

SUBJECT: CODE OF CONDUCT: CASES REVIEW

REPORT BY: DIRECTOR OF RESOURCES

LEAD OFFICER: CAROLYN WHEATER – ASSISTANT DIRECTOR (LEGAL AND CORPORATE SUPPORT SERVICES)

1. Purpose of Report

- 1.1 To provide information on recent cases relating to other local authorities' codes of conduct and consider their potential relevance to the Council.

2. National Cases Relating to Councillor Conduct

- 2.1 Since the removal of the Standards for England Board as part of the changes brought through the Localism Act 2011, the Council no longer receives a summary of cases reported from across the country. As a result, the cases chosen for consideration are drawn primarily from local government networks and media reports, and are summarised below.

- 2.2 The reports highlighted are gathered solely from information made available by the relevant local authorities. As cases are often considered to contain exempt information, there are potentially elements of the case which may not be publicly available. As such, members should be aware that the cases below are provided for the purpose of discussion and may not give the full picture in every regard.

2.3 Thanet District Council

A councillor circulated a photo he had taken of two councillors apparently engaged in a heated discussion during a public committee meeting. The taking of photographs in meetings was prohibited under the council's constitution, and so a report was commissioned regarding whether the actions represented a breach of the council's code of conduct. According to an interim copy of the report seen by a local newspaper, a finding has been made that the councillor's actions brought the council into disrepute and so represented a breach of the code, exacerbated by his appearing 'to have been attempting to gain publicity for himself and those sympathetic to his views by what can only be described as a pre-planned campaign against the council's standing order concerning unofficial recording.'

2.4 Warwick District Council

While taking part in an overview and scrutiny meeting, a committee member made comments to the monitoring officer including asking 'how much did they pay you?' in relation to a land proposal. The councillor claimed to have been thinking out loud what members of the public might have thought, and that his looking in the direction of officers was coincidental. The matter was referred to full council for consideration, which concluded that there had been a breach of the Nolan Principles and the council's code of conduct. The following sanctions were agreed:

- formal censure by council
- a full apology to be made by the councillor to council
- training to be arranged by the monitoring officer for the councillor, towards which the councillor would be required to contribute half of the cost.

2.5 Human rights challenge

A councillor has been granted permission to initiate a legal challenge of a decision taken against him by a standards committee in relation to the disclosure of confidential information by the councillor. Leave to apply for judicial review was granted on the basis that the decision was potentially:

- irrational
- incompatible with the right to freedom of expression
- incompatible with the right to a fair trial because the standards committee that determined the councillor's civil rights and obligations was not independent and impartial. The councillor's legal representatives contended that the standards regime under the Localism Act 2011 denied the right to a fair trial because the committee was not politically neutral and had a majority of members from the council's ruling group.

3. **Potential Learning Points**

- 3.1 Having regard to these complaints which have been investigated by other local authorities, members should consider whether any appropriate actions can be identified to ensure that the likelihood of any future breaches of the Member Code of Conduct by members representing the City of Lincoln Council is limited.
- 3.2 The Ethics and Engagement Committee may wish to consider the following actions if any learning points are identified:
- Issuing guidance to members and any other relevant parties on a general topic which presents a cause for concern with a view to potential future breaches of the Member Code of Conduct.
 - Requesting specific training for all members or members whose individual status would be relevant to the particular training.
 - Proposing amendments to the Member Code of Conduct and the procedure for considering complaints, if improvements can be identified.
 - Any other actions falling within the remit of the Committee which might aid the improvement of councillors' conduct.
- 3.3 If members are aware of further cases of broad interest from other local authorities in relation to ethical behaviour by councillors, details can be submitted via Democratic Services or raised at the meeting of the Committee for potential inclusion in a future report.

4. **Strategic Priorities**

- 4.1 The development of a fit-for-purpose council relies upon the proper conduct of officers and members. By considering the lessons learned from other local authorities the Council is better positioned to take preventative action to resolve any potential issues before they arise.

5. Organisational Impacts

5.1 Finance

There are no direct financial implications arising from this report.

5.2 Legal Implications

The Ethics and Engagement Committee's role includes the promotion and maintenance of high standards of conduct by councillors and co-opted members; this report forms a part of the work of the Committee in proactively addressing any matter that could detract from the reputation and behaviour of the Council or its councillors.

6. Recommendation

- 6.1 That the Ethics and Engagement Committee note the contents of the report and recommend any suitable action arising from it.