

COUNCIL

25th JUNE 2020

**REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL
SERVICES AND MONITORING OFFICER**

COUNCILLOR SUSPENSION

Reason for this Report

1. To inform Members of the suspension of Neil McEvoy for a period of 4 months, which was imposed by the Standards & Ethics Committee in January following a referral from the Ombudsman, and has been upheld by the Adjudication Panel for Wales.

Background

2. On 7th June 2019, the Monitoring Officer received a referral from the Public Services Ombudsman for Wales ('the Ombudsman') in relation to misconduct allegations made against Councillor McEvoy. The Ombudsman's referral followed an investigation into a complaint submitted by the Director of a private care home. The complainant alleged that Cllr McEvoy's conduct on 29th April 2018 and 11th May 2018 towards three employees of the care home, and his involvement in the case of a child in its care, had been inappropriate, intimidating and bullying, in breach of the Members' Code of Conduct.
3. In accordance with the statutory requirements (under Part 3 of the Local Government Act 2000 and the Local Government Investigations (Functions of Monitoring Officers and Standards Committees)(Wales) Regulations 2001, 'the Regulations'), a sub-committee of the Standards and Ethics Committee, 'the Hearings Panel' was convened to consider the Ombudsman's investigation report and determine the matter in accordance with the Committee's approved Hearings Procedure.
4. The Hearings Panel was advised by a representative of the Monitoring Officer, because the Monitoring Officer declared a potential conflict of interest in the matter as she was named in the evidence submitted by the Councillor during the course of the Ombudsman's investigation.

Issues

5. A full hearing was held on 6th, 7th, 8th, 13th and 14th January 2020 at City Hall, Cardiff. The hearing was attended by the Councillor and a representative of the Ombudsman, and heard evidence from five witnesses, in addition to the Councillor. The hearing was open to the public, except for certain parts of the proceedings when the Panel resolved to exclude the public. The hearing attracted considerable attention from the public and was reported in the press and on social media.
6. The decision of the Hearings Panel was announced on 14th January 2020. The Panel decided that the Councillor had breached the following duties of the Members' Code of Conduct:
 - i Paragraph 4(b), duty to show respect and consideration to others;
 - ii Paragraph 4(c), duty to not using bullying behaviour or to harass any person; and
 - iii Two separate breaches of paragraph 6(1)(a), duty to not conduct yourself in a manner which could reasonably be regarded as bringing the office of Councillor or the authority into disrepute.
7. After hearing representations from the parties about the appropriate sanction, the Hearings Panel decided that the Councillor would be suspended as a Councillor for 4 months.
8. Councillor McEvoy sought permission from the Adjudication Panel for Wales (APW) to appeal against the decision of the Hearings Panel. The APW refused permission to appeal against the Panel's findings on breach of the Code of Conduct, but granted permission for an appeal against the sanction imposed.
9. On 22nd June 2020 the Monitoring Officer received a Notice of Decision from the APW, giving notice that the APW had, in accordance with Cllr McEvoy's wishes, determined the appeal by way of written representations at a meeting held remotely. The APW decided by unanimous decision to endorse the decision of the Standards Committee that Cllr McEvoy should be suspended as a Councillor for 4 months. The APW's full decision report will be published on the APW website in due course.
10. The Regulations provide that the suspension takes effect the day after the appeal decision notification. Accordingly, Cllr McEvoy's suspension takes effect on 23rd June 2020 and continues until midnight on 22nd October 2020.
11. During the period of his suspension, Mr McEvoy may not exercise any of the rights, powers or duties of a Cardiff Councillor. The entitlement to a Member's allowance and use of Council resources, including ICT systems and equipment is suspended. However, Mr McEvoy may continue to raise matters with the Council in his role as Assembly Member or as a member of the public.

12. The Standards and Ethics Committee is required to produce a report on the outcome of this matter within 14 days from the date of the APW's appeal decision notification. The report must be published on the Council's website and made available for public inspection for a period of 21 days; and a newspaper notice must be published to inform the public of the availability of the report (Regulation 13 of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees)(Wales) Regulations 2001). Arrangements are in hand to publish the required documents.

Legal Implications

13. Relevant legal implications are set out in the body of the report.

Financial Implications

14. There will be an element of saving as a result of the suspension as stated in paragraph 11.

RECOMMENDATIONS

Council is recommended to note that Cllr Neil McEvoy has been found in breach of the Members' Code of Conduct, and suspended as a Councillor for a period of 4 months with effect from 23rd June 2020 until midnight on 22nd October 2020.

DAVINA FIORE
DIRECTOR OF GOVERNANCE AND LEGAL SERVICES AND MONITORING OFFICER

23 June 2020

Background papers

Public Services Ombudsman for Wales, Investigation report, Case Reference 201801354, with cover letter dated 7th June 2019

Standards and Ethics Committee report 'Hearings Panel and Procedure', 1st July 2019
Standards and Ethics Sub-Committee report 'Ombudsman Referral – Alleged Breach of the Code of Conduct by a Councillor', 30th July 2019

Decision of the Hearings Panel, Case Reference CDC 18/003, dated 24th January 2020

Adjudication Panel for Wales, Notice of Decision, dated 5th March 2020; and 22nd June 2020