

**RYEDALE
DISTRICT
COUNCIL**



**RYEDALE DISTRICT COUNCIL
INVESTIGATION REPORT
LOCALISM ACT 2011**

ALLEGATION OF FAILURE TO COMPLY WITH THE CODE OF CONDUCT

CORPORATE GOVERNANCE STANDARDS SUB-COMMITTEE

**RESPONDENT:
COUNCILLOR JOHN RAPER**

**INVESTIGATING OFFICER
SIMON COPLEY
DEMOCRATIC SERVICES MANAGER**

Investigation Report

1. On Thursday 8 December 2016, the Monitoring Officer received a complaint against Councillor John Raper for voting using two electronic voting units at the meeting of Council on that date.
2. The following provision in the Members' Code of Conduct is considered to be relevant in this case:

"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."

3. The complainant highlighted that the following principles set out in the Members' Code of Conduct were also relevant: selflessness, integrity, openness, honesty and leadership.
4. Council Procedure Rule 15.1 in Part 4 of the Council's Constitution relating to Member voting at Council meetings is considered to be relevant:

"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."

5. It is made clear in *Knowles on Local Authority Meetings* that voting more than once is in breach of at least two rules:
 - (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.
6. The issue of whether or not voting twice at a Council meeting was a criminal offence has been considered. The Monitoring Officer took independent legal advice and discussed the matter with the Police. Having looked into the matter, the Police do not consider that it reaches the threshold for Police involvement and will not be looking into it any further. They suggested that the Council's Member disciplinary procedures would be sufficient.
7. The incident occurred whilst Full Council was considering the timetable of meetings for 2017-2018, at 10.35pm. Having examined the voting records, it is clear that the use of two electronic voting units took place for two separate votes. The first vote was on an amendment, moved by Councillor Di Keal, to refer the issue of meeting

start times to the Overview and Scrutiny Committee for further discussion and production of a report to be considered by the Policy and Resources Committee and then Full Council. The second was on the substantive motion. It was during the second vote that Councillor Raper was observed using two units and when challenged he "cancelled" out the vote on the second unit by changing it from "for" to "against". The vote on both the amendment and the motion were then taken again.

8. I spoke to Councillor David Cussons as part of the investigation. As observed at the meeting and shown on the voting records, Councillor Raper had voted on Councillor Cussons' voting unit in addition to his own. Owing to the lateness of the meeting, Councillor Cussons had to leave before the end. He did not ask Councillor Raper to cast his vote in his absence. He had already left the room before the vote on the amendment took place.
9. Councillor Raper has accepted the evidence I presented to him as part of the investigatory process, confirmed that he did vote using two electronic voting units and recognised that this was wrong.
10. In conclusion, the evidence gathered during this investigation clearly supports the view that there has been a breach of the Code of Conduct, as detailed in paragraphs 2 and 3 of this report.
11. It is therefore recommended that the Corporate Governance Standards Sub-Committee consider recommending to Council a censure motion for approval.
12. An example of such a motion which the Sub-Committee may wish to recommend is:

"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."

13. It also recommended that the Corporate Governance Standards Sub-Committee recommend to Council that Councillor Raper be required to apologise to the Chairman of Council and all Members of Council for his conduct.
14. Additionally, it is recommended that practices around electronic voting be improved as follows:
 - 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
 - All Members be asked to refrain from going in and out of the room during the meeting (except where required under declaration of interest provisions) and that adequate breaks in the meeting be provided for refreshments, comfort breaks, phone calls home etc.

List of Appendices:

- A - Email dated 8 December 2016 from the complainant to the Monitoring Officer, setting out the details of the complaint;
- B - Transcript from the meeting of Full Council on 8 December 2016;
- C - Voting records from the meeting of Full Council on 8 December 2016;
- D - Summary note of a conversation between Councillor Cussons and myself on 13 January 2017;
- E - Email dated 23 January 2017 from Councillor Raper to myself;

Simon Copley
Democratic Services Manager
25 January 2017