficient.

Councillor John Raper addressed the Sub-Committee as the subject of the complaint.

The Independent Person was invited to provide her views on the complaint before the Sub-Committee. The Independent Person's views were:

- (i) That there had been a thorough and proper investigation indicating that the Council was taking the matter seriously;
- (ii) That Councillor Raper had in her opinion been in breach of the Code of Conduct by voting twice;
- (iii) That the breach was serious because the principle of one Member one vote was essential for proper democratic decision making at Council meetings;
- (iv) That the recommendations on sanctions to Council including a censure motion were, given the gravity of the breach, appropriate. The Independent Person was pleased to see the recommendations to safeguard the proper use of electronic voting;
- (v) The Independent Person also expressed concern that Council meetings were being held so late in the evening. The Independent Person had many years experience of meetings and she considered late evening meetings to be bad practice. This was because many Councillors work during the day and the inevitable tiredness of Councillors in long evening meetings is not conducive to effective and proper decision making at Council meetings.

The Sub-Committee then adjourned to deliberate. On reconvening the meeting, the following was agreed:

### **Decision**

#### Facts Stage

That the Sub-Committee accept the following key facts:

- (a) That Councillor Raper voted using two electronic voting units, his own unit and Councillor David Cussons' unit, in two separate votes at the meeting of Council on 8 December 2016, as evidenced both by the voting records and his own admission at the time and in his statement;
- (b) That Councillor Cussons did not ask Councillor Raper to vote for him and was not present in the room for the votes, as evidenced in Councillor Cussons' statement and Councillor Raper's acceptance of this statement;
- (c) That Council Procedure Rule 15.1 in Part 4 of the Council's Constitution relating to Member voting at Council meetings states:

**"15. Voting**

**15.1 Majority**

*Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put."*

- (d) That voting more than once is in breach of at least two rules, as evidenced in *Knowles on Local Authority Meetings*:
- (i) the common law rule that every person voting at a meeting is reckoned as one vote (Rex v Rector of Birmingham (1837), (the one person one vote rule).
  - (ii) only those Members present can vote at a Council meeting. It is not possible to vote on behalf of an absent Member at a Council meeting.

### **Decision**

#### Code Stage

That the Sub-Committee agree that Councillor Raper's actions were a breach of the following provisions of the Members' Code of Conduct:

- (a) *"Behaving in accordance with all our legal obligations, alongside any requirements contained within the authority's policies, protocols and procedures, including on the use of the Authority's resources."*
- (b) The following principles set out within the Code: selflessness, integrity, openness, honesty and leadership.

### **Recommendation to Council**

#### Sanction Stage

That the Sub-Committee recommend the following sanctions:

- (a) The following censure motion for approval:

*"Council is aware that Councillor John Raper voted using two electronic voting units, on two occasions, during the meeting of Full Council on 8 December 2016.*

*Council notes that these actions constitute a breach of the requirement in the Members' Code of Conduct to behave 'in accordance with all our legal obligations, alongside any requirements contained within the authority's policies, protocols and procedures'.*

*Council notes that these actions are also contrary to a number of the principles set out in the Members' Code of Conduct, namely selflessness, integrity, openness, honesty and leadership.*

*As such these actions are wholly unacceptable and inappropriate, damaging the reputation of the Council and public trust and confidence in the integrity of its democratic decision making processes.*

*Therefore the Council hereby censures Councillor John Raper for his unacceptable behaviour and actions breaching the Members' Code of Conduct."*

- (b) That the Group Leader be asked to suspend Councillor Raper from committees for six months from the date of this censure motion.
- (c) That Councillor Raper be required to apologise to the Chairman of Council and all Members of Council for his conduct.

Additionally the Sub-Committee recommended that practices around electronic voting and time management at Full Council meetings to be improved as follows:

- (a) Any Member leaving a meeting early, to notify the Chairman when they depart and return their voting unit to the front of the room, and the time of their departure to be recorded in the minutes;
- (b) That the O&S Review into the start times of meetings also looks at the efficient running of proceedings at Full Council to include the length of meetings.

Voting Record: Carried unanimously.