

## COUNCIL

<b>Report title</b>	Outcome of the Standards (Hearings) Sub Committee held on 19 March 2018.	
<b>Chief Executive or Director</b>	James Bromiley – Strategic Director of Finance Governance & Support	
<b>Date</b>	18 July 2018	
<b>Purpose of the report</b>	Council be invited to pass a formal censure by motion against Councillor Rathmell.	
<b>Summary of the report</b>	The Standards (Hearings) Sub-Committee, held on 19 March 2018, considered a report by the Investigating Officer which concluded that Councillor Rathmell had breached the Authority's Members' Code of Conduct in relation to the matters identified in the report. The Standards (Hearings) Sub-Committee decided that the Member had failed to comply with the Members' Code of Conduct and requested that the member apologise to the officers concerned. Failure to do so within 4 weeks would lead to public censure. As no apologies have been received Council are requested to consider a formal censure by motion.	
<b>If this is a key decision, which key decision test applies?*</b>	Over the financial threshold (£150,000)	
	Amends the Council's policy framework	
	Affects two or more wards	
	Non-key	X
<b>For the purposes of scrutiny call in procedure this report is*</b>	Exempt under s.12a Local Government Act 1972	
	Urgent ( <i>NB this must be approved by the Chair of OSB</i> )	
	Non-urgent	X
<b>If this is a confidential report, which exemption(s) from the Schedule 12a of the Local Government Act 1972 applies?</b>	N/A	

<b>Decision(s) asked for</b>	In accordance with the Standards (Hearings) Sub-Committee's resolution; the matter of a motion of censure is now placed before Council in respect of Councillor Rathmell's conduct in respect of the matters detailed by the Investigating Officer in the report to the Standards (Hearings) Sub-Committee meeting held on 19 March 2018 in private.
<b>Impact of decision(s)</b>	To carry out the resolution of the Standards (Hearings) Sub Committee and to encourage members to adhere to the Members' Code of Conduct.
<b>Contact:</b>	<i>Sylvia Reynolds Members and Statutory Services Manager</i> <u><a href="mailto:sylvia_reynolds@middlesbrough.gov.uk">sylvia_reynolds@middlesbrough.gov.uk</a></u> 01642 729697.

### **What is the purpose of this report?**

1. The Standards (Hearings) Sub-Committee, held on 19 March 2018, considered a report by an independent investigating officer which concluded that Councillor Rathmell had breached the Authority's 'Members' Code of Conduct' in relation to the matters identified in the report. The Standards (Hearings) Sub-Committee decided that the Member had failed to comply with the Code and decided that should Councillor Rathmell fail to apologise to the officers concerned within a 4 week period then a formal censure by motion was appropriate.

### **Why is this report necessary?**

2. Complaints were submitted by three individuals regarding the conduct of Councillor Rathmell. An external independent investigating officer (recommended by the Local Government Association) was appointed to carry out an investigation.
3. When considered by the external independent investigator some complaints contained multiple elements and when broken down contained six complaints for investigation.
4. Following the investigation, the Investigating Officer concluded that there has been a failure to comply with the Members Code of Conduct in respect of five of the six complaints. The sixth complaint was dismissed.
5. A meeting of Middlesbrough Council's Standards (Hearings) Sub-Committee was convened on 19 March 2018, to hear the complaints against Councillor Rathmell. The meeting was held in private to protect the personal and sensitive information in relation to Council staff.
6. The Standards Hearing Sub Committee agreed that Councillor Rathmell had breached the Members' Code of Conduct in respect of:

- a) The obligation to respect others and not to bully any person.
- b) The obligation not to bring the authority or Office of Councillor into disrepute.
- c) Councillor Rathmell had also breached the Member/Officer Protocol by failing to show respect in his dealings with officers of the Council.

7. The Standards Hearing Sub Committee ordered that the following sanctions be imposed:-

- 1. That within a period of 4 weeks Councillor Rathmell issues a written apology to the Monitoring Officer and the Chief Executive.
- 2. Failure to action the above will result in a public censure.
- 3. Training to be undertaken by Councillor Rathmell in:
  - a. Data Protection
  - b. Social Media (appropriate use)
- 4. Councillor Rathmell's communication plan to be reviewed to enable access to Council IT systems and equipment, allowing access to Council information, in Egenda, receive/send emails etc. However, all communications with the Council would be managed as is at present in order to maintain the protection of staff and all communications would still be via the Onestop/Chief Executive. The Chief Executive/Monitoring Officer to be delegated the power to consider the effectiveness of the revised the communication plan in 6 months.
- 5. The Standards (Hearing) Sub-Committee recommended Councillor Rathmell, the Chief Executive and the Monitoring Officer be invited to participate in mediation to break the cycle of distrust and restore a respectful working relationship. This would be facilitated by an external organisation.

**What decision(s) are being asked for?**

- 8. Councillor Rathmell has failed to issue the apologies to the Monitoring Officer and the Chief Executive as required under the sanctions imposed by the Standards hearings Sub Committee held on 19 March 2018. The sanctions stipulated that failure to issue the above apologies would result in public censure.

**Why is this being recommended?**

- 9. In accordance with the decision of the Standards (Hearings) Sub Committee held on 19 March 2018

**Other potential decisions and why these have not been recommended**

- 10. Not applicable

**Impact(s) of recommended decision(s)**

***Legal***

11. Section 27(1) of the Localism Act 2011 places the relevant authority under a statutory duty to “promote and maintain high standards of conduct by Members and Co-opted Members of the Authority”.

Under Section 27(2) of the Localism Act 2011, a relevant authority “must, in particular, adopt a code dealing with the conduct that is expected of Member and Co-opted members of the Authority when they are acting in that capacity”.

A failure to comply with an authority’s Code of Conduct should be dealt with in accordance with arrangements made by the authority.

Middlesbrough Borough Council is a relevant authority and last confirmed its Code of Conduct in 2016.

### ***Financial***

12. Not applicable

### ***The Mayor’s Vision for Middlesbrough***

13. Not applicable

### ***Policy Framework***

14. Not applicable

### ***Wards***

15. Not applicable

### ***Equality and Diversity***

16. Not applicable – application of prescribed process

### ***Risk***

17. If the Council fails to implement the decision of the Standards (Hearings) Sub Committee, members may not act in accordance with the Ethical Code of Conduct and maintain the standards expected of those in public office and this could result in a loss of public confidence in elected members.

## **Actions to be taken to implement the decision(s)**

The Deputy Monitoring Officer will advise the member that is the subject of the complaints and the complainants, in writing of the outcome of the motion.

## **Appendices**

Appendix 1 – Members' Code of Conduct

## **Background papers**

No background papers were used in the preparation of this report'.

**Contact:** *Sylvia Reynolds*

**Email:** [sylvia\\_reynolds@middlesbrough.gov.uk](mailto:sylvia_reynolds@middlesbrough.gov.uk) *Tel: 01642 729697.*