

## Deputy Monitoring Officer

### Decision Notice

**This Decision records the outcome of the Decision taken by the District Council's Deputy Monitoring Officer on 19<sup>th</sup> February 2017 in accordance with the Tendring District Council's arrangements for dealing with an allegation that an elected member has failed to comply with the Members' Code of Conduct.**

**These arrangements were approved by full Council on 26<sup>th</sup> November 2013.**

<b>Councillor:</b>	Andrew Pemberton (Tendring District Council)
<b>Complainant:</b>	County Councillor Andy Wood
<b>Relevant Paragraph(s) of the Members' Code of Conduct:</b>	<p>The Complaint form highlights the following relevant paragraphs:</p> <ul style="list-style-type: none"> <li>• 2.2b – that Councillor Pemberton was acting in his capacity as a Councillor.</li> <li>• 3.1 – the principles of Accountability, Honesty and Leadership.</li> <li>• 3.2b – disrespecting others and bullying or harassing.</li> <li>• 3.4a – bringing the Council into disrepute.</li> <li>• 3.5b(iv) – using Council resources other than in the discharge of Council functions.</li> <li>• 3.5b(v) – using resources improperly for political purposes.</li> </ul>
<p><b>Summary of Complaint:</b></p> <p><b>Complaint Form dated 19<sup>th</sup> December 2016</b></p>	<p>The Complaint Form provided as evidence of the alleged misconduct an email dated 3 November 2016 from Councillor Pemberton to "Office (Ravens Academy), Cllr Andy Wood, Cllr Richard Everett, Cllr Mary Newton, Tech Team, Parking Services, Ian Taylor". The email related to matters concerning car parking outside the Ravens Academy school and included the following two sentences which the complainant has highlighted as evidence to support the breaches set out above:-</p> <p><i>"I find myself doing Cllr Andy Woods job again, running around for him in his division and doing all of his work round the schools. Like the big problems we are having around raven academy, well he sits at home most days running his own business and drinking coffee."</i></p> <p>In addition in the part of the email directed to the North Essex Parking Partnership Cllr Pemberton used the phrase "so please no side room chats".</p> <p>The complainant states that</p>

	<p>"In the email I feel personally and professionally insulted by Cllr Pemberton. The statements "I find myself doing Cllr Andy Woods job again", "running around for him in his division", "doing all his work" and "he sits at home most days....drinking coffee" are personally and professionally irresponsible and completely disgraceful coming from a fellow public servant".</p> <p>He goes on to describe Cllr Pemberton's behaviour in the email as "aggressive and victimising" and the tone of the email as "indicative of his aggressive and negative persona in general".</p>
<b>Councillors Response:</b>	<p>The response received from Councillor Pemberton is as follows:</p> <p>"I, Andrew Pemberton, think that Cllr Andy Wood is using this standards complaint against me to enhance his political ECC campaign.</p> <p>I think this is politically motivated. I am not sure if TDC are aware but Cllr Wood and I are both standing in the ECC elections for the Clacton North seat. He is looking to discredit me and to use TDC's Standards complaint procedure to carry that out.</p> <p>I believe this to be childish and hypocritical as Cllr Wood has actually sworn at me in public to which I have three credible witnesses. Had I done something similar then I of course would expect to be in front of the standards committee.</p> <p>I feel I have always conducted myself properly and Cllr Wood needs to look at his own actions rather than focus on mine.</p> <p>If a decision to put me in front of the standards committee is judged the right course of action I of course will comply. I do however see it as a waste of TDC money and time for what I believe to be political banter."</p>
<b>Monitoring Officer Recommendation</b>	The complaint merits no further action.
<b>Consultation with Independent Person:</b>	The complaints procedure states that the Monitoring Officer may consult the Independent Person with regard to a complaint but this matter is straightforward so no such consultation has been carried out.
<b>Relevant Paragraph of Complaints Procedure and assessment criteria:</b>	Annex D to the Complaints Procedure. The complaint is politically motivated and no further action is warranted.

<b>Reasons for Decision:</b>	<p>I have carefully reviewed the complaint and the response and am aware that both individuals are likely to be standing as candidates for the Clacton North Division of the County Council elections in May 2017.</p> <p>It is my considered view that whilst the comments at the beginning of Councillor Pemberton's email are uncomplimentary about Councillor Woods and they are circulated to a number of others they amount to no more than the type of comments which are part of the normal cut and thrust of political debate and public exchanges in the months leading up to an election between rival candidates.</p> <p>Councillor Woods' complaint is disproportionate to the significance of the comments made and, given the political rivalry between the two individuals I consider the complaint to be politically motivated.</p> <p>I do not consider the complaint to be worthy of further action / investigation.</p>
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Signed:



Deputy Monitoring Officer

Dated: 20<sup>th</sup> February 2017

