

COUNCIL

TUESDAY, 11 DECEMBER 2018

REPORT OF THE AUDIT AND GOVERNANCE STANDARDS SUB-COMMITTEE

REFERRAL OF BREACH OF THE MEMBERS CODE OF CONDUCT BY COUNCILLOR R BILCLIFF

EXEMPT INFORMATION

N/A.

PURPOSE

The Audit and Governance Standards Sub-Committee on 21st November 2018 having found a breach of the Members Code of Conduct by Councillor R Bilcliff made the following decisions;

- a) the findings in respect of the member's conduct be published;
- b) the Sub-Committee report its findings to full Council for information;
- c) it be recommended to full Council that Councillor Bilcliff be issued with a formal censure or be reprimanded.

This report therefore comes before you in respect of decisions b and c above of the Standards Sub-Committee.

RECOMMENDATIONS

1. Council should note the Sub-Committee's findings in respect of Councillor R Bilcliff presented for information.
2. Council should determine whether to issue a formal censure or reprimand, the options broadly available are as follows;
 - a. NOT to issue a censure or reprimand.
 - b. To issue a formal censure (please note that the option is to censure (defined as express severe disapproval of (someone or something), especially in a formal statement) and is different to censorship, which is not an option here).
 - c. To issue a reprimand (which for completeness is defined as a formal expression of disapproval).

If options b or c are considered the exact wording will need to be considered for anyone putting forward such a motion.

EXECUTIVE SUMMARY

This is a complaint that was made as a result of the Referendum in 2016 which in

common parlance is now referred to as the 'Brexit Referendum' and posts that were made on social media by Councillor R Bilcliff on and around that event. The first post was **"Don't let them change your vote take your own pen with you."** The Solicitor to the Council and Monitoring Officer at the time asked for the post to be removed as in short, Tamworth Borough Council was involved in the running of the election locally and took offence at the implications of the post. Councillor R Bilcliff refused to remove the post and then on the following day did a second post **"What a great day for common sense and the black pen"**. As a result a formal complaint was raised through the Council's procedure for making a complaint against a Councillor.

The final hearing in respect of the complaint took place on 21st November 2018 and made the following finding:

- Councillor Bilcliff was acting in his official capacity;
- Councillor Bilcliff gave the impression of acting as a Councillor according to the Livingstone test;
- Councillor Bilcliff breached the following principles of the Members Code of Conduct;

Principle 5 – Councillor Bilcliff had not exercised independent judgement as he had propagated the views of those who would seek to undermine confidence in the democratic system;

Principle 6 – Councillor Bilcliff did not adequately respond to advice from the Monitoring Officer and acted dismissively;

Principle 7 – Councillor Bilcliff had not been accountable for his decision to post the meme online;

Principle 10 – Councillor Bilcliff did not engage with Council officers, particularly the Monitoring Officer and devalued and undermined the work of Council staff and officers;

Principle 11 – Councillor Bilcliff did not treat Tamworth Borough Council staff that were part of the democratic process with respect;

Principle 12 – by virtue of the breaches of the above principles, Councillor Bilcliff had failed to provide leadership in the manner prescribed by the Members' Code of Conduct.

- Having found a breach of the Code of Conduct, the Sub-Committee made the following decisions that:

- a) the findings in respect of the member's conduct be published;
- b) the Sub-Committee report its findings to full Council for information;
- c) it be recommended to full Council that Councillor Bilcliff be issued with a formal censure or be reprimanded.

It is for Council to consider the overview above and findings of the sub-committee and determine whether a formal censure or reprimand is appropriate. The final hearing has already taken place and it is not for Council to go over all of the evidence or seek to re-hear the case.

OPTIONS CONSIDERED

The matter was required to be brought before Full Council due to the recommendation of the Audit and Governance Standards Sub-Committee, the options available are outlined above.

RESOURCE IMPLICATIONS

There are no resource implications in the decision to be made today, any resource implications around the process as a whole have been dealt with by reports to the Audit and Governance Standards Sub-Committee.

Technically any decision of the Council can be subject to Judicial Review which could have legal and cost implications if the Council was successfully Judicially Reviewed. If the Judicial Review was unsuccessful then the Council is likely to be able to recover the costs of successfully defending such an action. The risk of today's decision being challenged is considered exceptionally low, any challenge at all would likely be against the original decision and the risk of that is considered low.

LEGAL/RISK IMPLICATIONS BACKGROUND

There are no 'real' Legal/Risk implications in the decision to be made today, any implications around the process as a whole have been dealt with by reports to the Audit and Governance Standards Sub-Committee. See additional comments under Resource Implications above.

SUSTAINABILITY IMPLICATIONS

n/a.

BACKGROUND INFORMATION

Any relevant background information has been dealt with as part of the Executive Summary.

REPORT AUTHOR

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LIST OF BACKGROUND PAPERS

None.

APPENDICES

None.