



# EAST CAMBRIDGESHIRE DISTRICT COUNCIL

THE GRANGE, NUTHOLT LANE,  
ELY, CAMBRIDGESHIRE CB7 4EE  
Telephone: 01353 665555

MEETING: **FINANCE & ASSETS (ETHICAL GOVERNANCE) SUB-COMMITTEE**  
TIME: 3.00pm  
DATE: Friday 18 March 2022  
VENUE: Council Chamber, The Grange, Nutholt Lane, Ely  
ENQUIRIES REGARDING THIS AGENDA: Tracy Couper  
DIRECT DIAL: (01353) 665555 EMAIL: [tracy.couper@eastcambs.gov.uk](mailto:tracy.couper@eastcambs.gov.uk)

## Membership:

### Conservative Members

Councillor David Brown  
Councillor Mark Goldsack  
Councillor Julia Huffer  
Councillor Bill Hunt

### Substitutes:

Councillor Dan Schumann  
Councillor Josh Schumann  
Councillor Jo Webber

### In Attendance:

Gillian Holmes - Independent  
Person

### Lead Officer:

Maggie Camp, Legal Services Manager and Monitoring Officer

**Quorum:** 3 Members

### Liberal Democrat Members

Councillor Charlotte Cane  
Councillor Simon Harries

### Substitutes:

Councillor Mark Inskip  
Councillor John Trapp  
Councillor Christine Whelan

### Independent Member

Councillor Paola  
Trimarco (Chairman)

### Substitutes:

Councillor Sue Austen

# A G E N D A

## 1. Apologies and Substitutions

## 2. Declarations of Interest

To receive declarations of interest from Members for any items on the Agenda in accordance with the Members Code of Conduct

**3. Minutes**

To confirm as a correct record the Minutes of the meeting of the Sub-Committee held on 29<sup>th</sup> July 2021

[Please Note: these minutes have been 'de-exempted' by the Monitoring Officer in accordance with the Public Interest Test contained within Part 2 of Schedule 12A to the Local Government Act 1972 (as amended)]

**4. Monitoring Officer's Report – Failure of District Councillor to comply with Sanctions Imposed by Sub-Committee**

## FINANCE & ASSETS (ETHICAL GOVERNANCE) SUB-COMMITTEE

### 1. Constitution

- 1.1 The Sub-Committee comprises of 7 Members of the Council, who shall be appointed annually from the full Membership of the Council, and up to 2 Co-opted non-voting Town or Parish Councillors.
- 1.2 The Sub-Committee quorum is 3 Members, and the appointed Independent Person for a Members Code of Conduct complaint also may be in attendance. Where the Sub-Committee considers a complaint against a Town or Parish Councillor, one of the Town or Parish Co-Optees will be in attendance.

### 2. Objectives

- 2.1 To support the Finance & Assets Committee in its duty to promote and maintain high standards of ethical governance and Councillor conduct.

### 3. Terms of Reference

- 3.1 To make recommendations to full Council on the adoption or revision of the Members Code of Conduct.
- 3.2 To monitor the operation of the Members Code of Conduct.
- 3.3 To receive monitoring reports on ethical Standards matters, e.g. summary reports on Declarations of Interests, Gifts and Hospitality, Dispensations.
- 3.4 To consider investigation reports resulting from allegations of possible breaches of the Members Code of Conduct and determine those cases referred by the Council's Monitoring Officer.
- 3.5 When considering investigation reports resulting from allegations of possible breaches of the Members Code of Conduct, the Sub-Committee:
  - 3.5.1 Will hold the meeting in private session under the Local Government Act 1972 to hold in exempt session, unless representations have been received from the complainant and/or the Councillor subject to the complaint, by the Monitoring Officer/Deputy Monitoring Officer not to do so.
  - 3.5.2 Will ensure that this is conducted having regard to the procedure and any government guidance, or guidance issued by the Monitoring Officer, Deputy Monitoring Officer, or legal advisor.
  - 3.5.3 Will take into account the views of the Independent Person *before* making its final determination on the matter.
  - 3.5.4 **[in cases where the complaint relates to a Town or Parish Councillor]** Will seek and take into account the views of the Town or Parish Co-optee at the Panel Hearing *before* making its final determination on the matter.
  - 3.5.5 Will determine whether the Councillor subject to the complaint has breached their Authority's Code of Conduct and provide reasons for any decision.
- 3.6 If the Sub-Committee concludes that the Councillor subject to the complaint has breached their Authority's Code of Conduct, it may impose the following sanctions:

- 3.6.1 No action.
  - 3.6.2 That the Councillor apologises.
  - 3.6.3 That the Councillor be trained.
  - 3.6.4 That the Councillor seeks to restore relationships with other parties (e.g. through mediation).
  - 3.6.5 That the Councillor be censured.
  - 3.6.6 That a recommendation is made to the District Council's full Council to censure the District Councillor.
  - 3.6.7 **[in the case where the complaint relates to a Town or Parish Councillor]** recommend to the Town or Parish Council that the Town or Parish Council censures the Councillor at a Town or Parish meeting.
  - 3.6.8 That a Press Notice be issued.
  - 3.6.9 Any other form of sanction which does not prevent the Councillor from undertaking their duty to attend Council meetings, or infringe their Human Rights
- 3.7 To consider any further report from the Monitoring Officer regarding the failure of a Councillor to comply with any sanction(s) imposed upon them for breach of the Members Code of Conduct or imposed upon them as a result of informal resolution by the Monitoring Officer in consultation with the Independent Person.
- 3.8 Generally to assist with good ethical governance, if requested by Finance & Assets Committee.

#### **4. Delegation to Officers**

- 4.1 The Monitoring Officer is authorised to act in relation to any matter of immediate urgency, which must be dealt with before the next meeting of the Sub-Committee provided the Chairman or Vice-Chairman of the Sub-Committee is consulted prior to delegated decisions being made.
- 4.2 There shall be delegated to the Monitoring Officer, the exercise of any power or function of the Council in routine matters related to the implementation District, Town and Parish Councillor complaint procedures.

This delegation shall not be taken to include any matter reserved by law to the Finance & Assets Committee or the Full Council.

- 4.3 There are further delegated to the officers indicated below the exercise of any power or function of the Council set out below:

**In respect of Sub-Committees to consider investigation reports resulting from allegations of possible breaches of the Members Code of Conduct:**

To make arrangements for convening a Sub-Committee including, where relevant, Town or Parish Co-optee's attendance	Democratic Services Manager or Democratic Services Officer
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To make arrangements for the Sub-Committee to be held in exempt session, unless representations are received and there is a legal basis for the exempt session under the Local Government Act 1972	Monitoring Officer or Deputy Monitoring Officer or Democratic Services Manager
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To undertake any preparation for the Sub-Committee and any actions required following the Sub-Committee	Monitoring Officer or Deputy Monitoring Officer
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To undertake any post Sub-Committee training and/or mediation, or instruct/engage others (internally or externally) to do so	Monitoring Officer or Deputy Monitoring Officer
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Minutes of a meeting of the Finance and Assets (Ethical Governance) Sub-Committee held in the Council Chamber, The Grange, Nutholt Lane, Ely on Thursday 29 July 2021 at 10.00am

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**PRESENT**

Councillor Sue Austen (substitute for Councillor Paola Trimarco)  
Councillor Charlotte Cane  
Councillor Mark Inskip (substitute for Councillor Harries)  
Councillor Dan Schumann (substitute for Councillor David Brown)  
Councillor John Trapp  
Councillor Jo Webber (substitute for Councillor Julia Huffer)  
Mrs Gillian Holmes – Independent Person

Subject Member – Councillor Matthew Downey  
Complainant – Councillor Anna Bailey

**IN ATTENDANCE**

Maggie Camp – Legal Services Manager, Monitoring Officer and  
Legal Adviser to Sub-Committee  
Alex Oram – External Investigating Officer, ch&i associates  
Tracy Couper - Democratic Services Manager and Deputy  
Monitoring Officer

**APOLOGIES**

Councillor David Brown  
Councillor Simon Harries  
Councillor Bill Hunt  
Councillor Julia Huffer  
Councillor Paola Trimarco

1. **ELECTION OF CHAIRMAN**

On the calling of nominations for Chairman of the Sub-Committee for the municipal year, Councillors Cane and Trimarco were duly proposed and seconded. However, prior to a vote on the two nominations, Councillor Inskip, as proposer, withdrew his nomination of Councillor Cane.

Therefore, it was resolved:

That Councillor Paola Trimarco be elected as Chairman of the Finance and Assets (Ethical Governance) Sub-Committee for the ensuing municipal year.

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As Councillor Trimarco was not present at the meeting, nominations then were called for election of a Chairman for the meeting. Councillors Austen and Cane were duly proposed and seconded. As there was a contested election and no Chair to preside, nominations were called for election of a Chair to preside. Councillors Schumann and Trapp were duly proposed and seconded and upon being put to the vote a tie was declared. A brief adjournment was called from 10.10am to 10.14am, to attempt to resolve the position. On re-convening, Councillor Cane, as proposer, withdrew her nomination of Councillor Trapp. Therefore, Councillor Schumann was elected to preside as Chair for the election of Chairman for the meeting.

Upon a vote on the two nominations for election of Chairman for the meeting,

It was resolved: (by Chair's casting vote)

That Councillor Sue Austen be elected Chairman for the meeting.

#### 2. **DECLARATIONS OF INTEREST**

No declarations of interest were received.

#### 3. **EXCLUSION OF THE PUBLIC INCLUDING REPRESENTATIVES OF THE PRESS**

A Member queried the reasons for the Sub-Committee being held in Exempt session. The Monitoring Officer and Legal Adviser to the Sub-Committee explained that the Sub-Committee Procedure for Members Code of Conduct Complaints approved at the meeting of the Finance and Assets Committee on 7 June 2021 and attached to the Agenda for this meeting, made a presumption that the Sub-Committee would be held in Exempt session, unless representations were made to the contrary.

It was resolved:

That the public (including representatives of the press) be excluded during the consideration of the business of the Sub-Committee because it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present there would be disclosure to them of exempt information of Categories 1, 2 and 5 of Part I Schedule 12A to the Local Government Act 1972 (as amended).

#### 4. **COMPLAINT REGARDING BREACH OF THE MEMBER CODE OF CONDUCT – DISTRICT COUNCILLOR MATTHEW DOWNEY**

At the invitation of the Chairman, Maggie Camp, Monitoring Officer (MO) and Legal Adviser to the Sub-Committee, explained that the Sub-Committee would follow the approved procedure, as attached to the agenda. Ms Camp also highlighted a copy of E-mail correspondence dated 1 March from Independent Person giving her view that the investigation report was accurate and fair and her agreement that the matter should proceed to a Sub-Committee, together



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with correspondence dated 17 March 2021 to Councillor Downey advising that the matter was to be referred to a Sub-Committee circulated at the Sub-Committee meeting, which inadvertently had been omitted from her report.

Ms Camp introduced and summarised the content of the Monitoring Officer's report on the Standards complaint against District Councillor Matthew Downey from District Councillor Anna Bailey. Ms Camp explained that she had received a complaint on 27 July 2020 that Cllr Matthew Downey had failed to comply with the Council's Member Code of Conduct. This was in relation to tweets Cllr Downey had made on his Twitter account between 17th and 25th July 2021. These stemmed from a full Council meeting on 16th July and a meeting of Finance & Assets Committee on 23rd July 2020.

The complaint alleged that Cllr Downey had failed to treat the complainant and other Conservative Members with respect, had displayed bullying behaviour and brought the authority into disrepute. Copies of the tweets were appended to the MO report at Appendix 2. The tweets included assertions that the Council's Constitution had been breached both in relation to the Council meeting on 16th July and the Finance & Assets Committee on 23rd July. They also stated that the Conservative Members of the Council were racist, criticised individual Conservative Members by name for "liking" racist tweets, accused them of breaching the Council's Constitution and called on the Chair of the Finance and Assets Committee, Cllr Brown, to resign. It was also alleged that Cllr Downey had "baited" Cllr Bailey to get her to respond on Twitter and subsequently accused her of lying. The complainant stated that the tweets were untrue and therefore brought Cllr Downey and the Council into disrepute.

Ms Camp summarised the actions she took regarding the complaint in accordance with the complaints handling procedure and flowchart within the Monitoring Officer's Protocol, as evidenced in Appendices 2 to 10 of her report. This and the required consultations with the Independent Person resulted in the complaint being referred for investigation by independent external investigators, ch&I associates. The investigation was conducted by Alex Oram and Mark Hedges from ch&I associates and a copy of the investigation report was attached at Appendix 12 of the MO's report. The investigation report was very thorough and detailed and both the Subject Member and Complainant had the opportunity to comment on the draft before it was finalised.

The investigation report concluded that Cllr Downey did fail to treat others with respect contrary to paragraph 3.1 of the Member Code of Conduct, when he called members of the Conservative Group "racists", stated that Cllr Bailey and members of her group did not think that black lives mattered and accused Cllr Bailey of lying. Paragraph 5.11 of the Investigation Report detailed that "failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another". The investigators were not of the view that when doing so, Cllr Downey bullied anyone, contrary to 3.2(b) of the Member Code of Conduct, but do consider that this conduct brought his office into disrepute contrary to 3.2(e) of the Member Code of Conduct.

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Ms Camp summarised the subsequent actions she took as a consequence of receipt of the final Investigation report, in accordance with the MO Protocol and consultation with the Independent Persons, which had led to the convening of this Sub-Committee. The Monitoring Officer highlighted that the Investigating Officer, Alex Oram, was present at the meeting to provide further clarification and answer questions on the investigation report, findings and recommendations.

In response to an invitation by the Chairman, Mr Oram thanked Councillors Downey and Bailey for their co-operation on the investigation and stated that he had nothing to add to the report. In accordance with the Sub-Committee Procedure, the Sub-Committee were given the opportunity to ask questions of the Monitoring Officer and Investigating Officer.

A Member commented that the investigation report presented a thorough and fair reflection of the issues.

Another Member thanked Mr Oram for this significant piece of work, which was a difficult but clear read. The Member asked Mr Oram to explain the statement in paragraph 5.23 of the investigation report 'I am confident that Councillor Downey meant his accusation seriously and wanted it to sting'. Mr Oram stated his belief that Councillor Downey had meant his accusations seriously and in a derogatory manner that would hit home and Councillor Downey had stood by them throughout the investigation process. In response to a request for further clarification on this statement by another Member, Mr Oram highlighted the serious and damaging impact such allegations could have, particularly in a political environment, citing similar incidents recently relating to both local authority and national politicians accused of racism.

A Member queried the evidence for Mr Oram's conclusions in paragraph 5.27 of the investigation report, and Mr Oram stated that Black Lives Matter (BLM) being both a political and social movement was a recognised statement of fact. The Member indicated that the current US BLM website indicated that it was more of a social reform movement, but Mr Oram stated that he had based his conclusions on the evidence available on the website at the time of the complaint and incidents.

Some Members queried in what manner it would be appropriate for a Member to challenge racist behaviour and Mr Oram stated that he could not respond to hypothetical situations but only to the evidence presented. However, in order to comply with the requirement in the Member Code of Conduct to treat others with respect, it was acceptable to robustly challenge policies without making personal attacks upon the character of an individual. A key issue for this Sub-Committee to decide was whether they considered the comments made reasonable and fair.

A Member expressed grave concern at the fact that 15 Members of a Political Group had been accused of being racist, as this affected both their political and personal lives.

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In response to a question by a Member to Mr Oram regarding the difference between a group accusation and personal accusations, Mr Oram again stated that he could not deal in hypotheticals, but a general comment would usually be unlikely to result in a finding of disrespect, whilst specific allegations against individual(s) were likely to engage the Code of Conduct. However, other sections of the Code of Conduct might be engaged by general derogatory comments.

The Subject Member was invited by the Chairman to speak on the report. Councillor Downey stated that the definition of racism was constantly moving and he held a genuine belief that the Conservative Group had acted in a racist manner. It was a matter for the public to decide if his views were valid or not and to exercise their right to do so via the ballot box. It was not for the Conservatives to stifle free speech and open debate.

The Complainant then addressed the Sub-Committee and commended the thorough and fair process followed and detailed and thoughtful nature of the investigation report. Councillor Bailey stated that the accusation that she was a liar had been particularly painful and hurtful to her, and was worsened by the fact that the allegation was made in the public domain, since she had a strong personal belief in acting with honesty and integrity and in the interests of the local community. She also believed that it was a serious allegation to accuse a whole Group of being racist and wrong that such allegations remained on social media for a prolonged period. She stated that she supported the findings in the investigation report.

The Sub-Committee then were invited by the Chairman to discuss the reports of the Monitoring Officer and the Investigating Officer in the light of the representations made by the relevant parties.

A Member thanked Mr Oram for his points of clarification on the investigation report. He stated that today's meeting was about standards in public life and the need to abide by the Code of Conduct and what happened when a breach of these occurred.

Another Member commented that the report made it clear that Councillor Downey felt strongly about racism and this was what made him unable to accept the Conservative amendment to his Motion. It was important to understand his outrage at historic racist behaviour and persecution and the level of his frustration at the dilution of recognition of this by the phrase 'all lives matter'. The level of his passion needed to be taken into account when considering the complaint. Members needed to consider whether his behaviour was 'unwarranted and unreasonable' as stated in paragraph 5.27 of the investigating officer's report. The Member asserted that Councillor Downey seriously believed the actions of the Conservative Group denied that racism was a problem. Therefore, the Member could not accept the findings of the investigation report.

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In response to this a Member stated that whilst willing to take Councillor Downey's frustration into account, when considering whether his behaviour was 'unwarranted and unreasonable', a two-stage test was required:

- Was the belief genuinely held?
- Were the subsequent actions justified and reasonable?

The Member did not believe that these two tests had been proved.

Councillor Schumann moved that the findings in paragraphs 6.1 and 6.2 of the investigating officer's report be accepted and this was seconded by Councillor Webber.

An amendment was moved by Councillor Cane and seconded by Councillor Trapp that the findings in 6.2 of the investigating officer's report be accepted, but that the findings in paragraph 6.1 of the investigating officer's report not be supported as it had not been shown that Councillor Downey's behaviour was 'unwarranted and unreasonable'.

Speaking in support of her amendment, Councillor Cane stated that Councillor Downey meant his allegations seriously and believed he had grounds for them by the 'liking' of tweets by particular Councillors. Therefore, even if mistaken, they were genuinely believed by him.

Councillor Schumann stated that the two-stage test referred to above was a fairer assessment of Councillor Downey's comments and the issue was whether a 'reasonable person' would consider them appropriate and proportionate in the light of the entire train of events. Councillor Schumann did not believe that a 'reasonable person' would reach this conclusion. It was not just a question of Councillor Downey's belief but his subsequent actions. That was why Councillor Schumann supported the findings in the investigating officer's report.

At this stage, the Independent Person was asked for her views. Mrs Holmes stated that both herself and the other Independent Person, Stuart Webster, were required to consider the issues from the perspective of an objective member of the public. As such, she accepted that due to the requirements for robust debate and freedom of speech, Councillors were required to have 'thicker skins'. However, comments in the political arena needed to be balanced against when they strayed into personal attacks. Both Independent Persons believed that there had been a potential breach when applying this test. She considered the investigation report to be fair and balanced and had been guided by the legal principles in the report. Therefore, she had agreed with the findings in paragraph 6.1 of the report that there had been a breach of the Code of Conduct on the balance of probabilities and was prepared to be guided on paragraph 6.2. Nothing she had heard at today's Sub-Committee had changed her view to support the findings in the investigation report.

Some of the Members of the Sub-Committee commented generally on the deterioration of standards in public life and the possible need for training for all Members of the Council in how to treat each other with respect whilst undertaking robust debate. They reiterated their belief that Councillor Downey's views were genuinely held by him.

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However, another Member stated that this was not about the robustness of the debate, but the subsequent actions of Councillor Downey and the degree to which these were taken which had 'crossed the line', and for which he needed to be accountable.

Reference was made to the case law examples in the investigation report and there were differing opinions expressed as to their relevance to this particular complaint.

Upon being put to the vote, the amendment was lost by the Chair's casting vote.

A further amendment then was moved by Councillor Trapp and seconded by Councillor Inskip to vote separately on the three elements of paragraph 6.1 of the investigating officer's report.

*The Sub-Committee was adjourned from 12.25pm to 12.50pm to confirm the nature and validity of the amendment.*

On re-convening, the Democratic Services Manager apologised for her confusion and confirmed the amendment. Upon being put to the vote, the amendment was lost by the Chair's casting vote.

Speaking on the Motion, a Member commented that they could agree with paragraph 6.2 of the investigation report but not 6.1, as the removal of the phrase Black Lives Matter from the motion that was the subject of the issues, indicated to her that they did not matter.

Upon being put to the vote, the motion to accept the findings in the investigating officer's report was carried by the Chair's casting vote.

The Sub-Committee then moved onto the consideration of sanctions.

Councillor Cane moved that Councillor Downey apologise to the complainant in writing and this was seconded by Councillor Trapp.

An amendment then was moved by Councillor Schumann and seconded by Councillor Webber that the following sanctions be imposed from the list in the Sub-Committee Procedure:

2. That the Councillor apologises in writing to the complainant
3. That the Councillor receive appropriate training
5. That the Councillor be censured
8. That a Press Notice be issued

The Independent Person was consulted on sanctions at this stage and she stated that she had nothing more to add.

Speaking on the amendment, a Member commented that this had been a difficult meeting at which everything had been decided on the Chair's casting vote. Therefore, a written apology seemed a proportionate sanction, whilst censure

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and a Press Notice were much more serious sanctions bearing in mind the divided nature of the Sub-Committee. Some other Members concurred with this view.

With the agreement of the seconder, Councillor Schumann agreed to remove the sanction of censure from his motion.

However, other Members commented that a Press Notice was appropriate, since the actions of the Subject Member had been carried out in the public domain.

A Member queried what the nature of the training would be. The Independent Person commented that the issues seemed to relate to the difference between robust political debate and where this crossed the line into personal attack, so training on robust debate and respect and the use of social media seemed to be appropriate.

With the agreement of her seconder, Councillor Cane then amended her amendment to include training for all Councillors as indicated by the Independent Person above.

Other Members commented that it was not appropriate for this Sub-Committee to consider the imposition of general training on Councillors and that there were other mechanisms by which this issue could be taken forward.

Speaking to sum-up on the amendment, Councillor Cane stated that the imposition of too many sanctions on the Subject Member could be regarded as putting too heavy an opprobrium on his actions.

Upon being put to the vote the amendment, as amended, was declared to be lost by the Chair's casting vote.

With regard to the motion, Members discussed how the Press Notice would be drafted. Following discussion of the options, Councillor Schumann and his seconder agreed to further amend the motion to delegate the drafting of the Press Notice to the Monitoring Officer.

Upon being put to the vote, the motion, as amended, was carried by the Chair's casting vote.

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Therefore, it was resolved:

1. That the Sub-Committee agrees with the findings in Investigation Report as follows:

Paragraph 3.1 You must treat others with respect

Paragraph 3.2 (e) You must not conduct yourself in a manner which could be reasonably be regarded as bringing your office or authority into disrepute

**Finding: Breach:** When Councillor Downey called Conservative Group 'racists'; stated that Councillor Bailey and her Group did not think that Black lives mattered; and accused Councillor Bailey of lying.

Paragraph 3.2 (b) You must not bully any person

**Finding: No Breach:** Do not consider that Councillor Downey bullied anyone when he called Conservative Group 'racists'; stated that Councillor Bailey and her Group did not think that Black lives mattered; and accused Councillor Bailey of lying.

Paragraph 3.1 You must treat others with respect

Paragraph 3.2 (e) You must not conduct yourself in a manner which could be reasonably be regarded as bringing your office or authority into disrepute

Paragraph 3.2 (b) You must not bully any person

**Finding: No Breach:** Do not consider that Councillor Downey failed to comply with the Code of Conduct when he asserted that the way in which his motion was handled breached the Council's Constitution, or for calling on the Chair of a particular Committee to resign as a result. However, this should not be viewed as an endorsement of Councillor Downey's comments or the veracity of his concerns, but that a finding that he had failed to comply with the Code with regard to these matters would represent a disproportionate restriction on his right to free speech.

2. That the Sub-Committee agrees the following sanctions:

- the Councillor apologises in writing to the complainant
- the Councillor receive appropriate training
- a Press Notice be issued, the wording of which to be delegated to the Monitoring Officer

The meeting concluded at 1.30pm.





**TITLE: Failure of District Councillor to comply with Sanctions imposed by Sub-Committee**

Committee: Finance & Assets (Ethical Governance) Sub-Committee

Date: 18th March 2022

Author: Monitoring Officer

[W162]

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1.0 ISSUE

1.1 To consider the failure of Cllr Matthew Downey to comply with 2 of the sanctions imposed at the Finance & Assets (Ethical Governance) Sub-Committee meeting on 29th July 2021.

2.0 RECOMMENDATION(S)

2.1 That the Sub Committee notes the Monitoring Officer's report and considers whether to:

- (i) Impose further sanctions on Councillor Downey for failure to comply with 2 of the sanctions imposed at the Finance & Assets (Ethical Governance) Sub-Committee meeting on 29th July 2021; and
- (ii) If recommendation (i) is supported, the Sub Committee should decide what further sanctions are imposed for the failure to comply.

3.0 BACKGROUND/OPTIONS

3.1 On 29th July 2021, a Finance & Assets (Ethical Governance) Sub-Committee was held to consider whether to support the findings of an investigation report prepared by external investigators that Cllr Downey was in breach of the East Cambridgeshire District Council Member Code of Conduct and if this was supported, for the Sub-Committee to decide what sanctions were required for the breach.

3.2 The Finance & Assets (Ethical Governance) Sub-Committee found that Cllr Downey had breached the East Cambridgeshire District Council Member Code of Conduct in that he had failed to treat others with respect contrary to paragraph 3.1 and when doing so, his conduct brought his office into disrepute contrary to paragraph 3.2 (e).

3.3 As a result of the finding, Cllr Downey was required to provide a written apology to the Complainant, undergo training in relation to good political debate and that a press notice was issued. The Minutes of the meeting of 29th July 2021 are available as Agenda Item 3 of this meeting.

3.4 The drafting of the Press Notice was delegated to the Monitoring Officer and this was produced and published on 4th August 2021.

3.5 Despite efforts to contact Cllr Downey to follow up the apology and arrange training, he has not engaged with the Monitoring Officer and an apology has not been offered to the Complainant.

#### 4.0 ARGUMENTS/CONCLUSIONS

4.1 Under paragraph 3.7 of the Terms of Reference for Finance & Assets (Ethical Governance) Subcommittee, the Monitoring Officer may bring a further report to the subcommittee in relation to a Councillor's failure to comply with any sanction(s) imposed on them for breach of the Member Code of Conduct or imposed on them as a result of informal resolution by the Monitoring Officer in consultation with the Independent Person.

4.2 Members are asked to consider the failure to comply and decide whether further sanctions are imposed for failure to comply. The sanctions available to the Subcommittee are:

- Take no further action;
- Councillor apologises;
- Councillor seeks to restore relationships (e.g. mediation);
- Councillor undertakes training;
- Censure of Councillor (censure is a way to express strong disapproval about an incident that should not have happened);
- Recommendation to Council that the Councillor is subject to formal censure at Full Council;
- A further Press Notice be issued;
- Any other sanction which does not prevent the Councillor from attending meetings or infringe their Human Rights.

As the Sub Committee is aware, the sanctions that may be imposed cannot include anything that would prevent a Member from performing their duties as a Councillor and therefore do not extend to either suspension or disqualification from the role

#### 5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT/CARBON IMPACT ASSESSMENT

5.1 No financial implications. Costs of the investigation and attendance of the external investigator and Independent Person at the Sub-Committee meeting on 29th July 2021 have already been incurred.

5.2 Equality Impact Assessment (EIA) not required.

5.3 Carbon Impact Assessment (CIA) not required.

6.0 APPENDICES

6.1 None.

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<b><u>Background Documents</u></b>	<b><u>Location</u></b>	<b><u>Contact Officer</u></b>
Legal File 005590	Room 112	Maggie Camp
Minutes from Finance & Assets (Ethical Governance) Sub-Committee meeting held on 29th July 2021	The Grange Ely	Legal Services Manager & Monitoring Officer (01353) 616277 E-mail: maggie.camp@eastcambs.gov.uk