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### **Decision Notice – Standards Hearing Panel 13 January 2023**

**Complaint Reference Number:** 209436

On 13 January 2023, the Hearing Panel of Kent County Council considered a report of an investigation into the alleged conduct of Councillor Alan Marsh (referred to as Mr Marsh in the body of this notice), a member of Kent County Council. A general summary of the complaint is set out below.

#### **Complaint Summary**

1. The complaints concerned allegations that Mr Marsh made the complainants feel uncomfortable during interactions in the workplace during or after Committee meetings.

#### **Complaint 1**

2. Complainant 1 had interactions with Mr Marsh, at a Committee meeting in January 2022, where it was alleged that Mr Marsh asked for her private telephone number and contact details and commented on her age and appearance.
3. Mr Marsh stated that he interacted with the complainant in order to be friendly, but remained professional throughout.

#### **Complaint 2**

4. Complainant 2 alleged that on unspecified dates, Mr Marsh commented on her clothes and professional appearance, asked about her age, stood very close to her and did not appear to welcome or engage with her professional contributions.
5. It was alleged that following a committee meeting in January 2022, Mr Marsh took her left hand to look at her wedding bands and moved them around her finger.

6. Mr Marsh stated he was friendly but remained professional throughout the interactions.

### **Consultation with Independent Person**

1. The Independent Person, highlighted to the Panel that the Investigating Officer had indicated the accounts provided by the complainants were consistent, supported in some aspects by witness statements and were credible.
2. The Independent Person commented that based on the report and representations made at the Hearing, the Panel could reasonably take a view that no malice or intent was present in the actions of Mr Marsh. However, he emphasised that intent was not a requirement for finding that a breach or breaches to the Code had occurred.
3. On the evidence and representations provided, the Independent Person indicated that should the Panel find that breaches had taken place, then the presence or absence of intent, as well as generational considerations, could be taken into account as part of determining sanctions (if any).

### **Findings**

On the balance of probabilities and after considering the submissions of the parties to the hearing and views of the Independent Person, the Hearing Panel determined the following:

#### **Complaint 1**

1. Mr Marsh interacted with the complainant in an inappropriate manner, in terms of being too close (both in terms of personal space and in the context of the COVID-19 pandemic) and making comments about her age and appearance. The Panel determined that there was no sexual motivation in this behaviour but noted that there was an inherent power imbalance between Mr Marsh and the complainant and this contributed to the behaviour being inappropriate.
2. The Panel accepted that Mr Marsh had a reasonable justification to seek professional contact details, via the appropriate channels, as part of his understanding of future working arrangements. The Panel accepted that Mr Marsh's intention was not malicious and that his comments about age related to assessing professional experience, rather than any other implication. However, the Panel determined that the request for private contact details was itself inappropriate in terms of Member and Officer relations under the Code.
3. The Panel noted the view of the Independent Person that generational differences may have contributed to some degree to Mr Marsh's perception of the acceptability of his conduct during the interaction but declined to accept that this was relevant to either the finding of a breach or the determination of sanctions.
5. Considering all details, representations and reports on this matter, the Panel determined that Complaint 1 represented a breach of the Code of Conduct.

#### **Complaint 2**

6. The Panel found that Mr Marsh demonstrated a lack of awareness and consideration in making statements relating the complainant's professionalism to her appearance.

7. The Panel determined that Mr Marsh's conduct in approaching and taking the complainant's hand, so as to inspect her wedding ring, was inappropriate. The Panel noted that Mr Marsh should have considered the need to respect people's personal space.
8. Taking account of all details, representations and reports, the Panel found that complaint 2 represented a breach of the Code of Conduct.

The Panel determined that Mr Marsh's conduct was inappropriate, notwithstanding the view of the Independent Person that it likely was not prompted at any point by malice or intent to cause harm. The Panel determined that an absence of intent was not relevant to their determination of whether a breach had taken place but this would inform their consideration of sanctions.

In considering its overall findings across both complaints, the Panel determined that Mr Marsh's conduct across both complaints represented a breach in the Code as it had caused harm to the complainants and he therefore brought his office of Councillor into disrepute and that it brought the Authority into Disrepute.

### **Sanctions applied**

The breach of the Kent County Council Code of Conduct warrants the following sanctions:

1. The Hearing Panel writes to the Mr Marsh's Group Leader, setting out the findings and considerations of the Panel and recommends that consideration should be given as to the appropriateness of appointing Mr Marsh to any Committee position or allocating any portfolio responsibilities.
2. The Hearing Panel instructs the Monitoring Officer to plan and arrange relevant training for Mr Marsh, the details to be determined by the Monitoring Officer in consultation with the Panel Chair.
3. Send a formal letter from the Panel to Mr Marsh.

### **Appeal**

There is no right of appeal against the Hearing Panel's decision.

### **Notification of Decision**

In addition to being published on the Kent County Council Website, a copy of the decision notice has been provided to the following:

- Subject Member (Cllr Alan Marsh)
- The Complainants

Mr Jeremy Kite, Mr Alister Brady, Mr Charlie Simkins

Standards Committee Hearing Panel  
Kent County Council

Clerk: Joel Cook  
Democratic Services Manager – Kent County Council

Date: 5 May 2023