



# Uttlesford District Council

Chief Executive: John Mitchell

## Standards

**Date:** Thursday, 11 June 2015

**Time:** 10:00

**Venue:** Committee Room

**Address:** Council Offices, London Road, Saffron Walden, CB11 4ER

**Members:** Councillors D Jones, J Loughlin and N Hargreaves and Mr David Pearl  
(Independent Person)

## AGENDA

### PART 1

#### Open to Public and Press

- 1 Election of Chairman for the meeting.
- 2 Apologies for absence and declarations of interest.
- 3 Report into an allegation of a breach of the code of conduct 3 - 16

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**Committee: STANDARDS**

**Agenda Item**

**Date: 11 June 2015**

**3**

**Title: REPORT CONCERNING AN ALLEGATION OF A BREACH OF THE CODE OF CONDUCT**

**Author: Michael Perry, Assistant Chief Executive Legal, 01799 510416**

Item for decision

### **Summary**

1. This report is to inform members of the outcome of an investigation into an allegation that Cllr David Watson of Saffron Walden Town Council had breached that council's Code of Conduct.

### **Recommendations**

2. Members determine whether to accept the findings of the Monitoring Officer and if so what sanction (if any) to impose with regard to the breach which has been found.

### **Financial Implications**

3. None.

### **Background Papers**

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author.
  - Report of Monitoring Officer and documents referred to therein (attached).

### **Impact**

- 5.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None

Sustainability	None
Ward-specific impacts	Saffron Walden only.
Workforce/Workplace	None

### Situation

6. Following a complaint that Cllr Watson had breached the Code of Conduct of Saffron Walden Town Council by failing to treat the parish clerk with respect, a decision was made that the allegations warranted an investigation.
7. An investigation was carried out by the Monitoring Officer whose report is attached for members' consideration.
8. Members are not bound by the Monitoring Officer's findings but should they decide to depart from them then clear reasons for doing so should be given.
9. If members conclude that there has been a breach of the Code of Conduct then the options are:
  - a. To take no further action
  - b. To recommend that the member issue an apology
  - c. To recommend that the member undergoes training
  - d. To recommend that the member engage in mediation
  - e. To censure the member

### Risk Analysis

10.

Risk	Likelihood	Impact	Mitigating actions
The person dissatisfied with the decision may seek judicial review	1, given the practical effects of a finding of a breach of the Code it is unlikely that someone would embark on this course	2, the council is likely to win any application for a judicial review with a costs award in its favour but some resources would be required in its defence and	None.

		some expense would not be covered by an award of costs.	
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1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

# **REPORT OF THE MONITORING OFFICER INTO AN ALLEGATION THAT CLLR DAVID WATSON HAD BREACHED THE CODE OF CONDUCT OF SAFFRON WALDEN TOWN COUNCIL**

## **Background**

1. Cllr Watson is a member of Saffron Walden Town Council. In or about November 2014 the then town clerk left the town council. Sometime thereafter a locum was appointed in his place. A meeting of the council's Property, Services, Personnel and Finance Committee took place on 12 January 2015. During the meeting the locum town clerk stated that lettings income was reduced due to discounted hire rates being negotiated with certain groups and individuals. Cllr Watson called that statement into question. The following day the locum town clerk sent all councillors copies of two emails which had been received from hirers querying why they were being charged a higher rate than that previously agreed. Cllr Watson replied in an email to all councillors on the original address list stating that there had been one rate for room hire from Monday to Thursday since before 2010. A higher rate was charged on Fridays and Saturdays. A full copy of the email is appended. It contained a sentence that "it is distressing when unfounded allegations are made that a member of staff has favoured a particular group over another when it is in fact the current council policy which was being implemented". The locum town clerk has complained that by his conduct at the meeting on the 12 January and in his comments in his email the following day, Cllr Watson failed to treat the locum town clerk with respect by implying that he was making untrue statements not supported by evidence.
2. In carrying out the investigation, I prepared questionnaires for completion by councillors who were present at the meeting. I also submitted a questionnaire to Cllr Watson which he responded to. Finally having been given contact details of the former finance officer of the Town Council I sent a questionnaire to her which she kindly completed. I exchanged emails with the two hirers who have sent the emails forwarded by the locum town clerk to members of the council. For the purpose of the investigation I have referred to:-
  - a. the complaint;
  - b. the minutes of Saffron Walden Town Council's Property, Services, Personnel and Finance Committee meeting of 12 January 2015;
  - c. responses to questionnaires;
  - d. responses to emails from the hirers.

## **Facts not in dispute**

3. Saffron Walden Town Council adopted a Code of Conduct on 11 December 2014 although there is no evidence that the Town Council has complied with its statutory duty under s.28(1) Localism Act 2011 to secure that its Code of

Conduct when viewed as a whole is consistent with the principles laid out in that sub-section.

4. The minutes of the Property, Services, Personnel and Finance Committee meeting of the town council on 24 November 2011 show that Cllr Osborne proposed and Cllr Watson seconded a motion to increase hire charges for the town hall to take effect on the 1 January 2012 and that this was carried unanimously. The minutes give the hire rates for the various rooms in the town hall. There are two scales of rates. One applies to private, non-commercial and non-profit making hirings. The other applies to commercial and profit making hirings. The rates are either hourly or daily with different rates being charged Monday to Thursday on the one hand and on Friday or Saturday on the other.
5. One hirer hired the court room on Wednesday nights for a yoga class. She was charged £10.50. That would be the appropriate rate for a one hour private, non-commercial and non-profit making hiring on a Wednesday. The appropriate rate for a commercial or profit-making hiring would have been £21 per hour. The hirer confirms that the yoga class was a profit making venture.
6. Another hirer reports that he was also asked to pay an increase in charges. In his email to the town clerk on the 16 December 2014 he acknowledges the increase and seeks to reduce the hours for which he rents the rooms in order to minimise the increase in expenditure.
7. Although not remembered by the councillors present, the locum town clerk tells me that when he drew this matter to the attention of councillors he referred to saying that the former finance officer had been agreeing "mates' rates" for the hire of the town hall and that the internal auditor should have picked this up.
8. Cllr Watson challenged the accuracy of the locum town clerk's statement in this regard.
9. On the 12 January 2015 the locum town clerk sent an email to Cllr Watson copied to every other member of the council with the subject stated as "Evidence". There was no text to that email. It merely attached two emails from hirers confirming that they had been paying less than the commercial and profit making hire rates for rooms at the town hall.
10. In response to that email Cllr Watson replied on the 14 January 2015. In his response he stated that there was a hire rate for Friday and Saturday and that it appeared that the town council was trying to charge that rate to the yoga club despite the fact he said the council's policy had been unchanged since before 2010. He continued to say that the fee for the main hall was reduced by 21% from the time the balcony was taken out of commission which was approved by the council. Cllr Watson stated that the council had never voted to change the conditions and they were therefore current charges. He suggested that the council should contact both parties to reinstate the original prices they were quoted and to apologise for its actions. He also stated that "it is distressing when unfounded allegations are made that a member of staff

has favoured a particular group over another when it is in fact the current council policy which is being implemented”.

### **Facts in Dispute**

11. It is disputed whether the debate concerning the hall hire rates took place in public or private session.
12. The words used by Cllr Watson in his challenge to the locum town clerk's statement are in dispute as is the manner in which they were said.
13. It is disputed whether the rates charged to hirers (in particular the two hirers referred to above) were not in accordance with the town council's policy.

### **Findings of Fact**

14. Notwithstanding the fact that there is no evidence that the Town Council has complied with its statutory duty under s.28(1) Localism Act 2011 I find that Cllr Watson is bound by the Code of Conduct adopted by the Town Council on 11 December 2014.
15. The facts referred to in paragraphs 3-10 are not disputed and I therefore find them to be facts in this case.
16. It is clear from the minutes of the meeting that the press and public were excluded for one item. The minutes are silent as to what that item was. Initially the complaint was that Cllr Watson's comments were made in the private part of the meeting. Subsequently the locum town clerk stated that the remarks were made in the presence of the public. The majority view of councillors appears to be that the debate on this issue was in private session. As there is no mention in the minutes of any discussion on this point and as all public parts of the meeting should be minuted and the minutes available for public inspection, I find on the balance of probabilities that the debate on this issue was in private session.
17. The town clerk alleges that Cllr Watson accused him of making statements which were “downright untrue” and “of making things up”. Cllr Watson has no recollection of using those expressions but believes he did express his surprise that the locum town clerk was making statements about former members of staff without checking with councillors first. Two councillors that have replied to the questionnaire recall Cllr Watson using those words. Another recalls him using those words or words to that effect. The fourth does not recall the use of those words but does not state they were not used. In the light of the evidence received I find on the balance of probability that Cllr Watson did state that the locum town clerk was making statements which were downright untrue and of making things up or using words to that effect.
18. With regard to the council's policy on charging for hall hire, Cllr Watson is clearly confused. The council's policy is clearly set out in the minutes to the meeting of the Property, Services and Finance Committee on 27 November 2011. There was clearly a distinction between commercial and non-

commercial hirings, the former being charged at twice the rate of the latter. The evidence of the two hirers that I have corresponded with is that they were commercial hirers but being charged non-commercial rates. This is clearly contrary to the town council's policy.

19. The former finance officer states that one hirer (for the yoga classes) was being charged the "community rate" on the basis of an instruction from a previous town clerk. She states that the other hirer was being charged the commercial rate.
20. The Town Council's charging rates do not refer to a "community rate". The rates are either private, non-commercial and non-profit making or commercial or profit-making. I have no reason to doubt that the former finance officer was instructed to apply the rate she did for the hire for yoga classes but certainly as from January 2012 that rate did not accord with the Council's policy. Although it is not clear how the charge for the other hiring was calculated it is clear that the hirer was paying less than the Council's policy required.
21. On the balance of probabilities I therefore find the appropriate charging rates were not being applied in every case.

### **Findings as to whether the facts which have been found amount to a breach of the Code of Conduct**

22. Paragraph 1 of the Code of Conduct of Saffron Walden Town Council provides "you must treat others with respect". This is the same provision as paragraph 3.1 of the Uttlesford District Council Code.
23. In October 2012 Uttlesford District Council issued guidance with regard to the Code of Conduct. This was so that councillors (whether district, parish or town councillors) would understand the approach taken by the Standards Committee in dealing with allegations of a breach of the Code of Conduct.
24. Paragraph 1 of the guidance states "ideas and policies may be robustly criticised but individuals should not be subject to unreasonable or excessive personal attack. This particularly applies to dealing with the public and officers who do not have a right of reply".
25. Whilst it would have been legitimate for Cllr Watson to question what evidence the locum town clerk had to support his statement that council charging rates had not been correctly applied, I find that in accusing the town clerk of making statements which were "downright untrue" and "of making things up" Cllr Watson crossed the line of what was acceptable and called into question unjustly the integrity of the locum town clerk.
26. Similarly in his email of the 14 January 2015 Cllr Watson accused the locum town clerk of making "unfounded allegations" of a very serious nature. However, the locum town clerk's allegations were not unfounded. They were based on clear evidence from two hirers that at least these two hirers had been carrying out commercial operations from town council premises but had been charged the lower rates. In his email Cllr Watson draws a conclusion

that current staff were incorrectly endeavouring to charge the rate for Friday and Saturday. However, examination of the emails which the locum town clerk forwarded to members against the table of charges which the town council applied and which presumably would have been easily accessible to Cllr Watson would have shown that this was not the case and that it was in fact the non-commercial rate being charged rather than the commercial rate. I find therefore there was no basis upon which Cllr Watson could have accused the locum town clerk of making “unfounded allegations”.

## **Summary**

27. In the circumstances, I find that Cllr David Watson of Saffron Walden Town Council breached the Code of Conduct of that council by failing to treat the locum town clerk with respect in breach of paragraph 1 of the town council’s Code.

## QUESTIONNAIRE

<p>1. Were you present at the meeting of the Property, Services, Personnel and Finance Committee Meeting of Saffron Walden Town Council on Monday 12<sup>th</sup> January 2015?</p>	<p><b>Yes I chaired this meeting and was present throughout.</b></p>
<p>2. Unfortunately the agenda for that meeting is no longer available on line but the minutes show that there was an item considered in the absence of the press and public. I am informed that this item was the consideration of a confidential report recommending the replacement of the external auditor. Please would you;-</p> <ul style="list-style-type: none"> <li>a. Inform me if you were present for this item</li> <li>b. Confirm that this was the item considered or, if it was not, inform me what was discussed</li> </ul>	<p><b>This was a part two item that I was present throughout.</b></p> <p><b>This item was considered and a resolution agreed.</b></p>

<p>3. I am informed that during the discussion the locum town clerk said that the former Finance Officer had been agreeing "mates rates" for the hire of the Town Hall and that the Internal Auditor should have picked this up. Do you recall this being said? If not please would you tell me so far as you are able what you recall the locum town clerk saying about the rates charged for Town Hall Hire</p>	<p><b>Yes this was stated along with the fact that the Auditor agreed That this was happening and was asked by the then Town Clerk not to comment as it would get the RFO in trouble.</b></p> <p><b>I took the view that along with the majority of my colleagues That the Auditors first responsibility was to the Town and the Councillors and her actions put in doubt her reliability and honesty as to what else had been hidden from us.</b></p> <p><b>Also her crdability being put in doubt the only reliable outcome was to dispence with her services.</b></p> <p><b>Also I have been asking for a long time that the bookings must be updated and computerised but was refused by the then Town Clerk and the RFO. The RFO was allowed complete control over bookings</b></p>
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4. I am further informed that in response to the locum town clerks comments on the hire rates for the Town Hall Cllr Watson, accused him of making statements that were downright untrue, and of making things up. Do you recall Cllr Watson saying words to this effect? So far as you can remember please would you let me know what Cllr Watson did say on this subject at the time.

**Cllr WATSON did state as you suggested and was asked if her could prove to the contrary and I put to him that why would the RFO have complete control over booking when I had a complaint that a cancellation had taken place and as the RFO was not available nobody knew and a lot of man hours wasted. David unfortunately was not prepared to listern and instead Took it personal and tried to question everything from this point and had to be warned as to his conduct as he chose to attack everything the Interim Town Clerk said and was not prepared to listern . David unfortunately took a stance that he was correct but not prepared to expand on anything what he was saying. He brought other matters in as to his support of the RFO and Then Town Clerk.**

5. Do you consider that Cllr Watson's behaviour towards the Town Clerk was all or any of the following:-

- a. Threatening
- b. Overbearing
- c. Rude
- d. Intimidating
- e. Disrespectful

If the answer to any of the above is "yes" please explain why you consider this to be the case.

**David is used to clicking his fingers and people jump he is not used to challenge and he took it badly.I spoke to the Town Clerk before hand and he said that he had long experience dealing WITH Councillors and leave it to him.**

**David in my opinion was bording on the following:- threatening,rude and intimidating.**

**If David didn't like the answer he had to resort to " You do this or else ,you wait and see".**

**I believe as Chair that I attempted to controlled David into sticking to facts and not prefabricating.**

**I challenged him as to his behaviour and made him allow all sides of the debate to take place ,with everybody taking part who wished.**

**I am satisfied that both David the Town Clerk and others had**

**a fair say and although David did not like it I believe that the Town Clerk ( interim ) gave a good account of himself.**

**I firmly believe that David did himself no favours and alienated himself from the Committee.**

**It was a difficult meeting to Chair but everybody had there say.**

**It should be noted that at the next full Council meeting that the Mayor chaired Davids behaviour was similar and he was voted down on a number of issues to which he was in the main the only objector.**

**Although David is not standing for re election his behaviour was poor and he appears to have lost his way, I therefore would not seek to see him pillered, as he has done some exceptional things for the Town and its people**

