

Governance and Audit Committee

Thursday, 30 March 2023

Attendees: Councillor Chris Pearson, Councillor Paul Smith, Councillor Rhys Smithson

Also Attending:

Apologies: Councillor Dave Harris, Councillor Sam McCarthy, Councillor Sara Naylor, Councillor Barbara Wood

Substitutes:

364 Appointment of Chairman

RESOLVED that: Councillor Smith be appointed Chair for the meeting.

365 Code of Conduct Complaint

The Sub-Committee considered a report requesting that it determine a Code of Conduct complaint.

Andrew Weavers, Monitoring Officer, attended the meeting to present the report and assist the Sub-Committee with its enquiries. The Sub-Committee was requested to determine whether or not the complaints that had been received in respect of the conduct of Councillor Moore were sufficiently serious to have been deemed to have breached Colchester City Council's (the Council) Members Code of Conduct. The Sub-Committee was requested to carefully consider the report which had been provided by the Monitoring Officer, together with the report which had been provided by the independent Investigating Officer, the supplementary information which had been provided by Councillor Moore, the defence case and evidence bundle which had been submitted by Councillor Moore's representative and the representations which were to be made at the meeting.

Councillor Laws attended the meeting, and with the permission of the Chair, addressed the Sub-Committee. He spoke highly of Councillor Moore, who was well respected in within the Conservative Group, and was diligent and professional in the way that she conducted herself. As the Conservative Group Leader on the Council, it was his responsibility to not only consider the welfare of individual Councillors, but also the welfare of the image of the Conservative Party as a whole, and it was within his powers to withdraw the party whip from Councillors if he considered it was necessary to do so. Having taken a close interest in the progress of the complaints he confirmed to the Sub-Committee that at no point had he considered that it was necessary or appropriate to withdraw the whip from Councillor Moore, and he was happy to continue to support her.

Councillor Moore was invited to make comments on the contents of the report which had been presented by the Monitoring Officer, and she advised the Sub-Committee that she had not been appraised of the contents of the third and fourth complaints which had been made against her, and felt that she was therefore hampered from addressing these properly. She asserted that she was not guilty of breaching the

Members Code of Conduct.

Councillor Smith, in his role as Chair of the Sub-Committee, reminded all parties that the Sub-Committee was in no sense a Court of Law, but was meeting as a Council body.

Nick MacBeath, the independent Investigating Officer, attended the meeting remotely to present his report and assist the Sub-Committee with any enquiries. The Sub-Committee heard that Mr MacBeath had been commissioned to undertake an independent review of 4 complaints which had been received on behalf of the Council, after these complaints had been considered by the Monitoring Officer and the appointed Independent Person as warranting further investigation. Mr MacBeath advised the Sub-Committee that he was an impartial person, not from the area who had not worked for the Council before, and he was qualified to undertake the investigation. Mr MacBeath's report set out his understanding of the facts which had been presented to him, and the conclusion that he had drawn, and his conclusion had been that the Code of Conduct had been breached. In response to an enquiry from a Member of the Sub-Committee, Mr MacBeath confirmed that he had been employed by TIAA for 24 years, and was a senior manager. He had carried out various roles during this time across numerous sectors including local government, housing, the National Health Service and was suitably qualified to undertake these reviews.

Councillor Moore introduced Dr Martin Parsons to the Sub-Committee, who was to represent her during the hearing. Dr Parsons requested that it be minuted that it was contended that a significant portion of Councillor Moore's defence was that it was not handled properly by the Monitoring Officer, and it was therefore not appropriate that the Monitoring Officer should be in the room during the hearing, or give advice to the Sub-Committee. Dr Parsons acknowledged that the Chief Executive had disagreed with this contention and he had accepted this.

The Sub-Committee heard that the complaints received concerned muppets, which were endearing children's television characters, comments made by Councillor Moore in relation to her fellow Councillors, and to questions asked of a Town Councillor at a Town Council meeting as to whether complaints had been made on behalf of a political organisation, or in a personal capacity.

The Sub-Committee was also asked to bear in mind that Councillor Moore was an opposition politician, and it was the job of opposition politicians to scrutinise, criticise and challenge members of the party in power, which was what she had done.

Anything which undermined the constitutional role of opposition politicians was damaging to democracy. At no time had Councillor Moore breached any of the Nolan Principles which underpinned the Council's Code of Conduct.

The Sub-Committee was advised that it was required to decide 3 things:

1. Did Councillor Moore actually breach the Council's Code of Conduct?
2. Was it lawful for the Council to accept and investigate the complaints which had been made?
3. Did the Council investigation fully follow its own procedures and fully follow the requirements set down by United Kingdom Law and international Human Rights

Conventions?

If the answer to any one of these questions was 'no' that it was suggested that the case against Councillor Moore had to be dismissed. It was the contention of Dr Parsons that the answer to all 3 questions was 'no'.

According to the Council's own arrangement for dealing with complaints, a complaint which was trivial in nature should not be investigated further, and Dr Parsons considered that the use of the term 'muppets' was commensurate with comments made by national politicians when in opposition which were considered to be wholly acceptable.

The Sub-Committee heard that it was considered that the complaints which had been made were vexatious, in that they had been made by a Town Councillor who led a local campaign group and who had opposing political views to Councillor Moore. The language of the complaints was vexatious and, at times, very insulting to Councillor Moore. A member of the Sub-Committee clarified that although the complainant was a Town Councillor, it was clear from the report that the complaint had been made in a personal capacity, and this was noted by the Sub-Committee.

Dr Parsons considered that the complaint was also clearly politically motivated, and that it should have been clear to the Monitoring Officer that the complaint had been made by a Councillor, as the Monitoring Officer was under a duty to maintain a register of all elected Councillors within their district, and should therefore have known this. The Sub-Committee was careful to draw the distinction between what an Officer should have known, and what they were able to discover, and reminded Dr Parsons that care was to be taken when discussing Officers, who were not able to defend themselves.

Dr Parsons considered that the Code of Conduct had to be interpreted in two ways; firstly the Localism Act 2011 set out the 7 principles of good governance on which the Code of Conduct states it is based. And not one of these principles had been breached by what Councillor Moore had been accused of. Secondly, S.6 of the Human Rights Act stated that every public authority must act in a way that is consistent with the Human Rights Act 1998, which incorporated the European Convention on Human Rights. Therefore, nothing within the Code of Conduct could conflict with the European Convention on Human Rights. The Comments which Councillor Moore made were legally protected by Article 10 of the Human Rights Act, which stated that everyone had freedom of expression, subject to some limited legal restrictions. In Dr Parson's opinion, the only one of these restrictions which could be relevant to the complaints was the requirement to protect the rights and reputations of others. There was no suggestion that Mr Wood's rights had been breached, and Dr Parsons argued that in accordance with the Defamation Act 2013, his, or anyone else's, reputation had not been either.

Prior to the hearing, the Monitoring Officer had distributed a stated case to all parties to the hearing; R (on the application of) Benjamin Dennehy v London Borough of Ealing. Referring to the judgement in this case, Dr Parsons advised the Sub-Committee that political expression attracted a higher degree of protection than expressions made in a personal capacity, as politicians laid themselves open to close

scrutiny of their words and deeds. The Sub-Committee further heard that the blog which had been the subject of the stated case which had been referenced, was racist in its nature and content and was clearly reprehensible, whereas the comments made by Councillor Moore bore no relationship to them.

The Sub-Committee noted the points made by Dr Parsons and sought clarification on whether or not Councillor Moore had been acting in a personal capacity or as part of her role as a Councillor, as it had been consistently stated in the defence bundle produced that she had been acting in a personal capacity. Councillor Moore confirmed that she had written her articles as a Councillor, however, she considered that it was clear that the articles contained her personal comments on events at the Council as she saw them.

Dr Parsons advised the Committee that a general principle in English law in determining what constituted an offence to do with speech, was that intention had to be proven in any regulation of speech.

The Sub-Committee heard that one of the most important Supreme Court cases in the previous few years was the Director of Public Prosecutions v Zeigler and others, and this case specifically concerned Article 10 of the European Convention on Human Rights. The Court ruled that when a public authority was seeking to restrict or place a sanction on someone's freedom of speech, a very specific proportionality assessment was required to be carried out, and this assessment had been produced in the defence bundle in order to assist the Sub-Committee. As far as Dr Parsons could tell, the Council had not undertaken this assessment, and in his opinion the failure to carry out this assessment made the continuance of the complaint unlawful.

Dr Parsons also considered that there had been a number of other failures on the part of the Council to follow specific procedures:

1. The Code of Conduct defined complaints in a number of ways, including distinguishing whether or not a complaint had been made by a Councillor, Officer or member of the public. It was contended that this distinction was significant, and was made to assist Officers in determining whether or not a complaint was politically motivated and should therefore be treated as vexatious. It was considered that the assertion contained within the Officer's report that the complaint was made in a private capacity even though the complainant was a Town Councillor was a misuse of the Code of Conduct. At the least, a Councillor making a complaint in a personal capacity needed to declare the fact that they were a Councillor to avoid a potential conflict of interest.
2. A failure to assess whether it could be reasonably predicted by the Councillor that what had been complained about could actually be a breach of the Code of Conduct. The Sub-Committee considered whether the use of the term 'muppets' used in the article written by Councillor Moore had been intended to refer to lovable television characters, or had been used to infer that the person or persons referred to as muppets were ignorant and stupid. Councillor Moore stated that the fact that she had written "elect muppets, get a comedy show" demonstrated that she had intended to refer to the television characters in a humorous manner, and was not aware of an alternate, more insulting, meaning of the word muppets. She considered that use of words in the English language changed so frequently that it was difficult to keep

abreast of their changing meanings, and she had not intended to cause offence. Councillor Moore accepted that it may be interpreted that she had intended to refer to others as stupid and ignorant, but that this needed to be proven. A member of the Sub-Committee considered that in their opinion, given the tone of the rest of the article, they considered that on balance it was possible to believe that Councillors Moore's intention had been to refer to others as ignorant and stupid, although a different interpretation was possible. Dr Parsons drew the attention of the Sub-Committee to remarks which had been by Sir Kier Starmer, Leader of the Opposition, when he likened Boris Johnson and Liz Truss to comedians, and considered that as no censure would be expected in this example of normal political discourse, none was appropriate here.

3. A repeated failure to weigh up the evidence. It was suggested to the Sub-Committee that as soon as it became evident that Mr Wood was also a Town Councillor, the complaint should have been re-assessed. Although the Officers' report state that Mr Wood had made his complaint in a private capacity, there was no evidence to support that that contention, or that this had been considered. It was suggested to the Sub-Committee that it was evident from the content of the complaints that they were politically motivated.

4. A failure to include in the Monitoring Officer's report a list of the agreed and not agreed facts and the corresponding evidence, which was required by the Code of Conduct.

5. A failure to ensure that the independent Investigating Officer was suitable qualified to deal with these complaints and political matters. Given the nature of the complaints, it was suggested that significant experience of high levels of local government would have been required to properly assess the complaints.

At the request of Councillor Moore, and with the consent of the Chair, Matthew Evans, Democratic Services Officer, read 3 letters to the Sub-Committee, which had been submitted as part of the defence bundle. Although the identity of the writer of the first of the letters had been withheld due to their fear of intimidation from the complainant, the Sub-Committee was assured that this identity was known and the letter was not from an anonymous source. The second letter was from Councillor Kevin Bentley who offered his strong support for Councillor Moore, considering that she acted with integrity and respect at all times. The third letter was from Peter Clements, a resident of Mersey who was supportive of Councillor Moore and requested that the Sub-Committee dismiss the complaints.

Councillor Jowers attended the meeting, and, with the Consent of the Chair, addressed the Sub-Committee. He advised the Sub-Committee that West Mersea Town Council was not a political Council in the way that some Parish Council's were, but rather was made up of strong minded local people such as Councillor Moore and Councillor Wood, and that sometimes debate could become robust. He questioned where the line for unacceptable behaviour lay, and wondered whether this was down to the individual as to whether offence was taken, suggesting that he could have taken offence on a number of occasions over the years if he had so wished. He believed that there had to be an element of knockabout in interactions between Councillors, and while he would not personally have used the term 'muppets', he did not believe that this had been intended to cause offence, and had been intemperate as opposed to insulting. Councillor Moore was an excellent Councillor and in the opinion of Councillor Jowers, the last thing that she would do would be to use offensive

language, and the use of the term 'muppets' had been in a humorous manner, albeit with a slight edge. He reminded the Sub-Committee that Councillor Moore had already apologised for her remarks and did not consider that it was appropriate that matters had reached this stage in proceedings. Following questioning from the Sub-Committee, Councillor Jowers confirmed that Mersea Town Council was political, but not on traditional party lines, and that anyone standing for election as an independent or local party was acting in the political arena.

In response to an enquiry from the Sub-Committee, Councillor Moore clarified that she had apologised to all Colchester City Councillors by way of an email which had been sent to them all, and this would have included Councillors that she was supposed to have been rude about.

6. Dr Parsons made reference to the Investigating Officer's report, and considered that it had made repeated, and unsubstantiated, assertions that the complaints had been 'clearly made in a private capacity', and this claim was not accepted by Councillor Moore. There had been a failure of the Independent Investigator to consider the impact on democracy of his recommendations, and Dr Parsons considered that it was not appropriate to censure opposition politicians for criticising the ruling party in a democratic county. The Investigating Officer's report had treated the Code of Conduct complaint as though it had been an employment matter, when Councillor Moore had not been acting in a professional capacity but rather in a political capacity, which allowed her greater freedom of expression than someone acting in the course of their profession.

7. Dr Parsons advised the Sub-Committee that he considered that there were specific issues with all of the complaints which had been received. With regard to the first complaint, it was suggested that the heading for the article which made reference to Colchester Borough Council, had in fact been inserted by the magazine editor, and not by Councillor Moore, and this was therefore not evidence that she was writing in an official capacity as the complainant suggested. It was suggested in the Investigating Officer's report that there could be a perception that the article was written in an official capacity, but the Code of Conduct made no reference to the element of 'perception'. With regard to the second complaint, Dr Parsons considered that the Council's complaint procedure provided for details of the complaint to be disclosed to the press on enquiry, and therefore the complaint could not be regarded as confidential. The Investigating Officer's report acknowledged that there was nothing in the Code of Conduct which required a complaint to be treated in confidence, and it was not considered that Councillor Moore had therefore breached the Code of Conduct in this regard. In respect of the third complaint, it was suggested to the Sub-Committee that Councillor Moore's conduct at the meeting of West Mersea Town Council could only be counted as intimidation if there was clear evidence that it had been intimidating, and there had been no mention of intimidation in any of the complaints that had been made. It was Dr Parsons's contention that all the complaints which had been made were political in nature, and Councillor Moore's questions at the Town Council meeting had been entirely in accordance with the Nolan Principles. Moreover, Councillor Moore had felt that she had to ask questions in public as she had been afraid of approaching Mr Wood in private.

Councillor Moore addressed the Sub-Committee, and made reference to the fact that

she was dyslexic and, as such, tended to think in word metaphors and often created amusing images. She had not been shown copies of the third and fourth complaints which had been received before being interviewed by the Independent Investigator, and therefore was not in a position to properly respond to these. This was a serious lapse on behalf of the Council, and anything contained in these complaints should therefore not be considered. The 4 complaints were motivated by a combination of hatred and politics and should be dismissed on these grounds alone. At the meeting of Mersea Town Council, she had been the subject of such disparaging comments that a member of the public who had been present took the time to call at her home later that evening to check whether she was alright. Her use of the phrase 'honest and true' had been questioned, however, this was a quotation from a poem entitled 'The Honest and True Boys', which was about keeping up best standards in life. The depiction of life at the Council and her reference to the 'Camp Grenada' song had been in no way insulting, which would be apparent to anyone familiar with the music. It was always her intention to entertain and inform when writing articles for Mersea Life, which was circulated to 10,000 people, and in 8 years the complainant had been the only person to ever object to her humour; it had never been her intention to offend her fellow Councillors. No mention had been made of the hate filled, misogynistic and ageist language which had been directed against her by the complainant, and about which she had made a complaint. As a practising Christian, she was not in the habit of trying to intimidate people, and did not consider that asking a question in a public forum in order to establish the truth was attempting intimidation.

In response to a question from the Sub-Committee, Councillor Moore confirmed that her use of the phrase 'murkier goings on' had simply mean cloudy and unclear as opposed to bad. She was unable to account for the interpretations which were placed upon her words, but had always written her articles as a Councillor who was expressing her own personal view. Councillor Moore had used the term 'squeamish' after hearing several opposition Councillors say that they did not have the stomach for voting for the proposed Local Plan, and considered that this meant that they had been squeamish, and did not consider that this term was offensive. She had been advised that some Councillors had indicated that they had found the article amusing. The Sub-Committee considered that the element of perception of the meaning and use of language was important, as well as the intention behind the use of language. Councillor Moore confirmed that her articles were always intended to be a humorous look at elements of Council life with the aim of encouraging people to read them as part of a public service, and considered that the nature of humour was that it was always open to interpretation.

Turning to the expression of 'honest and true' that had been used by Councillor Moore, the Sub-Committee considered that there could be an existing public perception that Councillors could be open to bribery, particularly when it came to planning matters; was Councillor Moore aware of this perception? Councillor Moore again explained that the words had come from a poem encouraging high standards in life, although she conceded that her use of the phrase 'enough honest and true' Councillor's could generate the perception that there were some Councillors who were not honest and true. A member of the Sub-Committee confirmed that when they had read the article, their perception had been that Councillor Moore was implying that some Councillors were not honest and true, which could be damaging to the Council as a whole as it referenced a negative public perception of Councillors.

The Sub-Committee considered the events which had taken place at the meeting of Mersea Town Council, and Councillor Moore explained that she had simply asked questions of Councillor Wood at that meeting to attempt to understand the motive behind the complaints which had been made against her. Her language had not been intimidating, and she was under no obligation to keep the details of the complaints confidential. At no point had the meeting of the Town Council been suspended by its Chair due to disorderly conduct. Councillor Moore confirmed that she believed that she had, at all times, acted in accordance with the Nolan Principles, and had accounted for her actions to the public. She considered that the making of 4 Code of Conduct complaints against her in the space of 6 weeks was vexatious.

A member of the Sub-Committee enquired whether Councillor Moore felt that she had treated other members of the Council with respect through her articles and her comments, and Councillor Moore stated that her comments had been humorous but not disrespectful.

The Sub-Committee invited Nick MacBeath to provide any additional comments on his report, and he gave his opinion that the debate of the evening had illustrated that different people interpreted things differently, and that the complainant had been offended by the content of Councillor Moore's articles, which had given rise to the investigation. On behalf of Councillor Moore, Dr Parsons gave a summing up of the defence to the Sub-Committee. He considered that what was of importance when the Sub-Committee was making its deliberations was consideration of the bigger picture.

The supposed breaches of the Code of Conduct which Councillor Moore was accused of had arisen because she had used the term 'muppets' to refer to unnamed members of her political opponents, she had referred to Councillors who had avoided voting on a particularly important and potentially controversial issue as 'squeamish', and she had asked questions in a public meeting which were in accordance with the Nolan Principles. It had been demonstrated that West Mersea Town Council was political, although not along traditional party lines, Councillor Moore had used humour to deal with difficult topics, and as an opposition Councillor it had been appropriate for her to make the comments that she had. The Sub-Committee was warned against setting a precedent which would stifle proper democratic debate in the future.

The Sub-Committee heard that Councillor Moore had not been made aware of the third and fourth complaints, and there was a clear principle set out in Article 6 of the European Convention on Human Rights which required that someone facing an accusation must be told promptly and given time to prepare their defence. This opportunity had been denied to Councillor Moore, who had still not received the full text of the third complaint, and on those grounds alone this complaint should be dismissed.

There had been no identifiable victim of the complaints, and Councillor Moore had apologised to all City Councillors for any offence which she may have caused. She had at no time acted in contravention of the Nolan Principles, and had merely used humour to soften political observations which she had made. Freedom of speech was protected as a fundamental human right, and could only be restricted by the protection of the rights and reputations of others, however, no victim had been identified and no

criteria for defamation in English law had been reached.

It was Dr Parson's contention that the complaints which had been made were clearly politically motivated, and had to a situation in which Councillor Moore had felt that she had suffered harassment, ill treatment and victimisation to the extent that she had decided to step down from her role as a City Councillor.

If Councillor Moore was not able to clear her name tonight she would be forced to consider applying for a Judicial Review on the grounds that:

- The Council did not follow corporate procedure
- The Council did not follow an interpretation which was compatible with European Convention on Human Rights
- The Council did not undertake the proportionality assessment that was required to restrict freedom of speech

Dr Parsons advised the Sub-Committee that in his view the costs of a Judicial Review would not be awarded to a public body even if it were to win, and he estimated that forcing Councillor Moore to go down this route would therefore cost the Council approximately £500,000 of public money, and generate significant negative publicity for the authority.

Councillor Moore could also consider suing the Council in the County Court for harassment and the distress that this had caused her, as since July procedure had repeatedly failed to be complied with and it was considered that on this basis she would have a strong case to apply for significant damages and costs.

The Sub-Committee was asked to consider 3 questions:

1. Did Councillor Moore trivial and minor actions actually breach the Council's Code of Conduct?
2. Was it lawful for the Council to accept and investigate the complaints which had been made?
3. Did the Council investigation fully follow its own procedures and fully follow the requirements set down by United Kingdom Law and international Human Rights Conventions?

If the answer to any one of these questions was 'no', then Dr Parson's contended that the complaints must be dismissed. He exhorted the Sub-Committee not to force Councillor Moore to make an application to the High Court, and he could envisage headlines in the Daily Mail criticising the Council for wasting money on defending the decision taken by the Sub-Committee, if it were to find that Councillor Moore had indeed breached the Code of Conduct.

As required by the Hearing Sub -Committee Procedure Rules the Sub-Committee announced its preliminary findings to the hearing:

Following careful deliberations, the Governance and Audit Hearings Sub-Committee has carefully considered the alleged breaches of the Council's Code of Conduct which were contained in the Investigating Officer's report, and considered that the Member's

Code of conduct has been breached in respect of:

Section 3(1), not treating others with respect,
Section 4(a), by disclosing confidential information relating to the complaints which was known or reasonably ought to have been known to be confidential.

It was considered that the Code of Conduct had not been breached in respect of:

Section 3(3)(c) attempting to intimidate the complainant. In reaching its decision, the Hearings Sub-Committee has given careful consideration to the proportionality test provided for in Article 10 of the European Convention on Human Rights.

It is considered that the language used by Councillor Moore in her articles could reasonably be considered to be sufficient to cause offence, and that Councillor Moore should have reasonably been aware that the disclosure of the details of the complainant in a public forum were contrary to the provisions of the Code. Before considering what actions, if any, the Sub-Committee would recommend that Full Council consider taking, Councillor Moore was invited to make representations as to whether action should be taken or what form any action should take. Councillor Moore commented that as she had already apologised to any Councillors who may have been offended, she did not see that any other course of action was necessary.

Following further deliberation, and having taken consideration of the representations made by Councillor Moore, the Sub-Committee has decided that it will:

1. Report its findings to Full Council
2. Recommended to Full Council that Councillor Moore be issued with a reprimand
3. Recommend that Councillor Moore be given additional training on adherence to the Code of Conduct

The Hearings Sub-Committee further recommends to Full Council that training in respect of Code of Conduct compliance be offered to all elected members within the city boundaries.

Following further deliberations, the Sub-Committee made the following final decision:

RESOLVED that:

1. The Governance and Audit Hearings Sub-Committee, in consultation with the Independent Person appointed to assist it, carefully considered the alleged breaches of the Council's Members' Code of Conduct which were contained in the Investigating Officer's report, and considered that the following sections of the Members' Code of Conduct had been breached:

- Section 3(1), not treating others with respect.
- Section 4(a), disclosing confidential information relating to the complaints which was known or reasonably ought to have been known to be confidential.

2. It was, however, considered that the Code of Conduct had not been breached in respect of:

- Section 3(3)(c) attempting to intimidate the complainant.

3. In reaching its decision, the Sub-Committee carefully considered the evidence placed before it, contained in the Monitoring Officers reports, the supplementary information provided by Councillor Moore, the bundle provided by Councillor Moore's representative and the representations made during the hearing. In addition, each alleged breach of the Code was considered in the light of the proportionality test established in case law in regard to Article 10 of the European Convention on Human Rights (Freedom of Expression) .

4. The Sub-Committee concluded that the language that Councillor Moore had used to describe fellow Councillors in more than one article which she had written for the publication 'Mersea Life' was disrespectful. The Sub-Committee was particularly concerned by the use of the term 'muppets', and the suggestion that Councillors who did not attend a meeting to vote were 'squeamish'. The Sub-Committee also considered that that the reference which had been made to some Councillors being 'honest and true' carried the very clear implication that other Colchester City Councillors were not honest and true and was therefore publicly disparaging to Councillor colleagues, thereby constituting a breach of the Code of Conduct.

6. The Sub-Committee considered that Councillor Moore's attendance at a West Mersea Town Council meeting, and subsequent public questioning of the complainant, although extremely poorly judged, did not constitute an attempt to intimidate the complainant, and therefore there was no breach of the Code of Conduct in this regard.

7. The Sub-Committee, initially did conclude that by naming the complainant and by revealing details of the complaint made against her in a public forum (i.e. The West Mersea Town Council meeting), Councillor Moore had disclosed information which it could reasonably be assumed that she should have known was confidential, resulting in a breach of the Code of Conduct.

8. However, upon further consideration of this aspect of the complaint, the Sub-Committee noted that the complainant had not requested that his name be treated as confidential. Whilst it would have been reasonably expected that Councillor Moore would have kept the details of the complainant and the of the complaint itself confidential whilst under investigation, the Sub-Committee noted that the Council's Localism Arrangements did not explicitly state that a councillor must treat details of a complaint made against them as confidential. Therefore, the Sub-Committee reflected that on balance whilst it initially had found that Councillor Moore had breached section 4(a) of the Code of Conduct it was felt that the revealing of details of the complaint and identifying the complainant in a public forum amounted to a breach of section 3(1) of the Code of Conduct.

9. Accordingly, the Sub-Committee considered that the following section of the Members' Code of Conduct had been breached: • Section 3(1), not treating others with respect.

10. The Sub-Committee considered that the Code of Conduct had not been breached in respect of:

- Section 3(3)(c), attempting to intimidate the complainant.

- Section 4(a), disclosing confidential information relating to the complaints which was known or reasonably ought to have been known to be confidential.

11. Following further deliberation, and having taken consideration of the representations made by Councillor Moore at the hearing, the Sub-Committee decided that the following actions were proportionate to the breach of the Code of Conduct:

1. Report its findings to Full Council
2. Recommended to Full Council that Councillor Moore
 - (a) be issued with a reprimand; and
 - (b) be given additional training on adherence to the Code of Conduct

12. The Sub-Committee further recommends to Full Council that training in respect of Code of Conduct compliance be offered to all elected members within the city boundaries