

## DECISION NOTICE: REFERRAL FOR INVESTIGATION

### Reference WC - ENQ00268

#### Subject Member

Cllr Matthew Dean – Salisbury City Council

#### Complainant

Mr Kenneth Ray

#### Representative of the Monitoring Officer

Mr Paul Taylor

#### Independent Person

Mr Stuart Middleton

#### Review Sub-Committee

Cllr Fred Westmoreland - Chairman

Cllr Brian Mathew

Cllr George Jeans

Mr Michael Lockhart (non-voting)

#### Issue Date

1 December 2018

#### Complaint

The Complainant alleges that the Subject Member has breached the Codes of Conduct for both Wiltshire Council and Salisbury City Council in that he has failed to promote and support high standards of conduct, he has failed to give any reasons for his actions and that he has misused the Council's resources. The Complainant does not have any direct knowledge of the events complained about but has referred to an article in the Salisbury Journal where it is alleged that the Subject Member sent a text message to a member of the Police and various Wiltshire Council Members which was derogatory to the Traveller Community and signed it off as the Leader of Salisbury City Council.

## **Decision**

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 26 June 2012, which came into effect on 1 July 2012 and after hearing from the Independent Person, the Review Sub-Committee determined to refer the complaint for investigation.

## **Reasons for Decision**

### Preamble

In accordance with the initial tests of the local assessment criteria the Sub-Committee accepted that the complaint related to the conduct of a member, that the member was in office at the time of the alleged incident and that they remain a member of both Salisbury City Council and Wiltshire Council. A code of conduct was in place for both councils and had been provided for the assessment.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of any relevant Code of Conduct. Further, if it was felt it would be a breach, was it still appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the complaint and supporting documentation, the response of the subject member, the preliminary finding of the Deputy Monitoring Officer to refer the matter for investigation, and the requests for review from both the complainant and subject member. The Sub-Committee also considered the verbal representations made to the review by both complainant and subject member.

### Conclusion

The complaint related to a text or email message allegedly sent by the subject member which, it is claimed, by its derogatory nature, breached the requirements to promote and maintain high standards of conduct. The Sub-Committee was in agreement with the Deputy Monitoring Officer that no evidence had been presented that there had been any misuse of council resources, and that the provisions relating to providing reasons for formal decisions did not apply to the alleged incident, and accordingly did not recommend investigation for those reasons.

The focus was therefore on whether the alleged text or email was capable of breaching the code of conduct. The Sub-Committee accepted the reasoning of the Deputy Monitoring Officer that the nature of the alleged comments, which would include a failure to have due regard to a statutory obligation in respect of public sector equality duty, was capable, if proven, of breaching paragraphs 1.1 and 1.2 of the Salisbury City Council code of conduct.

The question had been raised as to whether the subject member, if acting as alleged, would have been acting in their official capacity. The Sub-Committee determined that if the complaint were proven, in that a message as described had been signed off with the subject member's formal council position, this would be an indication that even if the

comment were made in jest, it would be reasonable for a recipient or other person to conclude they were speaking in their official capacity, and as such subject to the Code

The Sub-Committee also confirmed that it agreed with the assessment that, on the information as presented, it did not appear even in the allegation that the subject member would have been acting in their capacity as a Wiltshire Councillor. Merely being a member of an authority, or identified as such by others, would not automatically indicate that any alleged action was being taken in that capacity, thereby making them subject to the code of conduct for that authority. However, the Sub-Committee noted that, as it had resolved to refer the complaint for investigation, it would be for an investigating officer to consider whether, on the facts as determined, the code of conduct for Wiltshire Council also applied in this case.

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