

Report to: Cabinet



Date of Meeting 7 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 on the 20th April 2022, 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 am duly reporting to Cabinet as requested.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

1. That Cabinet note the advice of Mr Peter Oldham Q.C. set out in Appendix A to this report
2. That in the light of the advice received; the contents of this report; the action that is proposed with regard to the joint safeguarding policy in paragraph 7; and the proposals regarding future decisions of the Council, that a separate independent investigation or enquiry is not commissioned
3. That Cabinet consider a recommendation to Council 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
4. That the Cabinet/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
5. That the Cabinet/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 have 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 Cabinet 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 for Cabinet 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.
 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 councillors 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 and this proposal forms part of recommendation 2.
 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 Cabinet/Council should lead the way in lobbying for a clear and transparent obligation and expectation of appropriate action where a councillor has been arrested.
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Financial implications:

The recommendations in this report do not highlight any financial implication other than recommendation 3 which requests a supplementary budget of £5k from the General Fund.

Legal implications:

The advice note from Counsel details much of the legal position. The suggestion of lobbying local MPs and the LGA to encourage a Private Members Bill are within the powers of Cabinet, otherwise the recommendations do not raise any specific implications requiring comment