

EAST STAFFORDSHIRE BOROUGH COUNCIL

REPORT COVER SHEET

Title of Report:	Monitoring Officer's Report regarding a complaint (SM)
Meeting of:	Standards Committee
Date:	20 th December 2018
Is this an Executive Decision:	No
Is this a Key Decision:	No
Is the report Confidential:	No
If so, please state relevant paragraph from Schedule 12A LGA 1972:	N/a

Essential Signatories:

ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE

Monitoring Officer: Angela Wakefield

Date ...20th December 2018..... Signature

Chief Finance Officer: Sal Khan

Date Signature

EAST STAFFORDSHIRE BOROUGH COUNCIL

Report to Standards Committee

Date: 20th December 2018

TITLE:	Monitoring Officer's Report regarding a complaint (SM)	
PORTFOLIO:	Monitoring Officer	
HEAD OF SERVICE:	Monitoring Officer	
CONTACT OFFICER:	Angela Wakefield	ext. No. X1267
WARD(S) AFFECTED:	None	

1. Purpose of the Report

- 1.1 To advise members of the Committee of the findings of an investigation report regarding a complaint about the conduct of Councillor Susan McGarry (a Member of East Staffordshire Borough Council).

2. Background

- 2.1 The Standards Committee is required to consider all complaints where a member of a Council in the Borough is alleged to have breached their respective Code of Conduct for Members. Four such complaints have been received about Councillor McGarry from three separate complainants.
- 2.2 The complaints were considered by the Monitoring Officer (in consultation with the Independent Person) and she decided to refer the complaint for investigation.
- 2.3 The Monitoring Officer appointed an independent investigator to carry out the investigation.

3. Contribution to Corporate Priorities

- 3.1 Maintaining appropriate standards of member conduct contributes indirectly to all Corporate Priorities.

4. Report

- 4.1 Complaints were received about the conduct of Councillor Susan McGarry, a Member of East Staffordshire Borough Council, from Mr Michael Jones, Cllr Lynne Shelton and Cllr Philip Hudson. The complaints all concern Cllr McGarry's behaviour with regard to a proposed residential development at Hazelwalls Farm, Uttoxeter. The complaints are set out in detail in the Investigator's Report at Appendix 1.
- 4.2 The complaint is within the jurisdiction of the Standards Committee.
- 4.3 The independent investigator appointed by the Monitoring Officer investigated the allegations against Cllr McGarry and found that Cllr McGarry had failed to comply with the Code for Conduct for Councillors and the Planning Code for Councillors. The investigator concluded that the breach of the Planning Code was evidence of failures to uphold the general principles of the Code of Conduct relating to Selflessness; Objectivity and Openness; and that these are issues which will tend to bring the Council into disrepute.
- 4.4 The Committee is required to determine the complaint. They must first consider whether there has been a breach of the Code of Conduct. If so, they should then consider what, if any, sanction to impose on the Councillor.
- 4.5 The sanctions open to the Committee are:
 - 4.5.1 Publish its findings in respect of the Councillor's conduct;
 - 4.5.2 Report its findings to the Council for information;
 - 4.5.3 Recommend to the Councillor's political group leader that they be removed from any or all Committees or Sub-Committees of the Council;
 - 4.5.4 Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular portfolio responsibilities;
 - 4.5.5 Recommend to the Council that the Leader of the Council should be removed as Leader;
 - 4.5.6 Instruct the Monitoring Officer to arrange training for the Councillor &/or other councillors;
 - 4.5.7 Remove from all outside appointments to which they have been appointed or nominated by the Council;
 - 4.5.8 Withdraw facilities provided to the Councillor by the Council, such as a computer, website and/or email and internet access; or
 - 4.5.9 Exclude the Councillor from the Council's offices or other premises, with the exception of meeting rooms which are necessary for attending Council, Committee and Sub-Committee meetings.
- 4.6 The Council has no power to suspend or disqualify the Councillor nor to withdraw councillors' ordinary or special responsibility allowances.

5. Financial Considerations

*This section has been approved by the following member of Financial Management Unit:
Lisa Turner.*

5.1 There are no financial issues arising from this Report.

6. Risk Assessment and Management

6.1 The main risks to this Report and the Council achieving its objectives are as follows.

6.2 Positive (Opportunities/Benefits):

6.2.1 Being seen to enforce the Code of Conduct appropriately will have a positive effect on future conduct of members and will improve the confidence of the public in the Council.

6.3 Negative (Threats)

6.3.1 Failure to enforce the Code of Conduct appropriately will have an adverse effect on future conduct of members and will adversely affect the confidence of the public in the Council.

6.4 The risk of members breaching the Code of Conduct is referred to in the Risk Register. Any financial implications to mitigate against these risks are considered above.

7. Legal Considerations

This section has been approved by the following member of the Legal Team: Angela Wakefield

The main legal issues arising from this Report are as follows.

7.1 The Committee is required to determine all complaints referred to them where a member of a Council in the Borough is alleged to have breached their respective Code of Conduct for Members under the provisions of the Localism Act 2011.

8. Equality and Health

8.1 **Equality impacts:** The subject of this Report is not a policy, strategy, function or service that is new or being revised. An equality and health impact assessment is not required.

8.2 **Health impacts:** The outcome of the health screening question does not require a full Health Impact Assessment to be completed. An equality and health impact assessment is not required.

9. Human Rights

9.1 The main Human Rights issues arising from this Report are as follows.

9.2 The Member about whom the complaint has been made has the right to a fair hearing. The Standards Committee Hearings Procedures fulfil this role.

10. Sustainability (including climate change & change adaptation measures)

10.1 Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures) N/A

10.2 Please detail any positive/negative aspects:

Positive (Opportunities/Benefits)

10.2.1 None

Negative (threats)

10.2.2 None

11. Recommendations

11.1 That the Committee should consider the investigation report and representations made to them at the hearing and decide:

11.1.1 whether they consider that there has been a breach of the Code of Conduct; and if so,

11.1.2 what sanction/s, if any, to impose on Cllr McGarry.

12. Background papers

12.1 None.

13. Appendices

13.1 Investigator's report.

13.2 Draft report containing Cllr McGarry's responses to several points.

13.3 Code of Conduct for Councillors

13.4 Planning Code for Councillors.