



**Agenda for the Extraordinary consultative
meeting of the Council
Wednesday, 28th September, 2022, 6.00 pm**

To: All elected Members of the Council; Honorary Aldermen

Venue: Online via the Zoom App

Contact: Susan Howl, Democratic Services Manager;

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(or group number 01395 517546)

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**Important - this meeting will be conducted online and recorded by Zoom only.
Please do not attend Blackdown House.**

Members are asked to follow the [Protocol for Remote Meetings](#)

This meeting is being recorded by EDDC for subsequent publication on the Council's website and will be streamed live to the Council's Youtube Channel at <https://www.youtube.com/channel/UCmNHQruge3LVl4hcgRnbwBw>

Public speakers are now required to register to speak – for more information please use the following link: <https://eastdevon.gov.uk/council-and-democracy/have-your-say-at-meetings/all-other-public-meetings/#article-content>

Until 31st October 2022, the Council has delegated much of the decision making to officers. Any officer decisions arising from recommendations from this consultative meeting will be published on the webpage for this meeting in due course. All meetings held can be found via the [Browse Meetings](#) webpage.

Dear Sir/Madam

**Extraordinary Meeting of the Council of the District of East Devon on
Wednesday, 28th September, 2022 at 6.00 pm**

You are called upon to attend the above meeting to be held online. It is proposed that the matters set out on the agenda below will be considered at the meeting and resolution or resolutions passed as the Council considers expedient.

Yours faithfully

A handwritten signature in black ink, appearing to be "M. Howl", written over a white background.

Chief Executive

1 Public speaking

Information on [public speaking](#) is available online

2 Apologies

3 Declarations of interest

Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)

4 Confidential/exempt item(s)

To agree any items to be dealt with after the public (including the Press) have been excluded. There are no items which officers recommend should be dealt with in this way, but if confidential minutes from Cabinet and/or the Council's Committees are being discussed, Officers may recommend consideration in the private part of the meeting.

**5 Report: Former Councillor and former Honorary Alderman J. Humphreys
(Pages 3 - 50)**

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

Report to: Council



Date of Meeting 28 September 2022

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Former Councillor and Honorary Alderman J. Humphreys

Report summary:

At its meeting of 3rd March 2022 - [Printed minutes 03rd-Mar-2022 18.00 Scrutiny Committee.pdf \(eastdevon.gov.uk\)](#) – the Scrutiny Committee made recommendations to Council in relation to the appointment of Honorary Alderman. At its meeting on the 20th April 2022 when considering these minutes, Council accepted a proposal from Cllr Bailey, that the Chief Executive provides a report to Cabinet at the earliest opportunity to enable it to consider commissioning an independent investigation or enquiry by an appropriate independent body; [Printed minutes 20th-Apr-2022 18.00 Council.pdf \(eastdevon.gov.uk\)](#). I have taken external legal advice about this proposal and although originally scheduled for the July Cabinet meeting, the original version of this report was briefly considered at the September meeting where it was recommended that an updated report be provided to this Council meeting.

Is the proposed decision in accordance with:

Budget Yes ☐ No ☒

Policy Framework Yes ☒ No ☐

Recommendation:

1. That Council note the advice of Mr Peter Oldham Q.C. set out in Appendix A to this report
2. That Council consider whether, in the light of the advice received and the updated contents of this report, it does or does not wish to commission an independent investigation or enquiry into this matter.
3. That if Council does wish to commission an independent investigation or enquiry into this matter it considers the following 2 options: **Either**
 - A) 'This Council hereby commissions Verita to carry out an independent investigation in accordance with Verita's proposal attached ("the Investigation") and instructs Simon Davey the Strategic Lead for Finance immediately to complete (or authorise completion of) the contract and any necessary paperwork with Verita;
Approves a budget of up to £45,000 (exc VAT) for the Investigation.
Approves an exemption to the Council's standing orders that would normally require quotations to be obtained from three suppliers to enable the Council to appoint Verita given their experience and expertise in this highly specialist area.
Requests that Verita treats Simon Davey together with Cllr Ian Thomas Chair of East Devon District Council and Cllr Sarah Jackson the Portfolio Holder for Democracy and Transparency and Cllr Jess Bailey as the relevant contacts for the purposes of any queries or day to day matters relating to the Investigation and who shall in the first instance receive Verita's report following completion of the Investigation'; **Or**
 - B) That Council approves a budget of £45,000 and that a Legal 500 recommended firm of Solicitors is appointed in accordance with contract standing orders to undertake an

investigation and report which will provide the Council with a full understanding of the legal issues and implications arising from the investigation, prosecution and conviction of John Humphreys as far as it relates to the role of EDDC and its officers and members and that delegated authority be given to one of the statutory officers, in consultation with the Portfolio Holders for Council & Corporate Co-ordination and Democracy, Transparency & Communications, to progress the investigation.

4. That the Council agrees to progress Recommendations A – G from the Scrutiny Committee meeting of 3rd March 2022 with the process to be agreed to include a requirement that requires all political groups and/or individual councillors to confirm that where a councillor is nominated or appointed to a position of responsibility or honorary title that a process of due diligence has been carried out such that the reputation of the Council is not likely to be adversely affected if the nomination or appointment is made. Council accept that the finally agreed process shall be included within the Constitution.
5. That the Council commission the Local Government Association to prepare a best practice guidance note for this Council (and the various town and parish councils within the district) addressing the safeguarding obligations of councils and councillors with specific regard to the actions of councillors as ward councillors and that Council approve a budget of £5,000 to facilitate this work
6. That the Council lobby local MPs and also the Local Government Association with a view to a Private Members Bill being introduced to Parliament, the effect of which would be :
 - a) That where a councillor is arrested the Police are under a positive obligation to formally notify the relevant council of the fact of the arrest, and
 - b) That the councillor, if found guilty, is forthwith requested to resign the role of councillor.

Reason for recommendation:

To recommend a way in which the Council can ensure the circumstances leading to the appointment of J. Humphreys as an Honorary Alderman are not repeated and the concerns expressed in the recent Council debate are addressed.

Officer: Mark Williams CEO

Portfolio(s) (check which apply):

- ☐ Climate Action and Emergency Response
- ☐ Coast, Country and Environment
- ☒ Council and Corporate Co-ordination
- ☒ Democracy, Transparency and Communications
- ☐ Economy and Assets
- ☐ Finance
- ☐ Strategic Planning
- ☐ Sustainable Homes and Communities
- ☐ Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk;

Links to background information Refer to hyperlinks in the report

Link to [Council Plan](#)

Priorities (check which apply)

- ☒ Better homes and communities for all
 - ☐ A greener East Devon
 - ☐ A resilient economy
-

Report in full

1. At its meeting on the 20th April, Council debated a proposal that was tabled on the night and on the basis of that proposal I sought legal advice as to how the Cabinet/Council might best take forward the intent behind that proposal.
2. A copy of the Advice received is attached to this report as Appendix A and members are referred to its contents and the advice set out in response to the questions posed. As part of the preparation for obtaining the advice I did seek the views and opinions of the Group Leaders. At the meeting of Council I can clarify any queries there may be regarding the contents of the advice which is clear, cogent and answers the concerns and questions posed.
3. Regard should also be had to my report to the Scrutiny Committee on the 3rd March this year and in particular the information provided about the procedure the Council adopted for the appointment of honorary alderman, ([\(Public Pack\)Agenda Document for Scrutiny Committee, 03/03/2022 18:00 \(eastdevon.gov.uk\)](#)). I would also refer to emails sent to all councillors on the 11th and 12th May 2022 (see Appendix B) which confirms the limited extent of information that was understood to be in the public domain at all material times. In this report I include a recommendation to Council to consider regarding the obligation of political groups and councillors regarding their nomination to positions of responsibility in the Council which seeks to address this issue.
4. The circumstances leading to the concerns expressed by councillors at the Council meeting in April arose from acts of sexual violence committed by an individual who went onto become a district councillor, a town councillor and also for a brief period an honorary alderman.
5. According to rapecrisis.org.uk ([Statistics about sexual violence and abuse | Rape Crisis England & Wales](#)) circa, 1 in 5 women have been raped or sexually assaulted as an adult; 1 in 6 children have been sexually abused; and 1 in 20 men have been raped or sexually abused as an adult. If we relate this to the district, then according to the ONS 2020 mid year population estimates (latest data set) the population of males is 71,415, women is 76,662 and children aged 0-16 is 25,075. So that would be just over 15,000 women, just over 4,000 children and nearly 4,000 men all affected by sexual violence or abuse in East Devon.
6. Where a complaint is made against an individual of sexual violence, the legal and policy framework is complex and involved. This involves not only the Police but also the Council (and other public sector organisations) in a variety of considerations which ultimately seek to balance out the competing rights of victim and accused. A recent [BBC article](#) involving Sir Cliff Richard which references the limitations that the Police are subject to in terms of naming individuals under investigation/the subject of an arrest summarises these considerations. The following two links [document 1](#) and [document 2](#) are copies of relevant police procedural guidance regarding the disclosure of information relating to investigations and arrests. It should be noted that one of these is revoked and the other was approved prior to the enhanced requirements of the Data Protection Act 2018 being in force and this is particularly so in relation to the handling of criminal offence data.
7. From my officers perspective the safeguarding obligations referred to in Counsel's advice are understood and are the subject of regular training. In accordance with the adopted joint Devon District Councils policy ([Devon District Councils Joint Safeguarding Policy - East Devon](#)) it is the case that where appropriate, referrals are made to the County Council where concerns are raised and need to be assessed by social services (reference is made to the Devon Safeguarding Children Board and the LADO procedure). Most frequently this

happens in the context of our housing service. It is important however that safeguarding training for both councilors and officers is regularly reviewed and updated (including those aspects that are considered to be mandatory). This work is already in hand and hence is not the subject of a specific recommendation. Although the joint policy has recently been reviewed ([see minute 38 of Cabinet agenda for 14/07/21](#)) it is appropriate, in the light of our recent experience, that we invite our partners (the County Council and the other Devon Districts) to further review the policy. In this respect I can confirm that following a request from the Devon Children's and Families Partnership, the County Council and the Devon districts are currently carrying out a Devon wide safeguarding audit. We are providing all the details we have of the Humphreys issues as part of this Audit. In addition I can confirm that DCC are carrying out a review/investigation of the LADO procedures that were engaged between 2014 and the date of conviction. The review is being carried out by a former OFSTED Inspector who has been involved in other safeguarding reviews on behalf of the County Council.

8. Having reflected on the various comments and representations that I have seen as a result of the concern arising from the Council's decision to make Humphreys an Honorary Alderman I think there are 2 key issues to address. One is the gap in officer knowledge and awareness of what councillors do in their own ward as ward councillor. Mindful of the comments made by one of Humphreys victims it is apparent that the status that Humphreys achieved as a councillor was arguably used by Humphreys as a shield or badge of respectability. Reflecting on the publicised actions of other convicted paedophiles this is not unusual as a tactic in building trust and the potential to manipulate a victim. The second is that the legal framework regarding what can or can't be said when a person is under investigation or arrest is uncertain. As a member of the public commented at Cabinet's June meeting; he was aware of the fact that Humphreys was under investigation but was concerned that it might be malicious homophobic gossip.
9. What is clear from the minutes of the April Council meeting is that members are concerned at the possibility of a similar set of circumstances happening again in the future but also a strong belief that there are circumstance in which the normal presumption of innocent until proven guilty should not apply. For this reason, and reflecting the general assumption of the public that elected councillors should set an example to society of how to behave, I am recommending that the Council should lead the way in lobbying for a clear and transparent obligation and expectation of appropriate action where a councillor has been arrested.
10. Since this report was originally drafted the Council has further debated this matter by way of motion to Council. In particular, at its meeting on the 20th July, Council requested that I write to Simon Jupp MP on this matter. A reply to that letter has been received and is attached as Appendix C. The details in the letters speak for themselves but do confirm that Humphreys was less than truthful in the information he provided to the Conservative Party.
11. In the middle of August Cllr Bailey and other Cllrs made a request of the Chair for an EGM to debate the wording that is set out in option 3A of the recommendations to this report, which the Chair agreed to. In support of the request Cllr Bailey also included the following narrative:

John Humphreys a former East Devon District Councillor, Lead Member for Exmouth, Exmouth Town Councillor, Mayor of Exmouth and Alderman was convicted of sexual abuse of two boys in August 2021 and sentenced to 21 years in prison. John Humphreys was arrested in May 2016 but continued as a district councillor until May 2019, an Exmouth Town Councillor until August 2020 and East Devon District Council bestowed the honour of alderman on him in December 2019.

A letter from one of the victims of John Humphreys which was read out on his behalf by Cllr Eileen Wragg at the Council's meeting on 8th December 2021 included the following statement "The police say that Humphreys knew that the case was live during this time, 2016 to 2021. His [Humphreys] legal team communicated with the officer in charge and at no time was he told that the case was not being proceeded with. This leaves me wondering 'who else knew and how was he allowed to carry on as usual being a councillor at Exmouth and East Devon?' These questions remain unanswered.

In light of the seriousness of the offences and the period of more than four years between arrest and conviction during which John Humphreys continued carrying out councillor activities, it is essential that EDDC reviews its actions including its safeguarding response. It is now a year since John Humphreys was convicted and sentenced. During the course of the year councillors have repeatedly attempted to initiate an independent investigation into the Council's actions over John Humphreys. This includes voting in support of a motion at the Council Meeting on 20th April 2022 calling on the chief executive to provide terms of reference in order for an investigation to be carried out. Instead the report for the (cancelled) cabinet meeting of 27th July 2022 recommended that no investigation be carried out. By contrast with the actions of East Devon District Council, Devon County Council immediately announced an independent investigation in relation to their own safeguarding response to John Humphreys when on 16th June 2022 issues were uncovered with their handling of a safeguarding referral by the NSPCC'.

12. The proposal from Verita is set out in Appendix D. Cllr Bailey did not discuss her proposal with any of the statutory officers. We have highlighted our concerns to Cllr Bailey in correspondence but in summary form, having reviewed the Verita website, the Verita proposal and also read the report that Verita did for the Green Party, it does not suggest that Verita have relevant legal expertise and knowledge or experience of local government to warrant an exemption being made to contract standing orders. For example, the aim of investigation section displays a fundamental misunderstanding in that it assumes the Council was in the position (assuming it had knowledge) to take decisions in relation to John Humphreys continuing as a councillor.
13. I have included in this report at Option 3B an alternative recommendation that Council may wish to adopt. My reflection on what has been said so far in Cabinet and Council is that members are not sufficiently sighted on the legal framework, issues and implications of this issue. If it is considered that a sum of £45,000 is an appropriate sum to incur then we should ensure that we have a reliable, publishable document at the end of it which helps current and future councillors understand how the criminal law, practice and procedure interacts with local government administrative law and also safeguarding procedure and practice. Reference is made to the 'Legal 500' which is a national publication containing recommendations for specific areas of legal work. In terms of the south west and local authority investigations Bevan Brittan are recommend as a tier 1 firm. If this option is adopted then I would see the sponsoring portfolio holders being Cllrs Jackson and Loudoun. As a final point for member's information, we are currently spending significant sums on member related behavior issues; the Monitoring Officer Investigation budget is overspent by some 50% already and we are also recruiting an additional lawyer at a cost of circa £55,000 to help with capacity issues in terms of the Standards Committee and Code of Conduct issues.

Financial implications:

The recommendation options presented 3A or 3B if agreed by Council require a supplementary budget of £45k to be met from the General Fund. Contract Standing Orders require quotations to be obtained in writing from a minimum of 3 suppliers who have responded to a written tender specification by a defined deadline with those quotations formally evaluated. Selection can be made from a call off arrangement or holding a mini competition under a Framework Agreement. Council can waive these requirements if it wishes with an exemption to Contract Standing Orders but a reason should be determined by members, this would normally be related to a limited market or urgency of appointment. The concerns raised in the report with option 3A do need to be carefully considered and acknowledged in the decision made as £45k is a significant sum of public money and Council needs to ensure it will achieve value for money in that an outcome will be achieved as required by members in the interest of its area and residents.

Legal implications:

The advice note from Counsel details much of the legal position. It is permissible for Council to agree to commission an investigation in accordance with either option although the concerns over pursuing the option in Recommendation 3A should be noted. The suggestion of lobbying local MPs and the LGA to encourage a Private Members Bill are within the powers of Council, otherwise the recommendations do not raise any specific implications requiring comment.

IN THE MATTER OF JOHN HUMPHREYS

ADVICE

1. I am instructed to advise East Devon District Council (“the Council”) on matters arising out of the conviction of former councillor John Humphreys for multiple sex offences against two boys between 1990 and 2002. The background is very helpfully explained in my instructions and since it is very well known to my instructing solicitor I will not repeat it here. Instead I turn directly to the questions asked.

(1) What is the statutory framework within which the Council operates in terms of the appointment/removal of the status of honorary alderman?

2. The power to confer the status of honorary alderman is given by s 249 of the Local Government Act 1972 (“the 1972 Act”) which as principally relevant provides:-

249 Honorary titles

(1) A principal council may, by a resolution passed by not less than two-thirds of the members voting thereon at a meeting of the council specially convened for the purpose with notice of the object, confer the title of honorary aldermen or honorary alderwomen on persons who have, in the opinion of the council, rendered eminent services to the council as past members of that council, but who are not then members of the council.

3. S 249 does not provide expressly for the status of honorary alderman to terminate or to be rescinded. However, it would seem unlikely that Parliament intended that a person given this status should in all cases retain it until death e.g. no matter how heinous their behaviour after the award or (belatedly discovered) before the award, or even if they wished no longer to hold it.

4. Accordingly I think it likely that the Council either has the implied power to rescind it (Attorney General v Great Eastern Railway Co (1880) 5 App Cas 473 at 478), or has the express power to do so either under general power of competence in s 1 of the Localism Act 2011 (“GPOC”) or under s 111 of the Local Government Act 1972 (“the 1972 Act”), as explained by the House of Lords in Hazell v London Borough of Hammersmith and Fulham [1992] 2 AC 1, in conjunction with s 249.

(2) What statutory duties does the Council, as lower tier authority, have in relation to child safeguarding? What action could the Council take if a safeguarding concern is raised about a serving member?

5. It may be that, as a district council, the Council does not engage directly with child safeguarding duties as frequently as upper or single tier authorities do, save perhaps in undertaking its housing, leisure or (to some extent) planning functions. I will not set out the legislative framework for those specific services.

6. However a number of broader and very important safeguarding duties apply to the Council. These include s 11 of the Children Act 2004 (“the 2004 Act”) which provides:-

(2) Each person and body to whom this section applies must make arrangements for ensuring that—

(a) their functions are discharged having regard to the need to safeguard and promote the welfare of children; and

(b) any services provided by another person pursuant to arrangements made by the person or body in the discharge of their functions are provided having regard to that need.

7. The Secretary of State has issued significant “have regard” guidance to all authorities discharging functions under s 11, entitled “Working Together to Safeguard Children A guide to inter-agency working to safeguard and promote the welfare of children”: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942454/Working_together_to_safeguard_children_inter_agency_guidance.pdf. “Have regard” guidance must be followed unless there good reason not to: R (X) v Tower Hamlets LBC [2013] BLGR 721, paragraphs 28, 41-42.

8. S 10 of the 2004 Act is also significant. The Council is not a “local authority” for the purposes of the opening words of s 10(1) (see the definition in s 65) but under s 10(4) it is a “partner” for the purposes of s 10(1)(b):-

10 Co-operation to improve well-being

(1) Each local authority in England must make arrangements to promote co-operation between—

(a) the authority;

(b) each of the authority's relevant partners; and

(c) such other persons or bodies as the authority consider appropriate, being persons or bodies of any nature who exercise functions or are engaged in activities in relation to children in the authority's area.

(2) The arrangements are to be made with a view to improving the well-being of children in the authority's area so far as relating to—

(a) physical and mental health and emotional well-being;

(b) protection from harm and neglect;

...

9. Under s 12 of the 2004 Act, arrangements under s 10 will include establishing a Children's Trust Board, and by s 12(2) the Board will include a representative of district councils. By s 12D:-

12D Supply of information to CTBs

(1) A person or body represented on a Children's Trust Board must supply to the Board any information requested by the Board for the purpose of enabling or assisting it to perform its functions.

10. Under reg 18 of, and paragraph 24 of the Schedule to, the Child Safeguarding Practice Review and Relevant Agency (England) Regulations 2018, district councils are "relevant agencies" for the purposes of s 16E(1)(b) of the 2004 Act which in context provides:-

16E Local arrangements for safeguarding and promoting welfare of children

(1) The safeguarding partners for a local authority area in England must make arrangements for—

(a) the safeguarding partners, and

(b) any relevant agencies that they consider appropriate,

to work together in exercising their functions, so far as the functions are exercised for the purpose of safeguarding and promoting the welfare of children in the area.

(2) The arrangements must include arrangements for the safeguarding partners to work together to identify and respond to the needs of children in the area.

11. This is not, and is not intended to be, a complete list of all the Council's statutory powers and duties which may relate in some way to child safeguarding. For instance, in certain circumstances, the Council (like any other organization) will have the power to refer its concerns to the police. In the Council's case this might be done pursuant to its ancillary powers under s 111 of the 1972 Act and/or GPOC.

12. However, it will be seen that, to a large extent, legislation provides that the child safeguarding role of a district council, when not specifically engaged in the delivery of particular services, is as a partner with other authorities some of which may have more extensive powers and duties to take steps to safeguard children in the particular circumstances.

13. The practical effect of these duties for the Council will of course vary from case to case. It may be that in the particular circumstances it needs to take action directly and quickly. But it may be that their effect will be to require the Council to liaise with other authorities and persons (including, for instance, local authorities, schools and the police) with more direct responsibility for safeguarding, so as to alert them to circumstances which may require the latter to take action to prevent harm in the particular circumstances

14. The LGA has published some useful material explaining safeguarding duties for district councils and their members. This material includes "The role of district councils in safeguarding children and young people - Briefing for councillors", which for some reason I can find only on an old Northampton Borough Council website at <https://www.northampton.gov.uk/download/downloads/id/5447/the-role-of-district-councillors-in-safeguarding-%E2%80%93-young-people.pdf>. While out of date, in that it does not refer to the latest amendments to the relevant legislation (for instance referring to the Local Safeguarding Children Board rather than the Children's Trust Board), its observations are I think valuable as guidance for the kind of corporate and governance expectations which should be in place to allow district councils to perform the partnering functions described above.

15. Also useful is "Tackling child exploitation: resources pack" at <https://www.local.gov.uk/publications/tackling-child-exploitation-resources-pack>.

16. As to the question of what action the Council should take if alerted to a safeguarding issue concerning a district councillor, in immediate safeguarding terms the concerns should be dealt with in the same way as the district council would deal with concerns brought to their attention about any other person, pursuant to the powers and duties referred to above.

17. Apart from alerting such partners as it is appropriate to alert in the circumstances, so as to allow them to take any necessary action, the Council's powers of intervention in how such a member carries out his or her duties are relatively limited. For instance, the leader may appoint the executive in such a way as to exclude the member or ensure that they do not undertake child related roles, but under the Local Government Act 2000 ("the 2000 Act"), this is a matter for the leader. Political groups may do the same when notifying the proper officer of appointments to committees, but under the Local Government and Housing Act 1989 ("the 1989 Act") and associated regulations, this is a matter for the groups. Members and officers do not in my view have general powers of intervention to countermand such appointments. I do not think that GPOC stretches this far, since the rules of appointments to the executive in the 2000 Act, and to politically balanced bodies in the 1989 Act and regulations thereunder, are likely to amount to pre-commencement limitations for the purposes of s 2 of the Localism Act 2011 preventing such intervention.

18. The position may be different for membership of Council committees which are not politically balanced: Manton v Brighton Corp [1951] 2 KB 393. But even in these limited cases, the Council should assume that rules of natural justice would apply prior to effecting removal of such a member.

19. No doubt a finding by the appropriate agency that a member had intentionally harmed a child would amount to a breach of the Council's code of conduct, and would lead to sanctions, though it is to be hoped that the member would already have resigned or have been imprisoned in such circumstances. As to the Council conducting its own investigation of such issues, the Monitoring Officer would have to ensure that any standards process did not prejudice an investigation being undertaken by the police or other agency.

20. It might also be a breach of the code if the member, without harming a child, failed in their safeguarding duties in some way e.g. to report a concern to the appropriate agency.

(3) What specific powers does the Council have to conduct any investigation or enquiry into the issues surrounding John Humphreys and what powers of compulsion would the Council have in relation to potential witnesses – whether employees, serving or former councillors, officers of another authority (Devon County Council or the police for example), or members of the public generally?

21. In my view the Council has power to undertake such an investigation as long as it is reasonable to do so in all the circumstances and:-

(1) as regards members, it does not actually or in effect usurp the role of standards arrangements provided for by s 28 of the Localism Act 2011: R (Hussain) v Sandwell MBC [2017] EWHC 1641; R (Harvey) v Ledbury Town Council [2018] EWHC 1151;

(2) as regards officers, it is not actually or in effect an investigation of an officer's conduct or capability outside the terms of the procedures or policies to which the officer has a contractual right, or in the case of certain chief officers to which they have a statutory right under the Local Authorities Standing Orders (England) Regulations 2001. Such a departure would very likely amount to a fundamental breach of contract allowing the employee to resign and claim to have been constructively dismissed. In the latter case it would also open the Council to the possibility of a judicial review claim or failing to follow statutory requirements;

(3) in any event it does not prejudice any investigation which is being undertaken by the appropriate authority, typically the police, but possibly also other agencies.

22. No such investigation carries powers of compulsion of any witness, though I suppose that a refusal to co-operate might, in the particular circumstances, amount to a breach of a member's standards obligations and thus be subject to a standards complaint, or (in the case of an officer) might amount to a breach of their contractual obligation of trust and confidence and/or to comply with a reasonable management instruction, and thus subject to possible disciplinary sanction. However whether this was so would be highly fact sensitive.

23. I am asked specifically to consider what powers the Council has, as part of such an investigation, to look into the way the police handled the initial complaints brought by the victims/alleged victims as well as considering the later actions of the police.

24. Whilst the Council might have some powers of observation as regards such matters, particularly in the light of GPOC, it must recall that it is not a police authority, nor a police complaints authority. It will not generally be reasonable, and therefore lawful, for the Council to seek actually, or in effect, to act as such or to seek to redetermine discretionary issues which the police have considered.

25. If the Council is concerned that the police have not undertaken appropriate investigations, or have not taken other steps which they should have taken, that is a matter which should be raised with the police in the normal way, and possibly through

any police complaints system if there are proper grounds to do so. It should not in my view be undertaken through a separate investigation of the Council's own.

26. There are the further dangers that the Council will simply not have the information to make any determination about whether the police acted appropriately, and will not have the expertise to decide what actions should and should not be taken to ensure that criminal justice is put into proper effect.

27. Furthermore, whilst I am not a defamation or data protection expert, it seems to me that there is a grave danger that by entering into investigations more properly undertaken by the police, or going over ground which the police have already gone over, the Council could be making allegations which are defamatory and/or processing information unlawfully.

28. I stress that nothing I say should prevent the Council from taking the swiftest possible action to prevent harm to the welfare of any child, whether by informing the police or otherwise. But that will not be effected by the Council seeking to put itself in the position of the police, or trying to judge how the police performed in the past.

(4) What role does Cabinet and/or Council have in relation to the internal workings of a political group? In that regard, would it be lawful for Cabinet to resolve, or to resolve to ask, that the Conservative group conduct an inquiry along the lines of the one identified by Cllr Bailey?

29. Political groups are recognised in the 1989 Act, and regulations thereunder, as the basis for the distribution of committee and sub-committee seats according to political balance. They have very little other express statutory function or recognition. That said, the Courts have long recognised that political activity is inherent to local authority decision making: R v Waltham Forest LBC, ex parte Baxter [1988] QB 419. As a matter of common sense the inner workings of a political group should, in general and on a day to day basis, be private to that group should they wish it to be, and officers, with their duties of impartiality, will be properly be reluctant, in general, to be involved in action directed against or towards one political group but not others.

30. Cabinet and Council have no specific legislative power to conduct an investigation into a political group's activity or alleged failings, nor to require a group to conduct it. I can see an argument that in an appropriate case Cabinet or Council might have the power to request the group to do so, whether under GPOC, or s 111 of the 1972 Act coupled with the Council's safeguarding duties under s 11 of the 2004 Act (as to which see above). Even this would I think be highly unusual, since there is very little in local government legislation to suggest that political groups are intended to be supervised

in this way by any organ of the Council. That said, if it was the only real way, or best way, to ensure safeguarding, the Council would probably have power to make such a request. But I imagine it would generally be possible for safeguarding to be ensured in other ways, for instance by causing the activities of certain members to be investigated, rather than requesting their political group to do so. In the case of real ongoing concern, the natural response would be to contact the police or other appropriate agencies.

31. In any event I do not think that in practice the Council is likely to have an enforceable right to compel a political group to undertake such an investigation. For instance if the Council resolved that unless the group conducted an investigation, its members would not be permitted to attend certain Council or committee meetings, this would probably be contrary to the legislative provisions for Council meetings and appointments to committees referred to above.

(5) In light of the above what would Counsel advise in terms of whether there should be an investigation or inquiry and, assuming the advice is that there is one, or that one is possible, what advice would Counsel given in terms of its scope, remit and terms of reference?

32. It is not I think for me to advise whether there should be an investigation. Though the scope of an investigation, and the manner in which it is carried out, raise legal issues, the question of whether there should be some form of investigation is in itself a merits matter for members.

33. However any investigation should in my view observe the principles referred to in paragraphs 16, and paragraphs 23-28, above.

34. This might suggest that the investigation should be limited to consideration of the Council's safeguarding structures and practices, how they have performed and how they could be improved, and avoiding any imputation which could contravene those principles.

35. I should stress that, as my instructing solicitor will appreciate, nothing in this advice should be read as preventing the Council from taking all necessary and appropriate steps to prevent harm to children, or as limiting its normal powers under standards procedures as regards members, and under its employment terms and policies as regards officers.

36. I hope that this advice is helpful, but my instructing solicitor should not hesitate to contact me with any comments or questions which she may have.

11KBW

Peter Oldham QC

11 King's Bench Walk Chambers, Temple, London EC4

From: Mark Williams

Sent: 11 May 2022 16:38

To: DL Council Members <DLCouncilMembers@eastdevon.gov.uk>

Cc: DL SMT+ <DLSMT_@eastdevon.gov.uk>; Andrew Hopkins <AHopkins@eastdevon.gov.uk>

Subject: Recent Correspondence re Mr J Humphreys

Dear Cllrs,

I understand that you have all received an email or emails from a local journalist regarding the above. It is of course your decision whether you choose to respond although it appears clear that the journalist has already been in correspondence with one or more of you as the primary source for his story.

Reference is made in the emails to one of my officers. For the avoidance of doubt I can clarify as follows: the officer was requested by Devon County Council to attend a Local Authority Designated Officers Safeguarding meeting (LADO), to discuss, inter alia, the role of Mr Humphreys at EDDC. Devon & Cornwall Police had also been invited to the meeting. The initial meeting was in March 2016 which was reconvened in April 2016 and then there was a further meeting in November 2016. The November 2016 meeting was prior to any decision by the Police to charge Mr Humphreys. While a further LADO meeting was organised for January 2017, this was postponed a number of times and then cancelled. Other than communications regarding postponing / cancelling the January 2017 meeting, there was no further communication with the officer by either the County or the Police after November 2016. The officer was unaware that Mr Humphreys had been charged or that he was to later face trial. He only became aware of the fact that Mr Humphreys had been charged and stood trial after the conviction in 2021. It is important to know that LADO meetings are held in the strictest confidence. Furthermore the Police also give clear instructions on what can or can't be said so as to avoid potentially jeopardising any investigation.

You'll also be aware that Council recently resolved as follows:

That the Council requests that the Chief Executive provides a report to Cabinet at the earliest opportunity to enable it to consider commissioning an independent investigation or enquiry by an appropriate independent body. That a report will thereafter be brought to Cabinet to provide a clear understanding how John Humphreys, despite his arrest in May 2016 continued to serve as a Councillor until May 2019, retained his position as 'Lead Member for Exmouth' and went on to be bestowed the honour of an alderman by this Council in December 2019.

In particular the report should focus on the circumstances of how John Humphreys came to be nominated and bestowed the award of an Honorary Aldermanship despite being under criminal investigation at the time.

And that the Council puts on hold the remainder of the Scrutiny Committee recommendations A-G pending the receipt and consideration of the independent report by the Cabinet.

Following that decision I have had a meeting with the Leader and other Cllrs and have also written to Group Leaders confirming how I propose to approach this

matter. I am currently in the process of preparing Instructions to Counsel based on the minute of Council and any feedback I have received from the Group Leaders. I expect to be in a position to bring a report to the July Cabinet.

Yours sincerely,

Mark
CEO

From: Mark Williams

Sent: 12 May 2022 08:38

To: Cllr Eileen Wragg <EWragg@eastdevon.gov.uk>

Cc: DL Council Members <DLCouncilMembers@eastdevon.gov.uk>

Subject: RE: Former Exmouth mayor John Humphreys denies sex assault charges | Exmouth Journal

Dear Eileen,

Thank you for this email.

At the risk of pre-empting some of my report it might help if I summarise what I understand to be relevant information at this stage:

1. Unfortunately there are many paedophiles and rapists 'at large' in society and they are almost exclusively male. Fundamentally there is only one person to blame here and that is Humphreys himself.

2. The Police arrest a lot more people than actually end up being charged. Many arrests result in no further action following investigation. From the Council motion it states that Humphreys was arrested in May 2016. I assume this is correct but I'm not aware that the Council was formally notified that Humphreys had been arrested and in any event being arrested isn't of itself information that the Police would always put in the public domain. I think we would all hope that a Cllr would resign in such circumstances but there is nothing in law that can compel them to do so in these circumstances.

3. The decision of Cllrs to make Humphreys an Alderman was made in December 2019. It is clear to me from various emails and comments that some Cllrs knew something but I haven't seen anything to suggest a Cllr or Cllrs knew everything. Certainly, no Cllr thought it appropriate to state what they thought they knew as part of the decision making process. An officer knew something dating back to 2016 but was under a duty of confidentiality.

4. Humphreys first court appearance was in November 2020. He would have been formally charged sometime soon before then and this was then the first time that the matter was in the public arena and could be discussed. I can't recall any Cllr approaching me to discuss this fact or to ask for advice about how this affected the Alderman decision. If they had I would have referred to the not guilty plea and the presumption of innocence. Any risk of a possible libel action would have been overtaken by events. From a safeguarding perspective the offences occurred circa 1991 & 2001. The Police would have assessed this in terms of ongoing risk and Humphreys was not remanded in custody following his first court appearance. It also doesn't appear that any further victims have come forward.

5. Following the conviction in August 2021 the Council acted speedily to revoke the Alderman decision.

6. Whilst Cllrs are free to collude with journalists if they see this as appropriate it is not acceptable for officers to then be subjected to aggressive and offensive questions from that journalist on behalf of those Cllrs.

Yours sincerely,

Mark

-----Original Message-----

From: Cllr Eileen Wragg <EWragg@eastdevon.gov.uk>

Sent: 11 May 2022 17:25

To: Mark Williams <MWilliams@eastdevon.gov.uk>

Cc: DL Council Members <DLCouncilMembers@eastdevon.gov.uk>

Subject: Former Exmouth mayor John Humphreys denies sex assault charges | Exmouth Journal

Dear Mark

Please see the link below. I cannot accept that Members and Officers were unaware of Humphreys' upcoming trial, and was most surprised by the email which you sent this afternoon. As I said at last week's meeting, I was made aware that he was under investigation by D&C Police several years ago, and remain convinced that others did also. There is something very wrong about the whole business and I believe that there is very much more which has yet to be uncovered.

<https://www.exmouthjournal.co.uk/news/john-humphreys-sex-assault-charges-6742476>

Best regards

Eileen.



HOUSE OF COMMONS
LONDON SW1A 0AA

Mark Williams
Chief Executive
East Devon District Council
Blackdown House
Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ

7th September 2022

Dear Mr Williams,

Thank you for your letter dated 27th July 2022 in relation to the motioned debated on the 20th of July 2022.

I, and the Conservative Party, take all matters in relation to safeguarding seriously and have policies and processes in place to deal with this.

As I am sure you appreciate that as a Member of Parliament, I am not involved in the selection of candidates. I have therefore asked the Chairman of the East Devon Conservative Association to respond. I include a copy of his letter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Simon Jupp'.

Simon Jupp MP
Member of Parliament in East Devon

Bruce de Saram
Chairman
East Devon Conservative Association
PO Box 244
Exmouth
Devon
EX8 9DG

Mark Williams
Chief Executive
East Devon District Council
Blackdown House
Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ

7th September 2022

Dear Mr Williams,

As Chairman of the East Devon Conservative Association, I am writing to respond to the matters raised in your letter dated 27th July 2022 in relation to the motion debated on the 20th July 2022.

East Devon Conservative Association, the Conservative Party, and I, take all matters in relation to safeguarding seriously and have policies and processes in place to deal with this. Our Safeguarding Policy can be viewed publicly here:
<https://www.conservatives.com/safeguarding-policy>.

I have reviewed this case with the officers of East Devon Conservative Association and have spoken to the Safeguarding Team at Conservative Campaign Headquarters

I can confirm that we were only alerted to the arrest of John Humphreys when it was first reported in the local press.

We were never informed of his arrest via Devon County Council as the local authority with responsibility for Children's Services; East Devon District or Exmouth Town Councils where John Humphreys was a sitting Councillor; Devon and Cornwall Police or John Humphreys himself on his application to be a Conservative Candidate.

To stand as a Conservative candidate, you must complete an application process during which you are asked to confirm if there are any personal circumstances pertinent to your selection. This includes if you have been convicted, cautioned, or received a fixed penalty or if there are proceedings pending for any criminal matter that we should be aware of. I can confirm that John Humphreys did not give us any indication on any of his applications or throughout the approval process of his arrest and subsequent conviction. If he made a disclosure via this process this would have been explored, shared with the relevant authorities, and ultimately, prevented him from becoming a Conservative candidate.

As we only discovered the arrest and subsequent conviction of John Humphreys via the local press, we were only able to take any action after this date. I can confirm that John Humphreys ceased to be a member of the Conservative Party on 09th June 2020.

Had we been informed of John Humphreys arrest at the time by Devon County Councils LADO, Devon and Cornwall Police, or John Humphreys himself we would have been able to implement our safeguarding processes. This would have included a risk assessment and safeguards being put into place including suspension and ultimately removal of his membership of the Conservative Party.

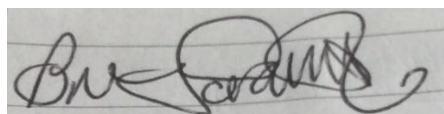
Devon County Council has admitted that they were notified of concerns by the NSPCC dating back as far as 2014 and of his arrest in 2016 and failed to follow the correct process. Further to this, an email from yourself on 11th May 2022, addressed to Councillors which is publicly available on the East Devon District Council website (<https://democracy.eastdevon.gov.uk/documents/s17643/John%20Humphreys%20Appendix%20B.pdf>), that evidence EDDC were informed of the case by Devon County Council in March 2016 through the LADO process. The Conservative Party was not invited to join these LADO meetings. The Conservative Party was not informed by the LADO of the case.

The LADO process provides a vital opportunity for information to be shared in a confidential environment between all relevant organisations in circumstances such as this. It is concerning that the Conservative Party was not informed or invited to attend as we clearly had a role in this, which the current Council is undertaking to hold us accountable for. Had we been involved in this process and made aware of the details we would have been able to take the appropriate steps. This involvement would have ultimately prevented from him becoming a Conservative candidate and undertaking activities on behalf of the Conservative Party as detailed in your letter.

For your reference, I have enclosed a copy of the Conservative Party Safeguarding Policy and Conservative Party Council Candidate application form.

I hope this addresses the concerns of your Councillors as set out in your letter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Bruce de Saram', written on a light-colored background.

Bruce de Saram

Chairman

East Devon Conservative Association

Dear Colleague,

Local Government is the backbone of the Conservative Party, thousands of members are, at any one time, selected for a forthcoming election. Our selection process is aimed at ensuring members are selected fairly and quickly so the fun of campaigning can start.

The first step in this process is completing the enclosed application form. If you are new to the Party do take time now to ask questions about the role and about your experience and what that could bring to the council chamber. The Conservative Party needs individuals from all backgrounds and experiences to ensure that town halls reflect their communities. If you want more advice about the local process, please contact your local Association Chairman:

Name:

Email:

Phone:

If you would like more information about what it would mean to be a local councillor please get in touch with the Conservative Councillors Association. When elected you will join this Association, which provides support and training to all Conservative Councillors. They have services available for candidates and can answer questions about selection and standing.

Conservative Councillors Association:

w: conservativecouncillors.com

e: cca@conservatives.com

Campaigning can be a really fun experience and if selected you will want to get started learning about your local community. There are restrictions in place regarding how we can campaign and how we can raise and spend money. Please take advice if you have any concerns. The Conservative Party Financial Compliance Department can help with any queries.

Financial Compliance:

e: financialcompliance@Conservatives.com

t: 0207 9848200

COUNCIL CANDIDATE APPLICATION FORM

Application for inclusion on the list of approved candidates for council elections within:

constituency/council.

YOUR DETAILS Please use BLOCK CAPITALS

Title: Forename:

Surname:

Telephone: Mobile:

Email:

Home address:

Postcode:

1. Are you currently a member of the Conservative Party?

☐ Yes ☐ No Association:

2. Current occupation and place of employment:

3. Previous employment (in the last five years):

4. Is there any reason why your occupation should negatively impact on your ability to serve as a councillor?

5. Please indicate whether you meet each of the following eligibility requirements:

You will not be able to stand for election if you cannot say yes to all of these.

A. I am a British citizen, or qualifying Commonwealth citizen, or a citizen of the European Union and resident in the United Kingdom:

☐ Yes ☐ No

B. I will be 18 years or over on the day of nomination:

☐ Yes ☐ No

C. I am on the electoral register for the council area in which I am seeking election:

☐ Yes ☐ No

OR

I have lived or worked in the council area for at least the last twelve months:

☐ Yes ☐ No

6. Please indicate if any of the following apply to you: (please note you may not be able to stand for election if you answer yes to any of the following questions)

A. Do you hold a paid office or employment made or confirmed by the council you wish to stand for?

☐ Yes ☐ No

B. Are you the subject of a bankruptcy restrictions order or interim order?

☐ Yes ☐ No

C. Have you been convicted of a criminal offence and sentenced to not less than three months imprisonment (including a suspended sentence) in the last five years?

☐ Yes ☐ No

Please note: you may also be disqualified from holding office, by order of the court, if you have incurred illegal expenditure (when acting as a councillor) of over £2,000 and if you have been found guilty of corrupt or illegal practices under the Representation of the People Act (1983) or the Audit Commission Act (1998).

D. Would you be affected by any of the above restrictions?

☐ Yes ☐ No

7. Do you disagree with any Conservative policies either nationally or locally, and if so, which?

8. Have you ever been a member of another Political Party/Group? If so, please give details.

9. Please detail any offices you have held or currently hold within the Conservative Party:

10. Have you previously stood as a candidate in a public election (in this or any other area and at any level)? If so, please give details.

11. Please give details of any other campaigning experience not previously mentioned:

12. Please give details of any bodies of which you are a member, for example a community group, school governing body, trade union etc:

13. What local or policy subjects are you particularly interested in or qualified to speak on?

14. How much time would you be able to give to working in your ward/division if selected?

15. What do you hope to achieve if elected to the council?

16. Please indicate whether you are prepared to accept the following conditions:

A. If elected as a councillor I agree to abide by the rules of the Conservative Group on the council (please see attached document):

☐ Yes ☐ No

B. I accept the practice of paying to help fund campaigning:

☐ Yes ☐ No

C. I am prepared to comply with various statutory requirements of being a councillor (for example abiding by the Code of Conduct):

☐ Yes ☐ No

D. I am aware of the requirement for all elected Conservative Councillors to be members of the Conservative Councillors' Association and will become, and remain a member for the duration of my term of office:

☐ Yes ☐ No

If you have any queries regarding the above, please contact your local Conservative Association for further information.

17. Have you been convicted, cautioned or received a fixed penalty or are there proceedings pending for any criminal matter (other than minor motoring offences)? If so, please give details:

18. Are there any matters which may cause embarrassment to the Party if they became public knowledge?

19. Please give the names of two Conservative Party members who would be prepared to give you a reference if required:

(Referee 1)

Name:

Position:

Address:

Telephone:

Email:

(Referee 2)

Name:

Position:

Address:

Telephone:

Email:

20. Arrangements

Please advise us if we can make any particular and/or necessary arrangements to assist you in participating in the candidate selection process and/or when attending interview.

DECLARATION

I confirm that the statements made in this application are, to the best of my knowledge, accurate and I authorise the Conservative Party to make such further confidential enquiries relating to the application as may be considered necessary.

Signature:

Date:

I confirm that I have received a copy of the Procedure for the Selection of Local Government Candidates.

Signature:

Date:

I confirm that I will accept a correctly taken decision using the processes defined under the Procedure for the Selection of Local Government Candidates.

Signature:

Date:

I can confirm that, if selected as a candidate I will treat personal data, such as canvass cards, with due care ensuring that they are kept safe, destroyed securely and only used for the purpose that they are created.

Signature:

Date:

I can confirm that I will comply with the Political Parties Elections and Referendums Act 2000 in respect of any donations over £500, whether cash or as goods or services in kind, received towards my campaigning or election.

Signature:

Date:

If you would like more information about data protection or Party finance, please contact the Financial Compliance Department.

I confirm that I have read and understand the Party's Constitution, including Schedule 7 relating to Local Associations, Code of Conduct and Equality Opportunities policy (copies of these documents can be found online via these links: [Constitution](#), [Code of Conduct](#), [Equal Opportunities Policy](#))

Signature:

Date:

The Executive Committee/Approval Panel reserves the right to withdraw approval should your circumstances change.

Conservative Party Safeguarding Policy

March 2022

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Key Personnel

Designated Safeguarding Lead	Scott Grace	Safeguarding@Conservatives.com	020 7984 8040
Safeguarding Officer	Jasbir Singh	Safeguarding@Conservatives.com	020 7984 8040



Conservative Party Safeguarding Policy

1. Purpose

- 1.1** The Safeguarding Policy expresses the Party's commitment to the protection of children, young people and vulnerable adults in any activities carried out in its name.
- 1.2** The Policy is part of the Party's commitment to diversity, equality and inclusivity. Our approach to safeguarding ensures we:
- protect and promote the welfare of the children, young people and vulnerable adults who engage with us, whether assisting with or attending Party events and activities;
 - communicate our approach to safeguarding in a clear and transparent way;
 - demonstrate compliance with applicable laws and regulations;
 - have safeguarding responsibilities that are clear so that people understand how to report safeguarding concerns.
- 1.3** We strongly believe that everyone, regardless of their age, background, ability, culture, disability,

gender, language, religious beliefs or sexual identity has the right to protection from abuse.

2. Scope

- 2.1. The Policy applies to all members, employees, candidates and elected representatives whilst engaging in activities on behalf of the Party and its affiliated groups. (herein known as Stakeholders).**

3. Definition

- 3.1.** The following terms have the following meanings in this Safeguarding Policy and any additional guidelines:

Adult:	means a person who is 18 years of age or above.
Affiliated Group:	means a specialist group of Party members as authorised by the Party Board.



Party Board/the Board:	means the Board of the Conservative Party as it is defined in the Party Constitution.
Child/Young Person:	means a person who is under 18 years of age.
Conservative Party/Party:	means the Conservative & Unionist Party.
Culture:	means a culture of safeguarding.
Designated Safeguarding Lead (DSL)	means the person who takes the lead on Safeguarding within the Party.

Conservative Party Safeguarding Policy

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Discrimination:	means unlawful discrimination. Unlawful discrimination can occur when a person is treated wrongly because of one or more of their “protected characteristics” including disability, age, race, colour, sex, religion and sexual orientation.
Harm:	<p>includes physical and mental ill treatment; self-harm; and neglect; or unlawful conduct which adversely affects a person’s property, rights or interests.</p> <p>It is possible to cause harm intentionally, to cause harm through negligent or reckless behaviour or through ignorance of the law.</p> <p>An adult at risk of harm is defined as someone who has need for care and support, and is experiencing, or is at risk of, abuse or neglect and is unable to protect themselves.</p> <p>Being subject to harm in some way includes:</p> <ul style="list-style-type: none"> ● Ignoring or inadequately meeting medical or physical needs; ● Failing to provide access to appropriate health and social care services;

	<ul style="list-style-type: none"> ● Not providing basic necessities such as clean clothes, food, baths, medication, heating, lighting, a safe living area etc; ● Not addressing risks to protect someone sufficiently.
Incidents:	means any incident including any behaviour that leads a Stakeholder reasonably to believe or suspect that an individual is harmed or is at risk of harm.
Individual:	means an individual person who is either a child, young person or a vulnerable adult.
Policy:	means this Safeguarding Policy.
Safeguarding:	means protecting individuals from harm and taking prompt and effective action when harm has occurred or there is a risk of it occurring, both as far as is reasonable and fair to expect and is also possible.
Safeguarding Officer(s):	means the person, or persons, in the Conservative Party responsible for implementing this Policy and for investigating any reports made under it.

Senior Volunteer:	Member of the Voluntary Party elected at Area, Regional and/or Board Level.
Stakeholder:	means all members, employees, candidates and elected representatives who engage on behalf of the Party and its affiliated groups.
Vulnerable adult: (sometimes known as an ‘adult at risk’)	<p>means a person who is 18 -years of age or above and who is unable to protect themselves against significant harm or exploitation. Every person has to be considered on an individual basis. People who are termed as vulnerable might have:</p> <ul style="list-style-type: none"> ● a learning disability; ● mental health issues; ● substance misuse problems; ● a long-term illness or chronic condition; ● a physical disability.



Conservative Party Safeguarding Policy

3.2. How to use this document

- To understand the Policy, who it applies to, when it applies and where – see part 1
- To understand your practical obligations when dealing with individuals offline – see part 2
- To understand your practical obligations when dealing with individuals online – see part 3
- Dealing with disclosures – see part 4
- Reporting concerns – see part 5

4. Policy

4.1. Part 1: This Policy

- 4.1.1** The Conservative Party is a national political party governed by its Constitution. The work and related activities of the Conservative Party principally involve only adults. Much of its work and activities are only appropriate for, and of interest to, adults. Some of those adults may be vulnerable adults who will fall within the scope of this Policy. Occasionally the work and activities of the Party may involve children and young people, who will fall within the scope of this Policy.

This Policy is therefore relevant to every stakeholder of the Party and every Stakeholder is bound by it.

4.1.2 Commitment to Safeguarding

The Conservative Party is committed to ensuring that every Stakeholder, while engaged in its work and activities, safeguards children, young people and

vulnerable adults.

This document lays out the ways in which the Conservative Party will meet this commitment.

4.1.3 To whom does the Policy apply?

Every Stakeholder as defined on page 4, including non-individual entities such as Conservative Associations.

However, the Policy does not apply to individuals and entities over whom the Party has no control or power to implement this Policy.

4.1.4 When does the Policy apply?

The Policy only applies when and while those to whom the Policy applies carry out or perform work or activities in the name of the Conservative Party, or any of its subdivisions or affiliated groups, formally recognised by the Party Board.

4.1.5 Where does the Policy apply?

Anywhere within the jurisdiction of the United Kingdom where work or activity in the name of the Conservative Party occurs.

4.1.6 Dates

This Policy:

- comes into force on 1 September 2021;
- replaces and revokes all previous Safeguarding Policies;
- will be reviewed at least once annually or upon significant organisational or legal changes occurring, if earlier.

4.2. Part 2: Practical Application of the Policy

- 4.2.1** The most effective and enduring ways to practise safeguarding is to adopt a culture whereby Stakeholders acknowledge and respect children, young people and vulnerable adults without unlawful discrimination. This is a continuous and evolving process. The Party commits to improving the culture it has already adopted.

- 4.2.2** The Party expects all its Stakeholders to exercise the principles of common sense and decency towards all children, young people and vulnerable adults. These are fundamental Conservative values. Detailed below are some of the activities we engage in that should be considered within the scope of this Policy, although this list is not finite.

- 4.2.3 Non-Online work and activities where there may be children, young people and/or vulnerable adults in attendance.**
Practical examples (which are not a complete list)



Conservative Party Safeguarding Policy

Association AGMs	Association fundraising events	Campaigning including knocking on doors	Leafleting – administrative preparation and delivering through letterboxes	Social events (including in private homes)
Driving children, young people or vulnerable adults	Being driven by a young person	Community events such as litter-picks or gay pride where the Party is represented in some way	“Meet your MP” and similar events	Undertaking “Connect Calling” (telephone research calls) where others may or may not be present
Party activity where non-Party guests might be invited	Events where a guest who is a young person accompanies a member.	An event where alcohol is served	An event including administrative tasks where children, young people or vulnerable adults have access to IT equipment owned or controlled by the Party or on which there are Party accounts	Any situation where there is likely to be verbal or physical abuse directed at members and activists such as marches and demonstrations

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4.2.4 Different duties arise if you are (a) an organiser in charge of work or an organiser of an activity (“an organiser”) or (b) if you are not (“an attendee”).

4.2.5 Every job or activity must have an organiser or a person responsible for it. That person must be an identifiable adult. That adult must be responsible for implementing the Policy and undertaking a risk assessment at the time. Who that will be is often a matter of common sense. For example, it could be the organiser of a canvass session or a fundraiser. However, the organiser must make sure those taking part are aware of who has overall responsibility of the work or activity. If no-one takes responsibility, the activity and associated work **is not permitted** by the Party and all those who engage in it are liable to disciplinary action.

4.2.6 Organisers & Responsible Persons

An organiser or responsible person is someone who is responsible for the work or activity, and therefore for the implementation, of this Policy.

While the work or activity is in progress, and when there are children, young people or vulnerable adults involved, for each such individual, the organiser must:



Conservative Party Safeguarding Policy

- ensure that parents, carers and, where possible, the individuals themselves, are made aware of this Policy and know how to access the contents. A copy of the Policy should be made available on request.
- prior to any event taking place which may include vulnerable adults, young people or children, undertake a suitable risk assessment including reference to the safeguarding of such individuals.
- where the child or young person is unaccompanied by a parent or carer, obtain any written parental or carer consent, before the individual's attendance, plus parental or carer contact numbers. Be prepared to say no to attendance where no consent is in evidence (see 4.2.7). Where a vulnerable adult is unaccompanied, written parental or carer consent should be obtained where applicable.
- ensure that a mobile phone is available during the event to call the emergency services, parents or carers. Inform the parent or carer immediately of any incidents or accidents involving the individual.
- complete an Incident Reporting Form for any incident or accident involving children, young people or vulnerable adults.
- ensure, whenever possible, that more than one adult is present with anyone

who falls within the scope of this Policy and who requires safeguarding. When this is not possible, the person who requires safeguarding should remain visible at all times.

- where it is necessary for a vulnerable adult, young person or child (a) to be in a vehicle and (b) unaccompanied by a parent or carer, then more than one responsible adult should be present in the vehicle with them. No-one must be alone with a child, young person or vulnerable adult in a moving or stationary vehicle.
- parent or carer consent should be obtained for a vulnerable adult, young person or child to travel in a vehicle in connection with Party activities. This consent must be given in writing which can be completed on paper, or electronically.
- ensure that no pictures, images, photographs or other recordings are made of individuals without first obtaining written parental or carer consent and where possible establishing that the individual consents to the making of such pictures and recordings. This should be undertaken in line with the Guide on photography in the Campaign Toolkit.
- ensure that only people who are legally allowed to drink alcohol do so.
- ensure that swearing and using

obscenities, using sexual or violent language, racist, sexist or similarly offensive language, or being unduly aggressive or otherwise abusive to others does not take place.

- as a matter of common sense, never take individuals into places or situations where there is real risk of harm or danger.
- challenge, whenever it is safe to do so, any conduct by adults that are believed to be breaches of this Policy.
- stand up for any child, young person or vulnerable adult who is being harmed or about to be harmed, including whenever possible taking them out of harm's way. If you observe harm please refer to the Reporting section of this Policy.
- report any conduct that they consider breaches this Policy to the Organiser or make a formal report (see 4.5).

4.2.7 How to use consent forms

Written consent is obligatory whenever a child, young person or a vulnerable adult attends Party work or activity without a parent or carer. The consent is given by the parent or carer. They are consenting



to the individual attending/participating in the work or activity without them. To do that meaningfully, they have to know what the work or activity involves and what the child, young person or vulnerable adult is likely to experience in it. Preferably and usually a consent form should be used. In an emergency, or if circumstances exist where consent forms are simply not realistic other forms of written consent can be used, such as a WhatsApp message. However, the rule that must always be followed is the obtaining of written consent.

Organisers must make sure:

- when describing what work or activity consent is being asked for, that the details are as accurate and frank as possible about what the work/activity entails and about any risks there may be.
- There must be one form for each individual (if required), even if there is a group of individuals.
- Both the parent/carer and also when possible the individual, indicate credibly that they understand what they are consenting to.
- A copy of the signed and dated consent form must be kept safely for 12 months in line with the demands of the Data Protection Act 2018. Alternative appropriate consent in the form of WhatsApp, text, etc should also be kept.

4.3. Part 3: Online work and activities where there are children, young people and vulnerable adults in attendance

- 4.3.1 This Policy also applies to online activity and work in the name of the Conservative Party. This could, for example, involve online chats and groups and email correspondence as well as Social Media, video-based meetings and so on.
- 4.3.2 It is beyond the scope of this Policy to set out all the legal requirements on parents, carers and others about the general use of personal data and exposure of children, young people and vulnerable adults to online content. This includes regulatory and contractual obligations required by online platforms. The Conservative Party expects its stakeholders to behave with common decency and common sense, as well as to obey the law, and to make sure that they understand and keep such regulatory and contractual obligations.
- 4.3.3 The Party imposes some specific obligations on everyone. Everyone who engages in activity or work in the name of the Party, must
 - only make online contact with children, young people and vulnerable adults for that activity or work and in accordance with this Policy.
 - whenever possible, not communicate with children, young people and vulnerable adults “one to one”. The individual’s parent or carer, or an adult

with the permission from the parent or carer should be copied into correspondence or involved in the activity or work at the same time. When that is not possible, they should be told as soon as possible, afterwards.

- always save a record of all correspondence and interactions for 12 months.
- never disclose non-public or confidential information about the Party or any connected people in any communication with a child, young person or vulnerable adult.
- never share any contact or personal details of a child, young person or vulnerable adult with anyone else without appropriate consent. Personal details include (not a complete list) their name, nicknames, phone numbers, addresses (including electronic addresses and account handles) and photographs. “Sharing” includes making them part of a group on social media, or forwarding their personal data to others, even if the purpose is believed to help them.
- retain (which also means “do not delete”) any records of conversations



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including voicemail, communications by email or other messaging for 12 months

- not use private messaging facilities on any social media platforms to communicate with children, young people or vulnerable adults.
- not use any platform that deletes content so that communication cannot be retained.
- never use any platform where the sender of a message can remain or appears to be anonymous.
- avoid language that is morally ambiguous, racist or has any sexual or immoral content.
- use language that is age appropriate to the person you are communicating with.
- not reply where a child, young person or vulnerable adult messages privately using any medium it has been advised to avoid or where it appears not to be related to the Party work or activity or where the message is unsolicited. In such cases, tell the carer or parent and report it at once.

4.3.4 Any safeguarding concerns or breaches, or any disclosure received through written or spoken communication, must be reported (see 4.5).

4.3.5 **Suggestions before you send any online message to an individual:**



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4.4. Part 4: Disclosures.

4.4.1 So far, the Policy has focussed on what you have seen or experienced. This section focusses on what you might be told. That is, what may be disclosed to you.

4.4.2 What is a disclosure?

It is what you have been told by an individual. It could be verbal, or you could have been told by a gesture or an action. Disclosures can be deliberate or inadvertent.

Sometimes children, young people and vulnerable adults may tell you something that makes you think that that individual has been harmed or is at risk of harm. The individual may even not think they have been harmed or are at risk.

A disclosure does not have to be connected to you or to the Conservative Party or to any Party work or activity you are involved in for it to be actionable.

It is your responsibility to recognise and report any disclosure and react responsibly to it, using the Incident Reporting Form.

4.4.3 What do I do now?

- React calmly. Do not show alarm. Listen very carefully.
- Take the matter seriously.
- Reassure the individual that they were right to tell you.
- Ensure you have understood as best you can what the individual is telling you.

- Avoid asking questions or quizzing the individual. Avoid interrogation, no matter how well-meaning.
- Record everything you are told either at the time or immediately afterwards in as much detail as you can. For example, you could make a written note or record a voice message on your mobile phone. It is important to let the person who is telling you information that you are making a record of what is said.
- It is not your job to investigate what has happened, “make further enquiries” or sit in judgment. Avoid jumping to unsubstantiated conclusions. You are not in a position to tell the individual that their disclosure amounts to a safeguarding concern. You are, however, in a position to report your concern. Your job is to relay information promptly and accurately.
- Tell the individual that you have a duty to report what you have learned and leave it at that.
- Never tell an individual you will keep any disclosure secret, “between us”, “I won’t tell” and so on, even if asked by the individual to do so.
- Never make any promises of any outcome that might arise from you reporting it.

4.4.4 Then, report it immediately. (See 4.5)

4.5. Part 5: When things go wrong – reporting.

You must report harm or suspected harm of a child, young person or a vulnerable adult if you see or experience it, suspect it, or if it is disclosed to you.

The obligation to report applies to everyone involved in Party work or activities.

In the case of disclosures (see Part 4), it applies to disclosures made whilst engaged in Party work or activities even if the issue disclosed has nothing to do with the Conservative Party at all.

4.5.1 Criminal Behaviour and/or Emergency – Report to the Police & the DSL

If you suspect that a crime is being committed (or may be committed) against a child, young person or a vulnerable adult, or you suspect one is about to take place, or otherwise the individual is about to be or is being seriously harmed, you must tell the police at once.

If you are unsure, err on the side of caution and report it anyway. You should then follow this up with a report to the DSL.

4.5.2 Harming Behaviour and Situations – Report to the DSL

If, in the course of your dealings with children, young people or vulnerable adults, you witness incidents or behaviour that leads you reasonably to believe or suspect



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that a child, young person or adult has been harmed or is at risk of harm, you have an obligation to report your concerns to the DSL. This may include instances where you receive a disclosure from another person (see Part 4 above).

If a disclosure is made to you or if you believe there to be a breach of this Policy, you must report your concerns to the DSL.

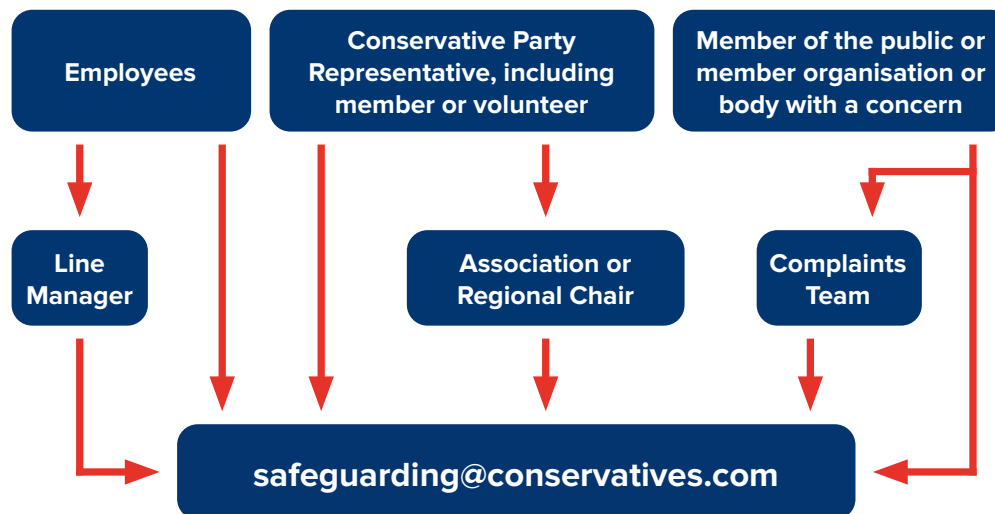
Depending on the circumstances, if you witness inappropriate behaviours you should not rely on post-event reporting but should feel comfortable in speaking out. In that way, all can help to create an atmosphere of trust and; respect and it is good practice. You should also raise concerns with the organiser of the event, or with a senior volunteer (if one is present).

4.5.3 The Party's Reporting Process. How to report an incident or a disclosure

As noted above, any criminal activity (or reasonable suspicion of criminal activity) must be reported to the police, and then to the DSL. Any other concerns can be raised directly with the DSL. The DSL can be contacted by email – safeguarding@conservatives.com

An Incident Reporting Form can be downloaded at [conservatives.com/safeguarding-policy](https://www.conservatives.com/safeguarding-policy) or you can make first contact by email, and the DSL or their team can assist you in completing that report.

Reporting a Safeguarding Concern or Breach



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Report a disclosure in the same way you would report abuse or a safeguarding breach. The diagram above shows how you can report a concern or breach to the DSL.

The DSL will discuss your concerns and (if not already completed) will provide an Incident Reporting Form for you to complete as a written record.

4.5.4 Telephone Reporting

Telephone reporting is permissible only in a real emergency. The number to call in this circumstance is 020 7984 8040.

4.5.5 What happens next?

The DSL, or their nominee, will investigate what you have reported, including reporting the matter to the appropriate authorities where that is necessary. He or she may do this without further notice to you. You should not investigate the matter yourself or discuss the details with anyone else other than the DSL (or the Police in an emergency).

All data collected in this regard will be stored, processed and retained in line with the Data Protection Act 2018 and the Party's data handling procedures.

The Data Protection Act 2018 is not a barrier to sharing information about safeguarding.

From time to time, the Party will review trends and will seek to learn from every incident that is reported to it.

4.5.6 Historic allegations

If an individual wishes to report an historic incident, they should contact DSL in the first instance, following the contact details elsewhere in this Policy.

4.5.7 Anonymous reporting

The Party will accept anonymous reports, but does not encourage them since anonymous reporting limits the ability of the Party to a) gather further information if needed and b) conduct the necessary investigations that will follow. Those making reports, without anonymity, are assured of the Party's commitment to confidentiality and thus the Party encourages people not to make reports anonymously.

5. Ownership

The overall responsibility for the policies and procedures that govern the work of the Party lies with the Party Board.

The DSL is the Policy owner and has direct responsibility for maintaining this Policy and providing guidance and advice on implementation. They are responsible for ensuring that the Policy and procedures reflect the Party's values and commitment to equality and diversity.

All stakeholders must be made aware of this Policy and know how to access it.

It is the responsibility of all Stakeholders to follow policies and procedures, promoting best practice throughout the Party.

6. Related Documents and Policies

Code of Conduct for Party Representatives

The Conservative Party Constitution (Amended January 2021)

Volunteer Code of Conduct

7. Related Legislation

Children Act 1989

Human Rights Act 1998

Sexual Offences Act 2003

Children Act 2004

Mental Capacity Act 2005

Safeguarding Vulnerable Groups Act 2006

Equality Act 2010

The Care Act 2014

Children and Social Work Act 2017

Data Protection Act 2018

8. Audit

This Policy document will be reviewed and audited initially after 6 months of implementation and then every [12] months or following a significant incident or change within CCHQ.





IMPROVEMENT THROUGH INVESTIGATION

A proposal for an independent investigation for East Devon District Council

Introduction

1. We have prepared this document following a request from East Devon District councillor, Jessica Bailey. We provide some information about Verita and our way of working as well as a proposal for a potential independent investigation into the actions of East Devon District Council (EDDC) following the allegations and criminal charges against John Humphreys.

About Verita

2. Verita is a leading independent consultancy for regulated organisations. We specialise in carrying out independent investigations of complex and often sensitive issues in a thorough and sensitive manner. We are renowned for our commitment to producing robust, evidence-based reports that can withstand rigorous scrutiny and challenge but also provide insight and a clear path to resolution or improvement. Our approach is always measured, appropriate and focused on improvement. You can read more about Verita and our work on our website: <http://www.verita.net/>

3. Our clients range from government departments and national organisations through to individual sites and organisations. With more than 300 investigations completed, we have an unparalleled depth of experience in the field. Our investigations often involve issues of governance, safeguarding, complaints and organisational responses to adverse events.

4. Notable amongst these investigations was that into the Green Party's actions following the allegations and charges of sexual assault brought against David Challenor. The issues and context surrounding this case bear significant similarities to the matters under consideration by EDDC. The published executive summary can be found on our website: <https://www.verita.net/wp-content/uploads/2022/06/green-party-report-web-publication-1.pdf>

Background

5. Mr John Humphreys, a former mayor of Exmouth and an East Devon District Councillor, was imprisoned for 21 years after being convicted in August 2021 of sexually assaulting two teenage boys in the early 1990s and early 2000s. It is believed that he was charged with the offences in November 2020.

6. The Council was reportedly aware that Mr Humphreys had been arrested by police in 2016 on suspicion of sexually assaulting the boys but was released under investigation. Mr Humphreys continued to be an EDDC Councillor until May 2019 and Exmouth Town Councillor until August 2020. Mr Humphreys was made an Honorary Alderman by EDDC in December 2019. The council voted to remove his Honorary title following his conviction.

7. It is understood that Devon County Council has commissioned/is commissioning an independent investigation into its failure to hold the appropriate multi agency safeguarding meeting in 2014 following a referral to Devon County Council's Local Authority Designated Officer by the NSPCC in connection with Mr Humphrey's role as a school governor.

8. Mr Humphreys was also an active member of the local Conservative Party Party in the period from 2016 onwards.

Proposed scope/ terms of reference

9. We will set out below potential areas which could be within the scope of an independent investigation. Any investigation should primarily focus on the actions of EDDC management and its officers and Councillors. We understand that there is insufficient power for the EDDC to compel any external organisation to be involved, without voluntary cooperation.

10. The aims of the investigation would be to:

- establish what information was known by EDDC Councillors and officers about Mr Humphreys' arrest in 2016 and the subsequent investigations into the allegations against him
- understand EDDC decision-making processes in considering Mr Humphreys' continued position as a Councillor after his arrest
- determine the extent to which the EDDC considered whether Mr Humphreys presented any safeguarding risks to children in the context of his party political and Councillor roles
- examine what, if any, safeguarding measures were put into place following the 2016 arrest and assess the effectiveness of their implementation and monitoring
- describe the process by which the EDDC bestowed the honour of Honorary Alderman on Mr Humphreys
- determine whether the EDDC complied with its own policies and procedures in making this decision
- review the decision-making processes deployed by EDDC following Mr Humphrey's conviction to remove his honorary title and to review its actions in the handling of this matter
- determine whether any improvements could be made to EDCC's safeguarding and governance arrangements in light of the findings of the investigation
- report on any other significant issues that arise in the course of the investigation that bear on its terms of reference

11. Any independent investigation will need to be commissioned by an office holder/ Councillor or other body with the necessary authority within the EDDC and in compliance with its statutory and mandated responsibilities.

Our methodology

12. Verita has established a systematic approach to conducting investigations - the Verita Operating Framework. The operating framework is used by all staff and associates when planning, conducting and managing assignments and can be flexed to each piece of work, as appropriate.

13. We will use a different approach to each part of the investigation that reflects the aims set out in the terms of reference.

14. We will conduct this investigation in private. We do not envisage that the investigation will have a statutory or disciplinary remit. Our approach will be focused on uncovering the facts and identifying opportunities for learning and improvement in a supportive and constructive manner.

15. We will produce a comprehensive chronology of the key events relevant to the terms of reference. We will evaluate any written or documentary evidence relevant to the terms of reference. We will also interview a range of executives, managers, staff and Councillors from EDDC who were involved in the handling of these matters. The initial group of interviewees will be identified by the commissioner, and we will seek the commissioner's agreement to interview other people as necessary as the investigation proceeds.

16. Our recent practice has been to conduct all interviews remotely, via Zoom or Microsoft Teams. The commissioner is free to instruct us to conduct any or all of the interviews face-to-face, although this may add to travel expenses incurred by the investigation team.

17. We will transcribe the interviews. All the interviews will remain confidential, and the content of the transcripts will not be available to the commissioner. We will follow established good practice in the conduct of the work, for example by offering interviewees the opportunity to be accompanied and to comment on and amend the transcript of their interview. We will make any necessary adjustments to the process to help participants contribute fully.

The outputs

18. We will produce a written report that sets out our approach to the investigation and our findings, conclusions and recommendations (if appropriate). A draft report will be provided to the commissioner for fact-checking prior to completion of the final report.

19. Anyone who may potentially be criticised in the draft report will have a prior opportunity to see, and comment on, any potential criticism before the report is finalised.

20. It is expected that the report will be published in some form. The client will decide (in consultation with Verita) the precise form of publication.

Investigation team

21. Verita has a business model that is founded on having a core of skilled, highly experienced full-time staff and outsourcing specialist requirements to individuals or organisation who are recognised experts in their fields. In this way, we can offer clients the guarantee of rigour and process, particularly in maintenance of quality standards, and the guarantee of meeting all aspects of the terms of reference while adding further insight from extensive professional experience. We have received overwhelmingly positive feedback from our clients both on the quality of our outputs and their experience of working with us.

22. We will confirm the specific make-up of the investigation team once the scope and timescales are agreed. If desired, we would be able to deploy the same or similar team that worked on the aforementioned project for the Green Party.

Timescales

23. Depending on the volume of documentary evidence, the number of people we interview, and their availability, we would expect to complete this investigation within 8-12 weeks of being commissioned to start, following receipt of any documentary evidence.

Fees and procurement

24. We record our fees on an hourly basis and we never charge for work not done. We will maintain strict control of the costs we incur on behalf of the commissioner. The only other costs that might arise are travel expenses for any work done face-to-face and interview transcription costs, if required by the commissioner (£140 per hour).

25. We would expect an investigation of this scope and complexity to cost in the range of £35,000 - £45,000 (excluding VAT and expenses).

26. Verita is part of a framework agreement run by HealthTrust Europe which is open to local government bodies. This means that our rates have been through a tendering process allowing you to commission us without the need for a further competitive process. We have provided details of this framework under separate cover.

Confidentiality

27. We are used to handling and dealing with confidential information, and our terms of business include a specific confidentiality undertaking. Any information already disclosed to us, and any further information disclosed before any contract is signed will also be treated as confidential. We will forward our full terms of business before any contract is signed.

Nicola Salmon, Senior Consultant

8 August 2022