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**Service Director – Legal, Governance and
Commissioning**

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Tuesday 3 September 2019

Notice of Meeting

Dear Member

Standards Committee

The **Standards Committee** will meet in the **Mayors Hospitality Room - Town Hall, Huddersfield** at **10.00 am** on **Wednesday 11 September 2019**.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

Julie Muscroft

Service Director – Legal, Governance and Commissioning

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Standards Committee members are:-

Member

Councillor Paul Davies (Chair)

Councillor Martyn Bolt

Councillor James Homewood

Councillor Alison Munro

Councillor Shabir Pandor

Councillor Lisa Holmes

Councillor Mohan Sokhal

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

This is where Councillors who are attending as substitutes will say for whom they are attending.

2: Minutes of Previous Meeting

1 - 4

To receive and the Minutes of the previous meeting held on 6 March 2019.

3: Interests

5 - 6

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

4: Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

5: Deputation/Petitions

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10 (2), Members of the Public should provide at least 24 hours' notice of presenting a deputation.

6: Public Question Time

The Committee will hear any questions from the general public.

7: Code of Conduct - Complaints Update

7 - 16

To receive an update on Councillor complaints under the Code of Conduct.

Contact: David Stickley, Legal Services

8: Standards Update - Ethical Standards

17 - 30

To receive a report providing an update on developments following the publication of the Committee on Standards in Public Life report.

Contact: David Stickley, Legal Services

9: Standards - Cases and News Update

31 - 64

To receive a report outlining cases and news items relevant to the work of the Standards Committee.

Contact: David Stickley, Legal Services

Contact Officer: Andrea Woodside

KIRKLEES COUNCIL
STANDARDS COMMITTEE

Wednesday 6th March 2019

Present: Councillor Eric Firth (Chair)
Councillor Bill Armer
Councillor Martyn Bolt
Councillor James Homewood
Councillor Alison Munro
Councillor Mohan Sokhal

Apologies: Councillor Shabir Pandor

1 Membership of the Committee

Apologies for absence were received on behalf of Councillor Pandor.

2 Minutes of Previous Meeting

RESOLVED – That the Minutes of the previous Meeting held on 5 September 2018 be approved as a correct record.

3 Interests

No interests were declared.

(In relation to Agenda Item 7 (minute No. 7 refers), it was noted that Councillors Armer, Bolt and Munro were Members of either a Town or Parish Council).

4 Admission of the Public

All agenda items were considered in public session.

5 Deputation/Petitions

No deputations or petitions were considered.

6 Public Question Time

No questions were asked.

7 Code of Conduct - Complaints Update

The Committee received a report which set out an update on complaints that had been received since the previous meeting of the Committee (September 2018). The report advised that 14 complaints had been received which related to alleged breaches of the Code of Conduct, 7 which related to Parish Councillors and 7 to Kirklees Councillors, and that one had been progressed to the stage of formal consideration by the Assessment Panel. It was noted that 7 of the complaints were relatively recent and were currently being investigated prior to the initial assessment process.

The Committee were informed that the received complaints related to matters regarding social media use and Councillor behaviour. The report advised that, compared to the previous six month period, the overall number of complaints had risen from 12 to 14, though within the latter period there were instances of the same complaint being submitted multiple times.

The Committee were advised that, since the publication of the report, one of the seven recent complaints had been concluded, and that two further new complaints had been received within the past week.

The Committee noted the report and requested that statistics in future updates be presented in a chart or table format. Discussion also took place with regards to the compliance of Town and Parish Councils with Code of Conduct requirements and the understanding of Town and Parish Council representatives of the Standards Regime.

RESOLVED - That the report and comments of the Committee be received and noted.

8

Report by the Committee on Standards in Public Life

The Committee were provided with a report following the publication of the paper on 'Local Government Ethical Standards' by the Committee on Standards in Public Life on 30 January 2019. The Committee on Standards in Public Life had conducted a consultation exercise over several months which had given stakeholders the opportunity for input, and that a response had been submitted on behalf of the Council, as attached at Appendix 1 of the considered report.

The report set out a number of recommendations, which would be subject to legislation, and also suggestions for best practice, which were presented as a benchmark of good ethical practice. It was noted that the implementation of the best practice measures would be reviewed in 2020.

An appendix to the considered report set out each of the recommendations and best practice areas, along with suggested proposals to address or progress each matter, which the Committee were asked to consider.

The Committee discussed the key recommendations and best practice areas, as set out in paragraphs 2.1.4 and 2.1.5 of the report and agreed that;

- It be noted that Kirklees had already changed its processes with regards to the disclosure of addresses of election candidates.
- The current limit of £25 should be maintained in terms of declarations of gifts or hospitality and that declarations be published online.
- It be noted that Kirklees already provides legal indemnity for its Independent Person.
- The practice of reporting Code of Conduct complaints continue to be done on a 6 monthly basis, and that the information be presented in table format in future in order to make trends and comparisons more visible.

Standards Committee - 6 March 2019

- Town and Parish Councils be asked to adopt the Kirklees Code of Conduct and that they consider the Committee on Standards in Public Life report as an item of business.
- It be noted that details of a contact representative from the External Auditor (Grant Thornton) be made available on the Council website in regards to the whistleblowing policy.
- It be noted that the current whistleblowing policy does treat Councillors as 'prescribed persons'.
- In regards to training and induction, it be recommended to Corporate Governance and Audit Committee that the Code of Conduct be amended to make formal induction for new Councillors mandatory, and that members of Standards Committee undertake annual refresher training. Additionally, it was noted that there may be an obligation imposed on national parties, if this recommendation is adopted.
- The recommendation to include consideration of maintaining ethical standards as part of a Peer Review be noted.
- In regards to including prohibitions on bullying and harassment within the Code of Conduct, it be recommended to Corporate Governance and Audit Committee that the Code of Conduct be amended to include examples of bullying and intimidation (as set out on page 33 of the Committee on Standards in Public Life report), and also that a report be submitted to a future meeting of Standards Committee regarding guidance on social media training.
- It be noted that the Code of Conduct does already contain a requirement for members to comply with the Standards process.
- In terms of the Code of Conduct review, an approach of undertaking bi-annual reviews be adopted, and that any additional updates take place if required.
- The Code of Conduct shall be made available in Council buildings, as well as being accessible on the website.
- The gift and hospitality register be published on the Councils website.
- A clear public interest test that would be used to filter allegations be published, and incorporated into the standards process.
- A report be submitted to Corporate Governance and Audit Committee with a recommendation that a recruitment process for a second Independent Person take place and that the term of office of the current Independent Person be extended.
- That it be noted that the provision for consultation with the Independent Person with regards to the progress of complaints is already included within the Council's process.
- A report be submitted to Corporate Governance and Audit Committee with a recommendation that decision notices be published following formal investigations, provided that the information published was compliant with GDPR requirements.
- In regards to publication of the complaints process, the information also be made available in Council buildings, as well as the publication on the Council's website.
- It be noted that, in the event that conflicts of interest arise during a standards investigation, a Monitoring Officer from a neighbouring authority shall become involved in the process.

Standards Committee - 6 March 2019

- The Head of Audit and Risk be asked to consider the reporting of separate bodies which the Council has set up within its Annual Governance Statement.
- The existing arrangements for Senior Officers and Group Leaders/Group Business Managers to discuss standards issues be noted.

RESOLVED –

- (1) That the report be received and noted.
- (2) That the Committee's response to the recommendations as set out at Paragraphs 2.1.3. and 2.1.4 of the report be agreed, noted and actioned as appropriate.

KIRKLEES COUNCIL				
COUNCIL/CABINET/COMMITTEE MEETINGS ETC				
DECLARATION OF INTERESTS				
Standards Committee				
Name of Councillor				
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an “Other Interest”)	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest	

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
(b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



Name of meeting: Standards Committee

Date: 11th September 2019

Title of report: Code of Conduct complaints update

Purpose of report

To brief the standards committee on Councillor complaints under the Code of Conduct since the meeting in March 2019.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	no
The Decision - Is it eligible for call in by Scrutiny?	no
Date signed off by Strategic Director & name Is it also signed off by the Service Director for Finance IT and Transactional Services? Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	Yes
Cabinet member portfolio	Cllr Graham Turner

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

Have you considered GDPR? Yes

1. Summary

- 1.1 This report follows on from the report that was before the Standards Committee on the 6th of March 2019.
- 1.2 This report will look at the number of complaints received since the 6th of March 2019, along with their type and nature.
- 1.3 It will also look at which of those new complaints have been resolved and which are still subject to investigation or further action. It will also provide an update on those complaints that were received in the previous reporting period and were not resolved at the time of the previous report.
- 1.4 It will also compare this period's complaints with the previous period, to see if there are any significant differences or trends.
- 1.5 A new feature of this 6 monthly update will be some graphic interpretations of the complaints data, which it is hoped will assist in identifying trends visually.

2. Information required to take a decision

2.1 Complaints Summary

- 2.1.1 Since the 6th of March 2019 the Monitoring Officer has received 59 complaints relating to alleged breaches of the Code of Conduct. This figure includes multiple complaints relating to 4 councillors.
- 2.1.2 16 relate to Kirklees Councillors (a total of 12 Councillors) and 43 relate to parish councillors. The number of identified Town or Parish councillors complained about is 1, from 1 Town or Parish Council.
- 2.1.3 Of these, 1 progressed through to a formal consideration by the assessment panel and subsequent decision, 2 were not progressed after the initial assessment process and 9 were dealt with informally. The remaining 47 are relatively recent and 4 are currently being investigated before being considered under the initial assessment process, with the remainder being part way through the formal standards process.
- 2.1.4 There are currently 43 complaints, all concerning the same matter, a number of which are waiting to progress to the Assessment Panel for consideration. Barring any unforeseen delays, this complaint is due for consideration by the Assessment Panel on the 16th of September.

Update on previous complaints

- 2.1.5 Of the 6 complaints recorded in the previous report as then ongoing, these have all now been resolved.

- 2.1.6 Of the 6, none went through the formal Assessment Panel and subsequent decision making process stage. 2 of these were not progressed as the complainants declined to complete a formal complaints form.
- 2.1.7 The remaining 4 complaints that were under investigation at the time of the previous report, were subsequently dismissed at the initial assessment stage.

2.2 Previous Report and comparison with the present report

- 2.2.1 The previous report contained a total of 14 complaints about 6 named members, plus an unidentified number of Town and Parish Councillors, covering the period from 6th of September 2018 to the 6th of March 2019. This compares with the current period under review, the 7th of March 2019 to the 11th of September 2019, where there is a total of 59 complaints that related to 12 named Kirklees Councillors and 1 named Parish Councillor.
- 2.2.2 The nature of the complaints in the present report concern the behaviour of members at Council meetings (10 complaints relating to 4 members), whilst 45 concern the behaviour of 3 members in social media posts, one concerns member involvement in Planning matters (3 members), one concerns alleged threatening behaviour by a member, and one concerns the alleged failure of a member to respond to a query from a member of the public. The sources of the complaints are that 4 were received from 3 Kirklees Councillors and the remainder were from members of the public.
- 2.2.3 Comparing this to the previous report, 2 of the complaints in that report related to the use of social media by one member and the remaining 12 related to behaviour, 8 relating to behaviour at official meetings and 4 to behaviour outside of official meetings. 2 of the 14 complaints were made by 2 Kirklees Councillors, 5 were from 5 Parish Councillors and the remaining 7 came from members of the public.
- 2.2.4 1 complaint in this period has resulted in formal consideration by the Assessment Panel, with a decision then being made by the Monitoring Officer, Independent Person and the Chair of the Standards Committee. For that complaint, there was found to be no breach. This compares with 1 formal decision in the previous period, although there are 30 complaints, relating to a single incident, that are part way through the formal process. In this period no sanctions have been applied to any members.
- 2.2.5 Comparison between the two reports, shows that the overall number of complaints has risen from 14 to 59, whilst the number of Councillors

complained about has risen from 6 to 13. It should be noted that in this period there have been 4 instances of what is effectively the same complaint being made by multiple complainants and this has skewed the figures, generating a combined total of 52 complaints.

2.2.6 In this period, we have seen the same number of instances of 'multiple' complaints, 4, with the same complaint being made and supported by more than one complainant.

2.2.7 Another visible trend is the further rise in the total complaints relating to Town or Parish Councils, although these complaints all related to a single incident in this period. These are continuing to have an adverse effect on the resources of the Monitoring Officer. As previously noted, the data in the current report has been skewed by multiple complaints concerning the same Councillor and is, as a result, an exceptionally high figure. There is no reason to suppose this will not come down in the next period.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

N/A

3.2 Economic Resilience (ER)

N/A

3.3 Improving Outcomes for Children

N/A

3.4 Reducing demand of services

N/A

3.5 Other (eg Legal/Financial or Human Resources)

The promotion and maintenance of high standards of conduct by councillors is an important part of maintaining public confidence in both the council and its members. Failure to do so could have reputational implications.

4. Consultees and their opinions

N/A

5. Next steps

- 5.1 The Monitoring Officer will continue to assess any complaints about members' conduct as and when they are received and will report the outcomes to this committee as appropriate.

6. Officer recommendations and reasons

- 6.1 It is recommended that the report is noted.
- 6.2 Members of the committee are asked to consider the appended graphs and provide feedback as to what information they would find helpful to be presented in this way in future reports.

7. Cabinet portfolio holder's recommendations

N/A

8. Contact officer

David Stickley
Senior Legal Officer
01484 221000
david.stickley@kirklees.gov.uk

9. Background Papers and History of Decisions

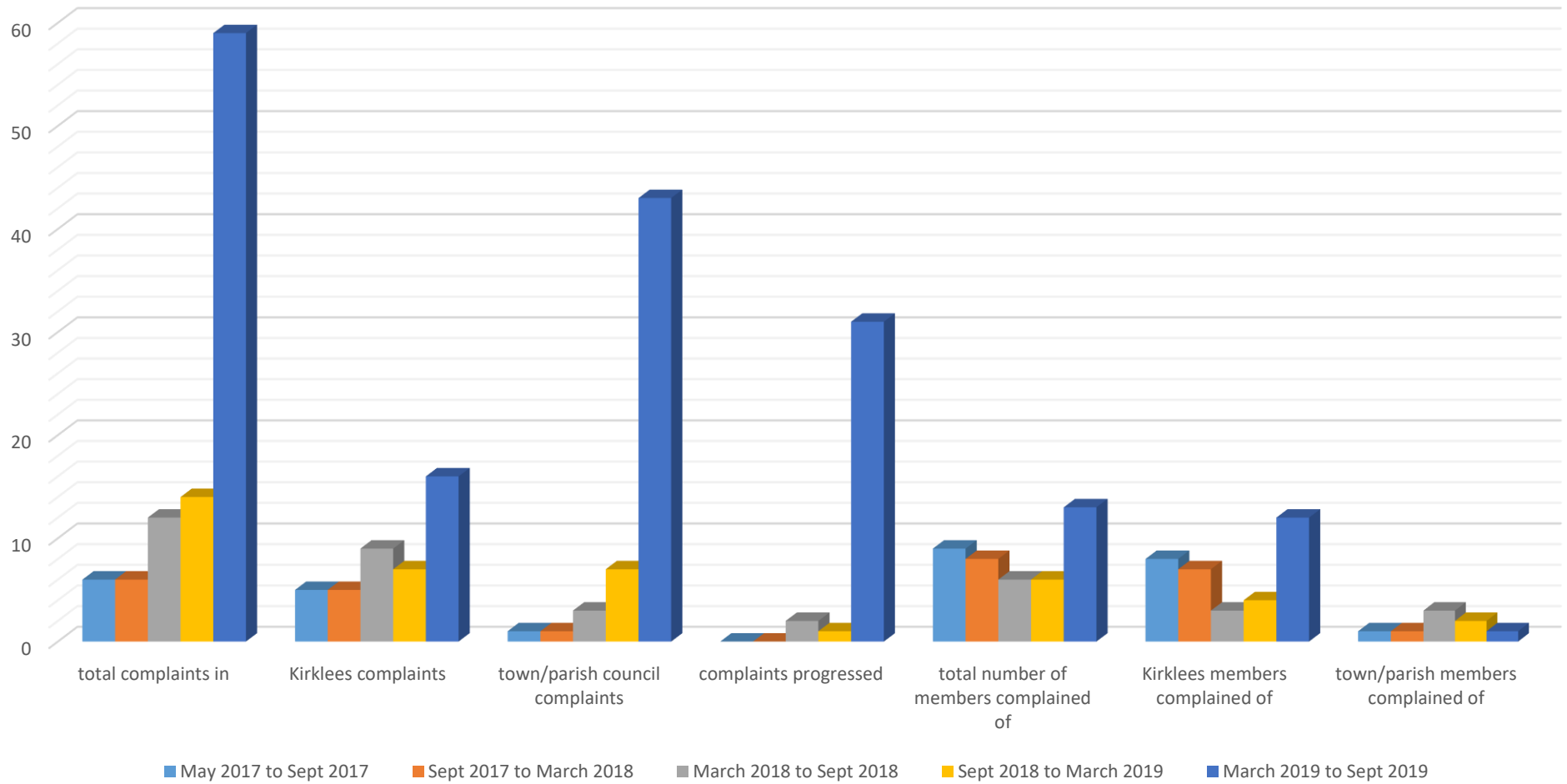
- 9.1 N/A

10. Service Director responsible

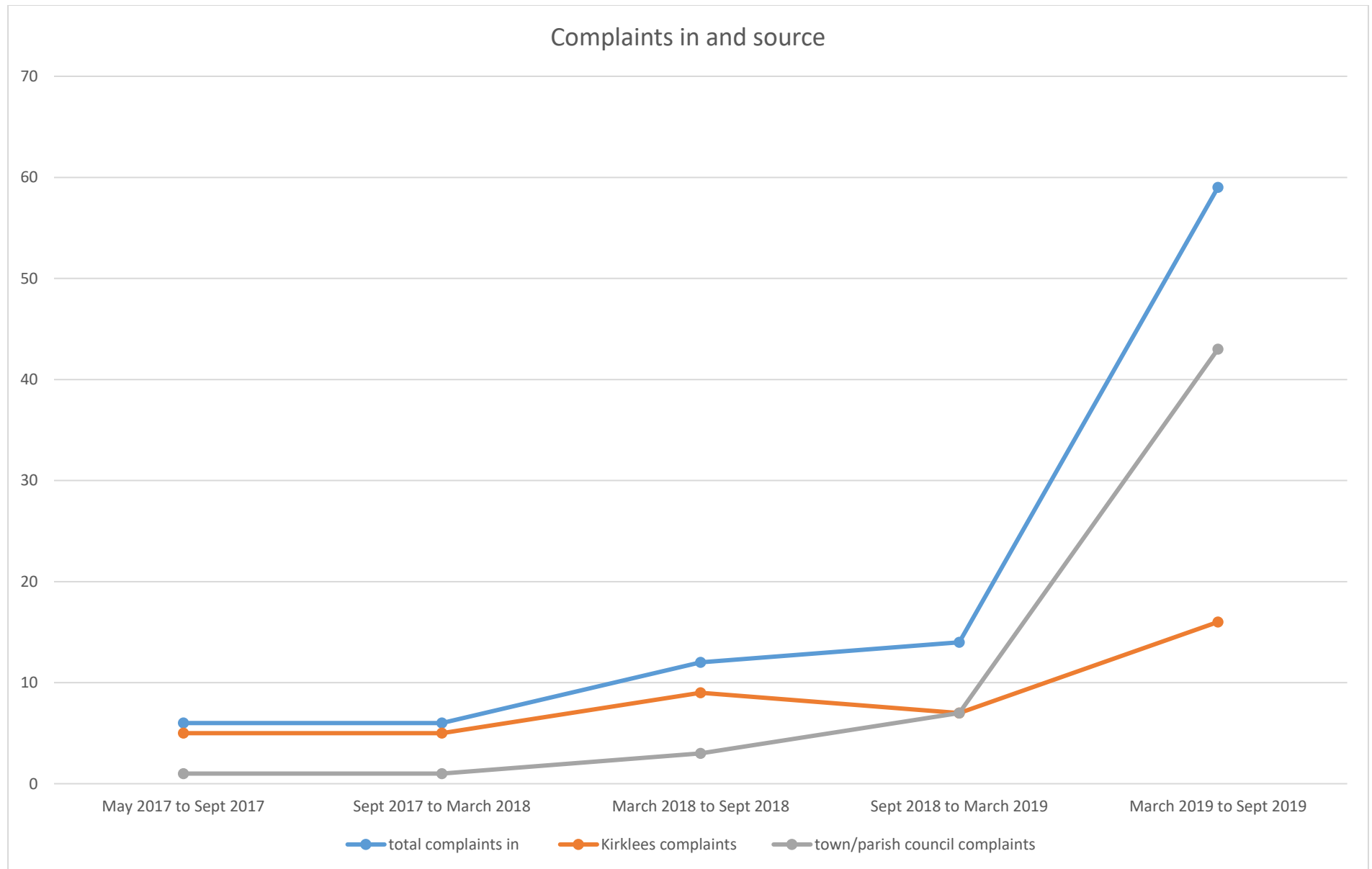
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Appendix A

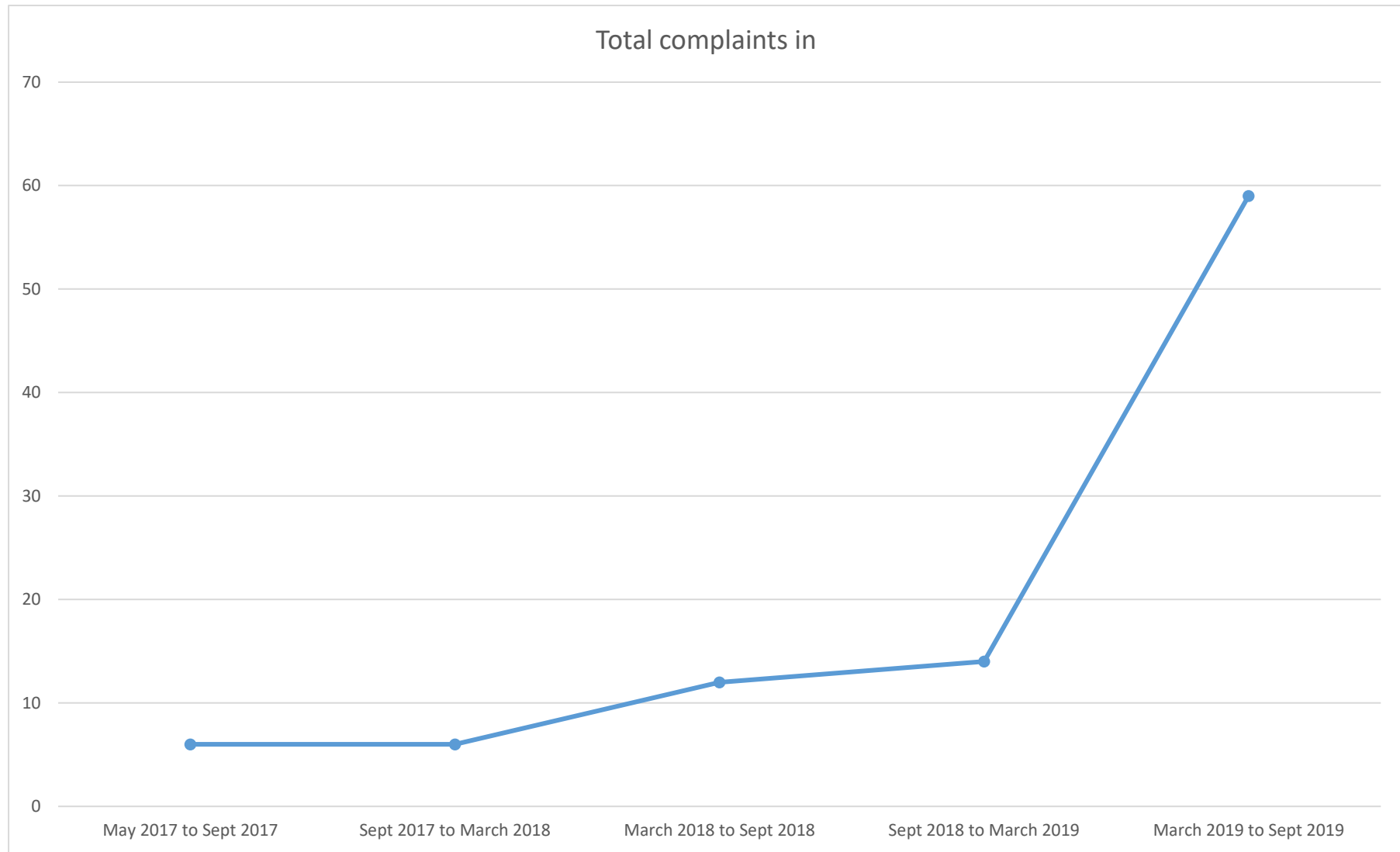
Complaints summary



Complaints in and source



Total complaints in



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Name of meeting: Standards Committee

Date: 11th September 2019

Title of report: Standards Update

Purpose of report

To brief the standards committee on any developments following the publication of the CSPL report on ethical standards in local government since March 2019.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	no
The Decision - Is it eligible for call in by Scrutiny?	no
Date signed off by <u>Strategic Director</u> & name Is it also signed off by the Service Director for Finance IT and Transactional Services? Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	Yes
Cabinet member portfolio	Cllr Graham Turner

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

Have you considered GDPR? Yes

1. Summary

- 1.1 This report follows on from the report that was before the Standards Committee on the 6th of March 2019.
- 1.2 This report will look at any developments since the publication of the CSPL report on standards in public life.
- 1.3 It will focus on what Kirklees have done, any wider developments and whether there are any changes that the committee should consider recommending.

2. Information required to take a decision

2.1 Action taken so far

- 2.1.1 The recommendations made by this committee following the publication of the CSPL report were taken to 2019 Annual Council after consideration at Corporate Governance and Audit committee. These were both the recommendations made by the CSPL and 'best practice' suggestions.
- 2.1.2 All of the CSPL recommendations that were approved by this committee were adopted and the necessary changes to the constitution have now been made.
- 2.1.3 Other 'best practice' guidelines were approved by this committee and the majority of these have been implemented. Those still to be implemented are:
 - 6. The publication of a clear and straightforward public interest test against which allegations are filtered – there is some work that will need to be done on the complaints form and the Kirklees website that will incorporate this test
 - 7. Local Authorities should have access to at least 2 Independent Persons – the recruitment process for a 2nd IP is currently in progress
 - 14. Councils should report on separate bodies they have set up – the Head of Risk is looking at how best to do this
- 2.1.4 Following the decision to publish any decision notices, the standards process has been amended and the first decision notice is due to be published shortly.
- 2.1.5 One of the recommendations of the CSPL report – that standards should be reviewed annually and consulted on – was considered but

not adopted. Instead, it was resolved that there should be a bi-annual review.

- 2.1.6 The standards process was last reviewed over two years ago and Committee is asked to recommend that a review be commenced and also to consider who might be consulted as part of the review.
- 2.1.7 Contact was made with Town and Parish Councils, following the CSPL suggestion that they should be encouraged to adopt the Code of Conduct of their principal authority. Kirkburton and Mirfield Town Councils have advised that they have resolved to adopt the Kirklees code. Holme Valley Parish Council have declined to do so and will continue to use the NALC drafted Code of Conduct. The remaining town and parish councils are yet to formally consider adoption.
- 2.1.8 The council's auditors, who are named as a contact in the whistleblowing policy have been asked to provide a named contact for inclusion in the policy.

2.2 National developments and updates

- 2.2.1 It may appear that the government response to the CSPL report has been muted, apart from issuing a briefing paper – '*Local Government Standards in England*' – in March 2019, but there has been a number of developments following on from the publication of the report.
- 2.2.2 The CSPL meets on a monthly basis and any follow up work on ethical standards and the report is a recurring agenda item.
- 2.2.3 Since the publication of the report, the committee has met 6 times and the meeting minutes record what actions have been taken. The key points are detailed below:
- The committee resolved to prepare a follow up paper to the report (Feb 2019)
 - Positive responses to the report in the media were noted (April 2019)
 - The Ministry of Housing, Communities and Local Government had engaged positively with the report – the committee had been clear that the report should be considered as a whole and not 'cherry picked' by the Ministry (April 2019)
 - A follow up plan to monitor 'Best Practice' recommendations was proposed (April 2019)

- The committee were in contact with the Local Government Ombudsman to discuss their proposed role in the suspension appeal process – they have confirmed that would be willing to take the role on (May 2019)
- The committee also noted that it had been contacted by a joint Association of Democratic Services Officers (ADSO)/Lawyers in Local Government (LLG)/Society of Local Council Clerks (SLCC) ‘task force’ who wanted to offer assistance and support (May 2019). A representative from West Yorkshire is part of the LLG group.
- The committee reported a positive meeting with the ‘task force’ (June 2019)

2.2.4 The joint ‘task force’ referred to in 2.2.3, comprising of members of ADSO, LLG and SLCC, has offered assistance and support for the proposed changes and have met with the CSPL. The SLCC statement reads:

‘the Task Group has offered its services to the committee. The Group believes it could provide much experience and knowledge to the Local Government Association to assist drafting the new code of conduct and by supporting authorities to implement many of the best practice recommendations in the CSPL report’.

2.3 Further possible Standards Process changes

- 2.3.1 This Committee discussed some of the key recommendations made by the CSPL in their report.
- 2.3.2 A number of recommendations were agreed by the committee and, as noted earlier in this report, have resulted in changes to the Constitution and the Standards Process.
- 2.3.3 This section of the report is intended to explore the report further to consider whether there are further changes that could be recommended or discussed by this committee that would be possible to implement.
- 2.3.4 The previous report listed all of the recommendations and ‘best practice’ suggestions made by the CSPL, but not all of these were discussed or considered for approval. Some are entirely outside of the control of the council and will require legislation to make implementation possible. Examples of this are the proposal to allow

members to be suspended, and proposed amendments to the regulations on disclosable pecuniary interests.

2.3.5

The following recommendations are those that were in the CSPL report, but were not subject to any proposed actions by the committee at the last meeting (all numbers refer to appendix A). In the event that members agree to the recommendation in paragraphs 2.1.5 and 2.1.6 that the Standards Process be reviewed it is suggested that members consider whether some of the recommendations, marked with a ‘*’, in the following could form part of that review:

- 1. The Local Government Association should create a model Code of Conduct – this is something that this committee cannot influence (unless the LGA choose to consult) but it is worth noting that, in its consultation response to the CSPL in 2018, the LGA was clear that it did not support a return to a standardised or compulsory code of conduct, stating that it would regard this as a backwards step. We have noted earlier in the report that the ADSO/LLG/SLCC ‘task force’ have offered to assist the LGA in drafting such an example code.
- *3. Councillors should be presumed to be acting in an official capacity in their public conduct, including social media – this is an issue that has arisen recently and there were conflicting views on how far we should go in presuming a member to be acting in an official capacity. This proposal is intended to provide clarity and remove any uncertainty. There is nothing to prevent adopting this presumption on a voluntary basis and members are asked to consider whether doing so would be appropriate and, if so, when and how changes should be made.
- 4. Amendments to the Localism Act to state that a code of conduct applies when a member claims or gives the impression that they act as a member – this is something that was included in the pre Localism Act national code and the CSPL felt it should be reintroduced.
- 5. Amendments to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include unpaid roles, as directors, trustees or charity roles, and membership of organisations that seek to influence opinion or public policy – the CSPL noted that there was potential for conflict to arise where there was no financial benefit to a member from any such role.
- *7. Councils should be required to include in their Code of Conduct a rule that precludes participation where a member has any interest a member of the public would reasonably

regard as so significant that it is likely to prejudice a member – this is something that can be voluntarily adopted, with the associated difficulty with the definition of when an interest would be ‘so significant’. If consideration is given to introducing such a rule, then a suitable definition would need to be formulated and agreed.

- 8. Independent Persons to be appointed for a 2 year fixed term, renewable once – we are in the process of recruiting a new IP and the advert is for a 2 year fixed term. The current IP has been given a 2 year renewal.
- *9. Formal recording of the views of an IP involved in any decision making process – current decision notices do record that the IP took part, even if they don’t record their views. Members are asked to consider if decision notices should record that decisions were either unanimous or, where there is a dissenting view from an IP, whether that should be noted.
- 10. A Local Authority should only be able to suspend a member where the IP agrees with the finding of the breach and the suspension – this would need to be tied into the proposed legislative changes that would be needed to allow suspensions of members.
- *12. There should be a discretionary power to establish decision-making Standards Committees with members from parish councils – Kirklees do already have a Standards Committee, but it is neither a decision-maker and nor does it have any members from Town or Parish Councils. Members are asked to consider if there could be advantages to inviting Town and Parish Councils to attend any committee meetings.
- 13. Councillors should be given a right of appeal to the LGO if they are suspended – this will tie in with the legislation needed to allow suspension. Earlier in this report, it was noted that the LGO had responded favourably to this proposal.
- 14. The LGO should be given the power to investigate whether a breach has occurred where suspension is imposed – this clarifies the appeals process and the CSPL’s intention that it be more than just an appeal on the sanction, but able to effectively conduct a rehearing.
- 16. Local Authorities should have the power to suspend members without allowance for up to 6 months – this is

something that would require legislation and is outside of the control of Kirklees.

- *17. Clarification of whether councillors may be lawfully barred or have facilities withdrawn as a sanction – this is something that legislation will be needed for, as the position is currently unclear. The CSPL noted that councils that do withdraw facilities may currently be open to challenge.
- 18. Criminal offences relating to DPLs be abolished – a matter for legislation by parliament.
- 19. Parish council clerks should hold an appropriate qualification – a matter for the Town and Parish Councils, but ought to be welcomed by them as it will ensure trained clerks are in post.
- 21. Requiring any sanction imposed on a parish councillor to be determined by the principal council – this will clarify the position on whether a parish can choose not to impose a sanction. Currently, the position is unclear and the CSPL report suggested that there have been instances where a parish council has declined to impose the sanction decided on by its principal council.
- 22. Extending the protection to statutory officers to cover all disciplinary action and not just dismissal – will need legislation. This would be effectively reversing the position created by the 2015 regulations and reinstating the safeguards that were in place before then.

2.3.6

The following best practice suggestions are those that were in the CSPL report, but were not subject to any proposed actions by the committee at the last meeting (all numbers refer to appendix A):

- 11. Formal standards complaints about the conduct of a parish councillor should be made by the chair or the parish council, rather than the clerk – this a matter for individual town or parish councils, but there is nothing to prevent the Monitoring Officer from raising this with town or parish councils and asking that they adopt this as best practice. The CSPL have already indicated that they will be looking at compliance with their best practice suggestions in 2020.
- 12. Monitoring Officers should provide advice and management of alleged breaches of town and parish council codes of conduct and should be provided with appropriate resources and training – it is currently the case that the MO does investigate alleged breaches and these are run through the Kirklees standards process. The MO will report on the

impact of town and parish council standards matters through the twice yearly complaints update report.

Clearly, a number of these recommendations are ones that are dependent on legislation and action from central government to be able to be implemented, but the committee should keep a watch on any developments. An update report can be provided, should this committee decides it would be helpful.

Of the remainder, members are asked to consider if any could be considered as part of a review. Those marked with an asterisk are ones which it is considered on balance may be ones which the committee may seek views as part of a review / consultation process.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

N/A

3.2 Economic Resilience (ER)

N/A

3.3 Improving Outcomes for Children

N/A

3.4 Reducing demand of services

N/A

3.5 Other (eg Legal/Financial or Human Resources)

The promotion and maintenance of high standards of conduct by councillors is an important part of maintaining public confidence in both the council and its members. Failure to do so could have significant reputational implications.

4. Consultees and their opinions

N/A

5. Next steps

- 5.1 The Monitoring Officer will continue to monitor any developments in relation to the CSPL's report and recommendations and will update the committee.

6. Officer recommendations and reasons

- 6.1 It is recommended that the report is noted.
- 6.2 That members recommend that a review of the Standards Process be commenced and to consider who should be consulted as part of that.
- 6.3 Members of the committee are asked to recommend which of the proposals considered in paragraph 2.3.5 might be considered as part of a review.
- 6.4 Members are also asked to delegate authority to the Monitoring Officer to finalise the details of the review for consideration at the next meeting of the Standards Committee.

7. Cabinet portfolio holder's recommendations

N/A

8. Contact officer

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9. Background Papers and History of Decisions

9.1 N/A

10. Service Director responsible

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Appendix A

Number	Recommendation	Responsible Body	Comments	Our Views
1.	The Local Government Association should create an updated model Code of Conduct, in consultation with representative bodies of Councillors and Officers of all tiers of Local Government.	Local Government Association	This is a recommendation for the LGA to comment upon. The LGA have responded, on the 30th of January, stating that in their view ' <i>A locally-led approach to standards – underpinned by a national framework – remains the right approach and the LGA is happy to play a leading role in updating a code of conduct to help guide our members</i> '.	Is this a move towards a standardised Code of Conduct? There is clearly no recommendation in the report to go back to the pre-Localism Act system and abolish the ability of authorities to determine their own codes, but is it the case that this could be the possible end result of the LGA producing a model code? Will there be pressure to adopt it?
2.	The Government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a Councillor does not need to register their home address on an authority's Register of Interests.	Government	Will require primary or secondary legislation	Members may already ask to have their home addresses withheld, but they have to request this and satisfy the Monitoring Officer that there are grounds for doing so. This proposal should lessen the potential risk to concerned members.
3.	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit Local Authorities to presume so when deciding upon Code of Conduct breaches.	Government	Will require primary or secondary legislation	This is probably a welcome step that recognises the blurring that can occur in respect of a member's social media presence. Certainty on this can assist members in understanding how social media posts will be regarded.
4.	Section 27(2) of the Localism Act 2011 should be amended to state that a Local Authority's Code of Conduct applies to a Member when they claim to act, or give the impression they are acting, in their capacity as a Member or as a representative of the Local Authority.	Government	Will require primary or secondary legislation	As above, some certainty must be welcomed.
5.	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a Charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government	Will require primary or secondary legislation	Clarity on disclosable interests is likely to be welcomed by members.
6.	Local Authorities should be required to establish a register of Gifts and Hospitality, with Councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model Code of Conduct.	Government	Will require primary or secondary legislation	Again, this is something that isn't currently prohibited and some authorities do keep public registers. There is nothing to stop Kirklees adopting this recommendation should it wish to do so.
7.	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that Councils include in their Code of Conduct that a Councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter".	Government	Will require primary or secondary legislation	Clarity on disclosing interests is likely to be welcomed by members.
8.	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government	Will require primary or secondary legislation	Concerns were raised that a two year period was far too short, and four years was better. Concerns had also been raised about the difficulty in recruiting suitable IPs

9.	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government	Will require primary or secondary legislation	There is no prohibition on this, so Kirklees could choose to adopt this recommendation. Having said that, decision notices that are currently produced do refer to the participation of the IP in the decision making process.
10.	A Local Authority should only be able to suspend a Councillor where the Authority's Independent Person agrees both with the finding of a breach and that suspending the Councillor would be a proportionate sanction.	Government	Will require primary or secondary legislation	It is not unreasonable, where the harshest of sanctions is applied, that the decision should be unanimous.
11.	Local Authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The Government should require this through secondary legislation if needed.	Government/All Local Authorities	Will require primary or secondary legislation	
12.	Local Authorities should be given the discretionary power to establish a decision-making Standards Committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government	Will require primary or secondary legislation	This does not reflect the current process followed in Kirklees. It would be a matter for the Council to decide, if given this discretionary power, whether it was a better system than the one currently in place, which gives a voice, but no decision making power, to the GBMs, rather than Standards. The proposal to possibly bring in Town and Parish Council members to sit on such a committee is an interesting one.
13.	Councillors should be given the right to appeal to the Local Government Ombudsman if their Local Authority imposes a period of suspension for breaching the Code of Conduct.	Government	Will require primary or secondary legislation	It is noted that the Ombudsman is proposed to only have a role where the most serious form of sanction has been applied.
14.	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a Code of Conduct breach by a Councillor and the appropriate sanction, on appeal by a Councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the Local Authority.	Government	Will require primary or secondary legislation	It is noted that there would be a power to impose an alternate sanction, as well as a power to determine if the allegation of breach was founded.
15.	The Local Government Transparency Code should be updated to require Councils to publish annually: the number of Code of Conduct complaints they receive; what the complaints broadly relate to (eg bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government	Will require primary or secondary legislation	This proposal is to compel authorities to publish. There is currently no prohibition on this and some authorities make their findings public. Kirklees could choose to follow this recommendation if they chose.
16.	Local authorities should be given the power to suspend Councillors, without allowances, for up to six months.	Government	Will require primary or secondary legislation The LGA are not wholly supportive of this, stating that, in their view, <i>'a number of adequate sanctions already exist to deal with the most serious issues and care needs to be taken to avoid adding to the current regime and causing unintended consequences. For example, suspending councillors for up to six months could see them lose their seat. This would pose a risk to the democratic process leaving residents without locally-elected representative.'</i>	This is a contrast to the views that were expressed during the consultation that there were not adequate sanctions available to local authorities. The report itself says that the <i>'current lack of robust sanctions damages public confidence in the standards system'</i> .

17.	The Government should clarify if Councils may lawfully bar Councillors from Council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government	May require primary or secondary legislation	Clarity is likely to be welcomed.
18.	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government	Will require primary or secondary legislation	Presumably, this proposal is made on the basis that Councils will have adequate sanctions in exchange for the abolition.
19.	Parish Council Clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish Councils		This should be beneficial to Town and Parish Councils.
20.	Section 27(3) of the Localism Act 2011 should be amended to state that Parish Councils must adopt the Code of Conduct of their principal authority, with the necessary amendments, or the new model code.	Government	Will require primary or secondary legislation	There is likely to be a positive benefit to this, especially where members sit on both Kirklees and a Town or Parish Council. It will also be beneficial to the Monitoring Officer when dealing with any conduct complaints.
21.	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a Parish Councillor following the finding of a breach is to be determined by the relevant principal authority.	Government	Will require primary or secondary legislation	
22.	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government	Will require primary or secondary legislation	This is a welcome step to protect the independence of statutory officers.
23.	The Local Government Transparency Code should be updated to provide that Local Authorities must ensure that their Whistleblowing Policy specifies a named contact for the external auditor alongside their contact details, which should be available on the Authority's website.	Government	Will require primary or secondary legislation	This is already part of Kirklees' whistleblowing policy.
24.	Councillors should be listed as "prescribed persons" for the purposes of the Public Interest Disclosure Act 1998.	Government	Will require primary or secondary legislation	
25.	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties		The training and induction of members is important and it is welcomed that there is a proposal to make this a requirement.
26.	Local Government Association corporate peer reviews should also include consideration of a Local Authority's processes for maintaining Ethical Standards.	Local Government Association		The LGA haven't commented directly on this proposal. Do local authorities want their codes and processes subject to such review? What powers would be given to the LGA if they decided they weren't suitable?

Number	Best practice	Responsible Body	Comments	Our Views
1.	Local Authorities should include prohibitions on bullying and harassment in Codes of Conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.	Local authority	No legislation would be required - an authority can choose the contents of its own code of conduct.	
2.	Councils should include provisions in their Code of Conduct requiring Councillors to comply with any formal Standards investigation and prohibiting trivial or malicious allegations by Councillors.	Local authority	No legislation would be required - an authority can choose the contents of its own code of conduct.	The existing code of Conduct does require members to co-operate with the standards process.

3.	Principle Authorities should review their Code of Conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring Authorities.	Local authority	No legislation would be required - an authority can choose how often it reviews its own code of conduct.	Is an annual review too often?
4.	An Authority's Code should be readily accessible to both Councillors and the public, in a prominent position on a Council's website and available in Council premises.	Local authority		Kirklees' Code of Conduct is published on its website. Perhaps there could be a link from the home page.
5.	Local Authorities should update their gifts and hospitality register at least once per quarter and publish it in an accessible format, such as CSV.	Local authority		
6.	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	Local authority		
7.	Local Authorities should have access to at least two Independent Persons.	Local authority	There are no restrictions on the numbers of Independent persons that an authority can appoint.	This may be an ideal, but may not reflect the difficulty in recruiting suitable IPs
8.	An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.	Local authority		Kirklees already involve their IP at the first 'sift' stage in the complaints process.
9.	Where a Local Authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of fact, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.	Local authority		Some thought needs to be given as to whether Kirklees wants to publish its decision notices. Currently, these are only made available to the member's group leader and GBM and the member complained of, plus the complainant. Currently, the other GBMs don't see the decision notice.
10.	A local authority should have straightforward accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.	Local authority		Kirklees does have this, but perhaps there could be a direct link to this from the homepage.
11.	Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.	Town or parish council	This is a matter for the individual Town or Parish Councils to adopt.	
12.	Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.	Local authority		Currently, the Monitoring Officer does deal with complaints made about Town or Parish council members. This does impact on resources.
13.	A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.	Local authority		
14.	Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.	Local authority		
15.	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	Local authority		The Monitoring Officer regularly meets with the GBMs and the Chief Exec meets regularly with the Group Leaders.



Name of meeting: Standards Committee

Date: 11th September 2019

Title of report: Cases and News Update

Purpose of report

To brief the standards committee on any news and cases of interest since March 2019.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	no
The Decision - Is it eligible for call in by Scrutiny?	no
Date signed off by <u>Strategic Director</u> & name Is it also signed off by the Service Director for Finance IT and Transactional Services? Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	Yes
Cabinet member portfolio	Cllr Graham Turner

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

Have you considered GDPR? Yes

1. Summary

- 1.1 This report is intended to brief members on any developments and news on matters of local government ethics.
- 1.2 It will look at news items and any relevant case law, as well as any recent published decisions from other local authorities or any of the existing standards boards.

2. Information required to take a decision

2.1 News since April 2019

- 2.1.1 A number of sources have been checked for details of any news items that are of relevance or may be of interest to the committee.
- 2.1.2 These include Local Government Lawyer, Lawyers in Local Government, the various standards boards' websites, websites of other local authorities as well as local and national media.
- 2.1.3 There are a number of reports, from the Local Government Lawyer website, which may be of interest to the committee, even if all are not directly relevant to the work of the committee. Copies of the reports are at appendix A, but the following are of particular interest.
- 2.1.4 The Ledbury case is back in the news, this time due to attempts by the town council to recover their costs from a QC that they claim had acted negligently in advising them. The case had cost the town council over £200,000, as they defended the judicial review application, claiming that this was on the basis of the advice that they had been given.
- 2.1.5 There are also reports on two standards hearings, one following on from the leaking of emails, and one that was dependent on the issue of acting or not acting in an official capacity when using social media.
- 2.1.6 A search of local newspaper websites has thrown up a number of instances of councillors being suspended by their own parties, for all manner of things from being arrested on suspicion of 'upskirting' to calling a taxi driver a bully. Copies of these reports are at appendix A.

2.2 Recent published decisions

- 2.2.1 Some Local Authorities in England publish their decisions on member complaints, as do the Standards Boards in Wales, Scotland and Northern Ireland.

- 2.2.2 The Standards Commission for Scotland has published two recent decisions that may be of interest to the committee and the press releases from the commission are at Appendix B.
- 2.2.3 The Commissioner for Standards in Northern Ireland has published the outcomes of two hearings in the last 6 months. The reports have not been attached as appendices, as they are quite lengthy, but details are summarised below. If members are interested in reading the full decision notices, links have been provided.
- 2.2.4 In June 2019, the commissioner held that a former councillor had breached the code of conduct, determining that he had a pecuniary interest in a planning application that he failed to declare and spoke in support of. It is of note that the investigation and hearing continued, despite the councillor losing his seat at election. The sanction applied was censure. Members are reminded that this is not a sanction currently available to local authorities in England.
<https://nipso.org.uk/site/wp-content/uploads/2019/07/Decision-Notice-Mervyn-Rea-1.pdf>
- 2.2.5 In July 2019, an elected member was subject to a 15 month disqualification from office, following a conviction for leaving the scene of an accident and being OPL. His actions were found to have brought the council into disrepute. Again, members are reminded that such a disqualification is not a sanction currently available to local authorities in England. https://nipso.org.uk/site/wp-content/uploads/2019/07/Alderman-Derek-Hussey-Decision-Notice-ref-C00308_313-1-re-issued-17-July-2019.pdf
- 2.2.6 The Local Government Ombudsman for Wales publishes a 'Code of Conduct Casebook' periodically. The latest edition, published in May 2019 records that two matters were reported for investigation but that no breaches were found to have taken place.
- 2.2.7 In contrast to Scotland, Wales and Northern Ireland, there is as yet no requirement for decision notices to be published. As members of the committee will be aware, this is one of the proposals made by the CSPL in their report and one that has been voluntarily adopted by Kirklees.
- 2.2.8 However, there has never been any prohibition on the publication of decision notices and a number of English councils do publish their findings.
- 2.2.9 There is in general a dearth of interesting cases, but a number of recent examples have been attached at appendix B. These include one that was dismissed as being out of time, one that was a repeat breach for failing to comply with a previous standards decision and one relating to comments made by an elected member that were claimed to undermine the work of officers. There is also an older decision that

dates back to 2013, but may be of interest as it relates to the disclosure of legally privileged information.

2.3 Case Law

- 2.3.1 There does not appear to have been any recent decisions in the Courts on any matters directly relating to local authority standards.
- 2.3.2 However, one interesting decision resulted from a judicial review of Slough BC's decision to dissolve two parish councils. The decision was quashed, on the basis that the proper procedures had not been followed, these being set out in the Secretary of State's guidance.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

N/A

3.2 Economic Resilience (ER)

N/A

3.3 Improving Outcomes for Children

N/A

3.4 Reducing demand of services

N/A

3.5 Other (eg Legal/Financial or Human Resources)

The promotion and maintenance of high standards of conduct by councillors is an important part of maintaining public confidence in both the council and its members. Failure to do so could have significant reputational implications.

4. Consultees and their opinions

N/A

5. Next steps

- 5.1 The Monitoring Officer will continue to monitor any relevant news and cases and will report back to this committee.

6. Officer recommendations and reasons

6.1 It is recommended that the report is noted.

7. Cabinet portfolio holder's recommendations

N/A

8. Contact officer

David Stickley
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01484 221000
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9. Background Papers and History of Decisions

9.1 N/A

10. Service Director responsible

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Appendix A

Protester found guilty of preventing council meeting from going ahead: report

- June 19, 2019

A climate protester has been given a conditional discharge after disrupting a meeting of Norfolk County Council.

The [BBC has reported](#) that Richard Possnett was found guilty under the Public Meeting Act of 1908 of preventing the meeting from going ahead and was given a 12-month conditional discharge. His protest involved a local road project promoted by the council, which objectors argued would increase pollution from traffic.

Mr Possnett and others [disrupted the meeting for four hours](#) and he said on his crowdfunding page set up to raise money for his legal costs that “his only action was to sing protest songs”.

A Norfolk spokesperson said the council had nothing to add.

Complaints down but investigations and remedies up: LGO Annual Review

- July 31, 2019

Complaints to the Local Government and Social Care Ombudsman (LGO) fell by 4% to 16,899 in 2018/19, but cases brought forward for investigation rose by 5% and remedies issued jumped by 11% as complaints become more complex according to the Ombudsman’s Annual Review of Complaints.

The Ombudsman noted that there had been a 20% increase on the number of acceptable remedies offered by local authorities through their own complaints processes before matters were referred up to the LGO as more clear-cut cases were being dealt with at local level. This meant, the report said, that the nature of cases being investigated by the LGO were becoming more complex.

More than a third of complaints were about Children and Education Services, and Adult Social Care. Of particular concern, the LGO Michael King noted, was the rise in complaints about delays in Education, Health and Social Care Plans leading to children missing out on education they were entitled to.

There was a 5% rise in detailed investigations carried out (4234 compared with 4020) and, overall, the LGO upheld 58% of the cases it investigated, 1% more than the previous year. Complaints about benefits and tax were most likely to be upheld (69%), while planning and development related issues were least likely at 37%.

Of the 2456 complaints upheld, 1929 led to remedies being recommended to the authorities concerned – a rise of 11% on 2017-18.

This year the Ombudsman has published the council compliance rate with its recommendations for the first time. Local authorities are not legally obliged to implement Ombudsman recommendations, but of the 3,525 recommendations made to local authorities, 99.4% were complied with and no formal incidents of non-compliance were recorded. However, 8% of recommendations were implemented late and the Ombudsman was not happy with the council’s implementation in 1% of cases.

The LGO Michael King said: “I welcome the constructive way in which the large majority of authorities work with us to remedy injustices and to take steps to improve services for others. There were no formal incidents of non-compliance from authorities to our recommendations last year – a great sign of the sector’s openness and willingness to put things right quickly. Indeed, we have seen the number of cases where authorities have offered a suitable remedy during their local complaints process, before the complaint came to us, increase by a fifth on last year.

“The positive impact of the remedies we recommend often spreads beyond the individual that brought the complaint. This report highlights some of the landmark cases we have completed where our remedy and the positive response from the authority has resulted in significant improvements to local services.”

The Ombudsman has also launched a new interactive map which shows how individual local authorities are performing. The new map collates the annual letters the Ombudsman sends to each local authority, how often they have complied with Ombudsman recommendations, the improvements they have agreed to implement, and published decisions all in one place. The map can be viewed at <http://www.lgo.org.uk/your-councils-performance>.

A PDF copy of the report can be downloaded from

<https://www.lgo.org.uk/assets/attach/5655/LG%20Review%20-%20FINAL.pdf>

Council votes to defy Ombudsman's report

- June 11, 2019

Oadby and Wigston Borough Council has taken the unusual step of refusing to act on recommendations from the Local Government and Social Care Ombudsman.

An ombudsman's report last month criticised the way the council handled a homelessness case and recommended that housing staff be given further training.

But a council statement said councillors had voted to fully support their housing officers over the action they took.

As a result, Oadby and Wigston must now write to ombudsman Michael King explaining why it thinks the homeless referral was dealt with appropriately.

'Miss X', who had connections with Oadby and Wigston but lived in another council area, had applied for housing as she feared domestic violence where she was.

An ombudsman service statement said that despite her fears Oadby and Wigston did not take a homelessness application from her.

The ombudsman's investigation found fault with the way Oadby and Wigston dealt with the family, and said its reasoning for not taking a homelessness application was flawed.

Ombudsman Michael King said: "It is important for councils to be aware of their homelessness obligations and properly assess when they have a duty towards people. When vulnerable families are involved, it is particularly vital. It is not enough to pass the responsibility onto other councils simply because the person has applied to two separate councils for help.

"I have made some very simple, practical recommendations to help improve the council's services for other homeless people and I would urge the council to review my report and accept the improvements I have asked it to make."

He said Oadby and Wigston should pay the woman £500 for the injustice caused and provide training to its housing staff "to ensure they can identify when a homelessness application should be taken".

Bill Boulter, chair of Oadby and Wigston's service delivery committee said: "It is unfortunate that the council finds itself disagreeing with the local government ombudsman's interpretation of the legislation.

"At the point of first contact with Miss X the council were aware that a homeless application had been made to Authority A. Authority A had accepted the application and provided Miss X with temporary accommodation and was in the process of referring the application to this council.

"In the circumstances the council is of the view that it was not required to take a further application but it was required to consider the referral in accordance with the legislation and the ombudsman found that the council made its decision on the referral within the timescale given by law and that the council was entitled to reject the referral."

He said Oadby and Wigston subsequently exercised its discretion to accept a homeless application when a suitable property became available and it became clear that the temporary accommodation provided by Council A was unsuitable for Miss X and her family.

She though refused the temporary accommodation concerned as unsuitable, although the ombudsman subsequently found that it was suitable.

A report to an Oadby and Wigston meeting last week said: "Housing legislation contains provisions into how a homeless referral should be dealt with and places a continuing duty on the referring authority to provide temporary accommodation whilst the referral is determined.

"Councillors agreed that in the circumstances of the referral officers view that a further application was unnecessary was correct."

Jo Cox Foundation brought in to help find cross-party approach to tackling intimidation in public life

- May 21, 2019

The Jo Cox Foundation is to act as independent support in efforts to agree a cross-party approach to tackling intimidation in public life, the Committee on Standards in Public Life has said.

This follows the Committee's previous meetings with the parties to follow up the recommendations made in its 2017 [report on intimidation in public life](#).

Lord Evans, chair of the CSPL, said: "I am delighted that The Jo Cox Foundation has undertaken to act as independent support to help make further progress towards a common approach to tackle intimidation and abuse during election campaigns.

"It is important to democracy that individuals standing for public office or campaigning are able to do so without fear of intimidation. From our meetings with them, it's clear that the political parties have done a great deal of work internally to address intimidatory behaviour and improve their own processes to call out and address unacceptable behaviour where they can. Building on that, there is goodwill and commitment from the political parties at Westminster to make further joint progress."

Catherine Anderson, Chief Executive of The Jo Cox Foundation, said: "Jo's murder in 2016 is a constant reminder to us that the threat of violence and intimidation towards MPs, candidates or anybody else in public life can never be acceptable.

"We all value vigorous political debate and freedom of speech but that should not extend to abusive behaviour designed to intimidate and silence people. It threatens our democracy itself.

"From our regular discussions with all the parties we know that they recognise the importance of restoring civility and respect to our public discourse and we look forward to working with them and with the committee to find an agreement on how this can be achieved."

Earlier this month the Government confirmed it is to legislate to introduce a new electoral offence of intimidating a candidate or campaigner during the run up to an election, either in person or online. It will also legislate to clarify the electoral offence of undue influence of a voter.

Town council told there are insufficient grounds to recover £200k costs run up after unsuccessful defence of judicial review

- May 3, 2019

A town council has accepted the advice of a leading QC that there are insufficient grounds to make any claim with any likelihood of recovering costs after it was left more than £200,000 out of pocket when it unsuccessfully defended a judicial review claim brought by one of its councillors.

Ledbury Town Council had commissioned Richard Clayton QC of Ely Place Chambers to review the handling of the litigation.

The case arose out of sanctions imposed by the town council in 2016-17 on Cllr Elizabeth Harvey following a complaint by the clerk and deputy clerk.

Cllr Harvey was barred from sitting on committees or representing the council on outside bodies. These restrictions continued even after she was found by a Herefordshire Council-appointed external investigator, Jonathan Goolden of Wilkin Chapman, not to have been in breach of the code of conduct.

Cllr Harvey [challenged the restrictions successfully by judicial review](#), with a High Court judge ruling that the council was not able to sanction her other than going through the procedural safeguards of a code of conduct process.

Mrs Justice Cockerill also found that the conduct of the grievance process through which the restrictions were imposed was unfair.

A [report on Richard Clayton QC's advice](#) revealed amongst other things that:

- There were insufficient grounds to claim against the Herefordshire Association of Local Councils, which had advised at the start of Cllr Harvey's case. Even if Ledbury could establish that HALC had acted negligently, the council would not be entitled to compensation as a result. The fact that the council relied on the positive advice of its QC to defend the case meant that HALC could not be responsible for any of the council's subsequent financial losses. This was because the town council went on to take further advice from solicitors and barristers.
- The legal issues in the case were complex and that the mere fact that the view of QC instructed on Cllr Harvey's case – namely that it had a 75% chance of winning the case – was rejected by Mrs Justice Cockerill provided no basis whatsoever for alleging that the QC had acted negligently. The town council had originally been advised by a junior barrister that the High Court would quash the council's decision, but Ledbury decided its outside solicitors should seek advice from a QC with significant public law experience. The QC advised on several occasions that the council had not acted unlawfully in addressing the complaints against Cllr Harvey as an employment issue rather than under the statutory procedure prescribed by the Localism Act.

The report said the council was "satisfied that Mr Clayton rigorously considered all available options and have reluctantly accepted his advice that there is no realistic prospect of recovering any money back".

In an annual report given last Sunday (28 April), Ledbury chairman Cllr Nina Shields said: "I very much hope that the new council will draw a line under this. Otherwise it will be like a festering sore that will waste energy and continue to do damage. Our solicitor has advised that to spend any more money on this will raise issues about the council's duty of care."

Councillors criticised over attitude towards investigation into email leak

- April 17, 2019

Three Conservative councillors have been found to have brought Lancaster City Council into disrepute.

The three were judged by a standards hearing after a dispute last year in which information about a Labour councillor's affair with a staff member was leaked from the council's email system to the *Daily Mail*.

No suggestion was made that any of the trio leaked the information but the standards committee was dissatisfied with their attitude towards an investigation carried out for it into the matter. The investigation into the leak is expected to continue.

They were all found to have brought the council into disrepute. Peter Yates was additionally found to have misled officers and was removed from the standards committee.

Andrew Gardiner was also found to have intimidated and misled officers, and was censured by the council and John Wild to have bullied an officer. Both councillors were censured.

The report was originally intended for confidential debate by full council, but councillors resolved [to take it in public session](#).

In a separate standards hearing Cllr Gardiner was found to have during an Overton Parish meeting shouted at a member, gesticulated with his spectacles and acted “in such a manner as to cause alarm and distress to another member of the public”.

Chief executive hits out at anonymous letter that led to police investigation

- April 11, 2019

The chief executive of Flintshire County Council has written to all councillors to denounce an anonymous letter about his appointment 12 years ago.

Colin Everett said in a letter reported in local media, and confirmed as authentic by the council, that an anonymous letter circulated to councillors and others “includes false and defamatory material” and was “clearly motivated by malice”.

He said Flintshire had received previous correspondence with the same typeface and similar material but the person concerned had not identified themselves.

“For a letter-writer to moralise about councillors and officers whilst behaving in this way is hypocrisy,” Mr Everett said.

“We believe we know the identity of the letter-writer but do not have proof. If any member knows the identity of this person they should advise [monitoring officer] Gareth Owens and myself immediately.”

The content of the letter gave grounds for suspicion that a senior councillor aided the writer by disclosing confidential and privileged information, the chief executive said, warning that if the councillor could be identified “immediate action will be taken against them”.

Local press reports confirmed by the council suggest allegations have been made about the way in which Mr Everett was appointed as chief executive in 2007.

Without elaborating on its contents, Mr Everett said the letter’s circulation had “caused untold damage to those to whom it refers”.

Mr Everett said police had recently investigated the circumstances of his appointment and had “received a tape recording of an old conversation amongst councillors, held on council premises, about my appointment.

“The conversation, now in wider circulation, includes false information and it undermines my reputation and standing. The police investigated the issue thoroughly and are not taking any further action.”

He warned any repetition of false statements by any councillor “could lead to legal action against both the individual and the employer itself”.

Detective inspector Chris Bell, of North Wales Police, said: “We received a report of alleged misconduct in public office at Flintshire County Council.

“A number of individuals attended voluntary interviews under caution and following a thorough investigation it was concluded that there was not enough evidence to proceed. The investigation has closed and no further police action taken.”

Councillor who called for PM to be hanged for treason did not breach code of conduct: report

- April 3, 2019

A councillor convicted of making offensive Facebook posts about the Prime Minister did not breach the code of conduct, an investigation has found.

Wilkin Chapman Solicitors decided that Richard Alderman was not acting in an official capacity when he made the statements and so had not breached the code.

Mr Alderman, an Independent, was elected to Rutland County Council last July in a by-election in Oakham South West, where he tied with the Liberal Democrats and won by drawing lots.

A few days later the council received complaints about the content of his Facebook postings, which included a call for Theresa May to be hanged for treason.

Council leader Oliver Hemsley said at the time: "We wholly condemn the use of racist and bigoted behaviour. This is not acceptable in our communities or our council."

He said he believed Mr Alderman, who resigned as a councillor in February, had breached the code and referred the matter to the monitoring officer and police.

Mr Alderman was convicted last September of four offences under the Communications Act and sentenced to a six-month curfew between 7pm and 7am.

This had the effect of preventing him attending council meetings, so leaving him liable to disqualification for non-attendance.

Rutland refused in December to grant him a dispensation to avoid this.

A council statement in February noted Mr Alderman had resigned and said his former seat would be contested on 2 May.

The [report by Wilkin Chapman](#) explained: "What must be considered here is to gauge an objective view. That is, whether the actions of Councillor Alderman were such that a member of the public, knowing all the relevant facts, would reasonably think that his actions were so significant that it would impact on the council's ability to properly carry out its functions."

It said it was "evident from the complaints received by the council that Councillor Alderman's comments caused concern to a number of people.", but "we consider that a reasonable person would realise that Councillor Alderman's comments were his individual opinions and did not represent the views of the council".

UPDATED: Gloucester city councillor suspended from Conservative Party after being arrested on suspicion of 'upskirting' at TK Maxx

Officers were called to TK Maxx, in Northgate Street on Thursday June 27

Tory councillor suspended after he compares Labour MP to the Ku Klux Klan



David Harding

Contributor

Yahoo News UK 18 July 2019

A Conservative councillor has been suspended after comparing black Labour MP David Lammy to the **Ku Klux Klan**.

David Burgess-Joyce, a Wirral councillor, sparked shock and anger when he made the comments on Twitter.

Mr Lammy had been tweeting about racist comments made by US President Donald Trump, when he told female congresswomen to 'go back home'.

The Labour MP was complaining that Tory leadership hopefuls Boris Johnson and Jeremy Hunt had failed to condemn the words used by the President as racist.



Fife councillor suspended for calling taxi driver a bully loses legal battle



by **Craig Smith**

August 3 2019, 8.01am

A Fife councillor who was suspended for making inappropriate remarks to a taxi driver seeking to renew his licence has had an appeal against his sanction rejected.

David MacDiarmid, SNP member for the Howe of Fife and Tay Coast ward, was given a two-month ban from serving on the council's regulation and licensing committee after he was deemed to have contravened the councillors' Code of Conduct.

His comments were made after Police Scotland had outlined concerns about allegations of violence and controlling and abusive behaviour in relation to the taxi driver at a committee meeting in December 2015.

MacDiarmid told the applicant he did not "understand why two women would live with you never mind get married to you" and described him as a "bully".

The Standards Commission for Scotland found Mr MacDiarmid's remarks had amounted to a personal attack and were insulting, contrary to the Code of Conduct which states elected members must ensure they act fairly when taking decisions on such matters.

Labour councillor suspended in anti-Semitism investigation

🕒 25 July 2019



🔗 Share

A Labour councillor has been suspended from his local party group while allegations he wrote anti-Semitic posts on Facebook are investigated.

Manchester council leader Sir Richard Leese suspended Majid Dar after images of his posts were shared on Twitter.

Sir Richard said he believed the posts were "anti-Semitic and, in at least one case, grossly so".

Mr Dar said he was "apologetic", but explained his words criticised Israel and Zionism, not Jews.

Labour councillor 'suspended' after string of complaints from women

Wavertree councillor David Cummings had also been filmed calling a Labour colleague a 'pathetic little f****g b***h'.

SHARE



By [Jonathan Humphries](#) Senior Reporter & [Liam Thorp](#)
20:50, 13 JUL 2019 | UPDATED 20:51, 13 JUL 2019

A Labour councillor says he has been suspended by the party following a string of complaints from women.

Wavertree councillor David Cummings was [recently filmed calling party colleague and Member of the European Parliament, Theresa Griffin, a 'pathetic little f****g b***h'](#) over a pint in a pub.

ADVERTISEMENT

Cllr Cummings had [already received five formal complaints in a short period last year](#), from fellow Labour councillors, party members and members of the public - with accusations that his behaviour was "volatile and aggressive".

The ECHO understands all the complaints made against Cllr Cummings have come from women.

Today Cllr Cummings posted on Facebook: "I have just received a letter suspending me as a Labour councillor."

Hull councillor John Abbott suspended from Conservative Party as police investigate complaint

He continues to serve as a councillor

SHARE



By [Angus Young](#)
12:04, 25 JUL 2019 | UPDATED 12:20, 25 JUL 2019

NEWS

[City councillor John Abbott](#) has been suspended by the [Conservative Party](#).

The politician is understood to be the subject of a [police](#) investigation after a complaint was made against him by a member of the public.

As yet, no charges have been brought in relation to the complaint.

As well as being suspended by his party, he has also been suspended from the Conservative group at the [Guildhall](#).

However, he continues to be a [councillor representing the Bricknell ward](#) without any official party affiliation.

In a statement, a Conservative party spokesman said: "Mr Abbott has been suspended from the party."

Appendix B

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*25 June 2019 (*as amended on 26 July 2019 – see note below)*

MEDIA RELEASE

COUNCILLOR SUSPENDED FOR NOT REGISTERING AND DECLARING AN INTEREST

A Fife councillor, Linda Holt, was suspended by the Standards Commission at a public Hearing held in Glenrothes on 25 June 2019, from all committee and sub-committees of Fife Council that make decisions on quasi-judicial or regulatory matters, for two months, for failing to register an interest as a former member of a national campaign group, Scotland Against Spin (SAS) and for failing to declare the interest at a planning committee meeting on 30 May 2018, when an application for renewal of planning consent for a wind turbine was being considered.

Cllr Holt accepted that she should have registered her interest. After weighing up the evidence the Panel decided that she should also have declared the interest at the planning committee meeting on 30 May 2018 and not taken part in the discussion on the planning application. This is because even after resigning from SAS before being elected, Cllr Holt continued to express her public views about wind farms.

Mrs Tricia Stewart, Standards Commission Member and Chair of the Hearing Panel, said: "The need to register and declare certain interests is a very important part of the Councillors' Code of Conduct as it gives the public confidence that planning decisions are being made entirely on merit and are not influenced by any councillor's own interest in the matter.

"Registering and declaring interests provides transparency and helps maintain the public's confidence that a councillor's personal interests will not influence their discussions and decision-making. The public must have confidence that councillors are considering any planning application objectively, on its individual merits."

"The Panel considered that not only should Cllr Holt have registered her interest in SAS, she should also have declared it at the planning meeting and should have taken no part in the discussion and voting on the planning application in question".

The Panel heard that Cllr Holt accepted that she had been quoted in two BBC reports dated 5 October 2016 and 2 November 2016, respectively, as being a spokesperson for SAS. The Panel noted that while Cllr Holt's position was that she had resigned as spokesperson in October 2016, some six months before the election, she remained the Administrator for SAS's Facebook page and referred, on her website, to her involvement with the organisation as a lobbyist.

The Panel heard that Cllr Holt further accepted that, on 31 May 2017, a national newspaper had published a letter that she had submitted in which she had designated herself as a councillor and had indicated strong views about issues relating to wind farms.

The Panel was of the view that a member of the public would reasonably consider that Cllr Holt's involvement with such pressure group, along with her own publicly stated views on the alleged saturation of wind farms, could affect her discussion or decision-making on any matters concerning the use of wind turbines. Given Cllr Holt's ongoing involvement with SAS and the fact that the application in question concerned planning permission for a wind turbine, the Panel was not persuaded that her interest was too remote or insignificant to require a declaration. While the Panel noted that Cllr Holt may have believed that she was able to consider the application in question on its merits, it determined a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant as being likely to prejudice her discussion and decision-making.

The Panel concluded that Cllr Holt had breached the Councillors' Code of Conduct.

A full written decision of the Hearing will be issued and published on the Standards Commission's website within 14 days.

All councillors have a personal responsibility to adhere to the provisions outlined in the Councillors' Code of Conduct, which is based on nine key principles, including, integrity, honesty and respect.

The Standards Commission for Scotland is an independent public body, responsible for encouraging high standards of behaviour by councillors and those appointed to boards of devolved public bodies.

The public bodies include colleges, National Health Service boards and regional bodies, such as the Highlands and Islands Enterprise.

It also covers national organisations like the Scottish Qualification Authority, Sport Scotland and Scottish Water, among many others.

Further information on the role of the Standards Commission for Scotland can be found at <http://www.standardscommissionscotland.org.uk/>

** Note: This press release was amended on 26 July 2019 to make it clear that Cllr Holt's two-month suspension was a partial one in that it only related to all committee and sub-committees of Fife Council that make decisions on quasi-judicial or regulatory matters.*

ENDS

Issued by the Standards Commission for Scotland. For further information please contact the Standards Commission on 0131 348 6666 or enquiries@standardscommission.org.uk



11 July 2019

MEDIA RELEASE

MIDLOTHIAN COUNCILLOR CENSURED FOR BREACH OF THE COUNCILLORS' CODE OF CONDUCT

A Midlothian councillor, Colin Cassidy, was censured by the Standards Commission at a public Hearing held in Dalkeith on 10 July 2019 for failing to comply with the Councillors' Code of Conduct at a meeting of Midlothian Council's Planning Committee on 3 April 2018 when a planning application by Dalkeith Lawn Tennis Club for the erection of screen netting was being considered. Objections to the application had been made by the owners of an adjacent house on the grounds that the netting would reduce the light to their property.

Cllr Cassidy remained in the room and took part in the decision-making on the proposal, despite in the past having been a member of the tennis club and on its Committee; having undertaken work for the club in terms of renewing the fencing; having lent equipment to the club; still having friend who were members of it; and having been to the objectors' property to move blaise material at the request of the club. The Panel also heard that Cllr Cassidy had previously put up and taken down the netting between the club and the objectors' property, and had also got to know the objectors while undertaking the work to move the blaise and also through joint membership of various community groups.

Prof Kevin Dunion, Chair of the Hearing Panel, said: "It is essential for the public to have confidence that councillors are making planning decisions objectively and in the public interest. The public must have confidence that councillors are not likely to be influenced by any significant association or relationship they may have with the parties.

"The test is not whether the Councillor believes he will not be influenced by such relationships. The key consideration is one of public perception, and in this case whether a member of the public, with knowledge of the relevant facts, would reasonably conclude that Cllr Cassidy's relationship both with the Tennis Club and the objectors could be sufficiently significant as to affect his discussion or decision-making of the planning application.

"The requirement to consider how any interests may reasonably be perceived by members of the public is a fundamental part of the Councillors' Code of Conduct.

"The public must be satisfied that councillors are considering any planning application on its individual merits, and that there is no question of any unfairness or bias towards any party."

The Panel noted the Code provides that councillors must declare any non-financial interests and are obliged to withdraw from the meeting in question if an interest in any item being debated was clear and substantial. In making such an assessment, councillors must comply with the 'objective test' and consider whether a member of the public, with knowledge of the relevant facts, would reasonably conclude that the councillor's interest could be sufficiently significant as to affect his or her discussion or decision-making.

The Panel accepted that Dalkeith was a small community, which meant that it was inevitable that Cllr Cassidy would know people and attend the same events. The Panel considered, however, that having taken Cllr Cassidy's relationship with both the tennis club and the objectors into account, that a member of the public, with knowledge of these relevant facts could reasonably have concluded that he had an interest in the matter before the Planning Committee that was sufficiently significant as being likely to affect his discussion or decision-making.

The Panel was not satisfied, therefore, that Cllr Cassidy had complied with the objective test under paragraph 5.3 of the Code and that he had given it sufficient consideration. It concluded that Cllr Cassidy's failure to do so amounted to a breach of the Code and censured him.

The full written decisions in respect of the Hearing will be issued and published on the Standards Commission's website within 14 days.

The Code of Conduct is based around nine key principles, including, integrity, honesty and respect.

The Standards Commission for Scotland is an independent public body, responsible for encouraging high standards of behaviour by councillors and those appointed to boards of devolved public bodies.

The public bodies include colleges, National Health Service boards and regional bodies, such as the Highlands and Islands Enterprise.

It also covers national organisations like the Scottish Qualification Authority, Sport Scotland and Scottish Water, among many others.

Further information on the role of the Standards Commission for Scotland can be found at <http://www.standardscommissionscotland.org.uk/>

ENDS

Issued by the Standards Commission for Scotland. For further information please contact the Standards Commission on 0131 348 6666 or enquiries@standardscommission.org.uk

886. Screening of Complaint CCC/2019/001

- [View the reasons why item 886. is restricted](#)

The Committee is requested to consider a complaint relating to Councillor conduct.

Minutes:

Discussion:

The Monitoring Officer introduced a report which detailed two complaints received on 6 and 21 February 2019 relating to a Medway Councillor. The Committee considered the complaint as detailed in section 2 of the report, along with the full complaint submissions, which were appended to the report.

Decision:

The Committee agreed to take no further action in relation to complaint CCC/2019/001, as having completed the Screening Process, the Committee determined that the complaint related to activity that occurred more than six months ago and it considered there to be no exceptional circumstances to justify further consideration of the complaint.



ASSESSMENT DECISION NOTICE

A BREACH OF THE CODE HAS BEEN FOUND

ACTION REQUIRED

Reference: CCN001/19/20

Complainant: Mr and Mrs Poland

Subject Member: Cllr John Hicks, St. Allen Parish Council

Person conducting the Assessment: Eleanor Garraway, Corporate Governance Officer

Date of Assessment: 4 July 2019

Complaint

On 4 July 2019 the Monitoring Officer considered a complaint from Mr and Mrs Poland concerning the alleged conduct of Cllr John Hicks of St. Allen Parish Council. A general summary of the complaint is set out below:

The Complainants have alleged since the Decision Notice of CCN039/18/19 dated 28 May 2019 was issued, which found the Subject Member to be in breach of the Code of Conduct and asked to apologise to the Complainant one, the Subject Member has failed to apologise and therefore has again failed to treat the Complainant with respect.

Decision and Action

Due to the failure to provide Complainant one with a written apology within 28 days of Decision Notice CCN039/18/19 the Subject Member has breached the Code of Conduct for St. Allen Parish Council.

As a result of this breach of the Code of Conduct the recommended action is that the Subject Member be censured by St. Allen Parish Council.

Breaches of the Code Found

- 2.1 You must treat others with respect
- 2.10 You must not do anything that could reasonably be regarded as bringing your office or your authority into disrepute
- 2.5 You must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by Members.

Reasons

In assessing this complaint I have had regard to the following:

- The complaint; and
- The views of the Independent Person assigned to this matter.

No response has been received to the complaint from the Subject Member, though the Subject Members response to Decision Notice CCN039/18/19 has been noted and the further request for a review of this decision was rejected.

For the purpose of this Notice I will be distinguishing the two Complainants as Complainant One and Complainant Two.

The Complainants have alleged the following;

The Complainants have alleged since the Decision Notice CCN039/18/19 was issued, which found the Subject Member to be in breach of the Code and asked him to apologise to Complainant one, the Subject Member has failed to do so or make contact in way.

It is further alleged that the Complainants have spoken to the Clerk to St. Allen Parish Council who advises that the Subject Member has failed to attend Code of Conduct training as recommended in Decision Notice CCN039/18/19. This aspect of the original Decision Notice has not been considered in carrying out this current assessment as when the original Decision was written, the Subject Member was given a period of 6 months to comply with this recommended action, it is noted that this 6 month period has not yet lapsed.

This Decision Notice should be read in conjunction with Decision Notice CCN039/18/19 which set out that the Subject Member's actions which equated to the Subject Member having breached the following paragraphs of the Code of Conduct;

3.5 Failure to declare an interest

2.1 You must treat others with respect

2.4 You must not intimidate or attempt to intimidate others

2.10 You must not do anything that could reasonably be regarded as bringing your office or your authority into disrepute

Para 2.5 You must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by Members.

The sanctions applied in Decision Notice CCN0039/18/19 are as follows:

The Subject Member should apologise in writing within 28 days of this Notice to the both Complainants for the way in which he approached Complainant One during and after the Parish Council meeting on 17 December 2018.

It is further recommended that the Subject Member attend Code of Conduct training within 6 months from the date of the Notice for the failure to declare a non-registerable interest and should take not part in any discussions relating to this footpath in the future.

In considering the application of the Code;

2.1 You must treat others with respect

For a breach of this part of the Code to be found it has to be shown that there has been a personal attack on a person by a member, or whilst the Code does allow a member to be critical of people, a member cannot conduct themselves in such a way that is personal and/or disrespectful.

When considering if there has been a breach of this, or any part of the Code, the matter is assessed on the balance of probabilities; is it more likely than not that a reasonable person would be of the opinion that the conduct of the Subject Member was such that it was a breach of the Code after viewing the facts objectively.

In undertaking the original assessment it was considered that the above points had been satisfied sufficiently for a breach of the Code to be found. As a result the Subject Member was asked to apologise for the manner and tone which he spoke to Complainants one.

There was, due to the conduct of the Subject Member, an expectation on the part of Complainant one that an apology would be given, however, with no apology given the Complainant has then limited ways to directly seek redress against the Subject Member, other than to submit a further complaint.

After reviewing the facts it is not considered that the request for an apology was a unreasonable one and that the action set out in CCN005/17/18 was appropriate.

The Complainants have advised that no apology or any contact in any way has been forthcoming since the original Decision notice which was dated 26 February 2019.

Therefore by failing to apologise to Complainant One as required in Decision Notice CCN039/18/19 the Subject Member has failed to treat the Complainant with respect and therefore has breached paragraph 2.1 of the Code of Conduct for Cornwall Council.

2.10 - You must not do anything that could reasonably be regarded as bringing your office or your authority into disrepute

For this part of the Code to be breached a reasonable person in possession of all the facts would need to be satisfied that the Subject Member's standing in the local community would be damaged by his actions.

By failing to apologise to Complainant One it is considered that a reasonable person would be of the view that this would add weight to Subject Member's standing in the local community being damaged.

As a result it is considered that the Subject Member has brought his office, but not his authority into disrepute by failing to apologise to Complainant one and therefore has breached paragraph 2.10 of the Code of Conduct.

Para 2.5 - You must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by Members

For the reasons set out above I consider the Subject Member to have failed to adhere to the general principles of public life underpinning the Code. As a consequence of that and having found a breach of paragraphs 2.1 and 2.10 of the Code it follows that the Subject Member has conducted herself in a manner contrary to the Council's statutory duty to promote and maintain high standards of conduct by members and the Subject Member has therefore breached paragraph 2.5 of the Code of Conduct.

Actions to remedy the breach

Whilst the Subject Member has not responded directly to this complaint I have noted his earlier views on the matter but do not consider that this would outweigh the request for an apology.

I have also noted the views of the Independent Person assigned to this matter with regards to the Subject Members conduct.

In taking into account all of the above it is considered that, due to the failure to provide Complainant one with an apology within 28 days of Decision Notice CCN039/18/19, the Subject Member has breached the Code of Conduct for St. Allen Parish Council as is set out in this Notice.

As a result of this breach of the Code of Conduct the recommended action is that the Subject Member be censured by St. Allen Parish Council.

What happens now?

This decision notice is sent to the Complainants, the member against whom the allegation has been made and the Clerk to St. Allen Parish Council.

Right of review

At the written request of the Subject Member, the Monitoring Officer can review and is able to change a decision not to refer an allegation for investigation or other action. A different Officer to that involved in the original decision will undertake the review.

We must receive a written request from the subject member to review this decision within 15 days from the date of this notice, explaining in detail on what grounds the decision should be reviewed.

If we receive a request for a review, we will write to all the parties mentioned above, notifying them of the request to review the decision.

It should be noted reviews will not be conducted by the same person who did the initial assessment.

Additional help

If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010.

We can also help if English is not your first language.



Eleanor Garraway
Corporate Governance Officer
On behalf of the Monitoring Officer
Date: 4 July 2019

INITIAL ASSESSMENT OF COMPLAINT DECISION NOTICE

Subject Member: Cllr Lucy Nethsingha – Cambridgeshire County Council

1. Background

- 1.1. On 16th December 2018 the Monitoring Officer received a formal complaint from Councillor Count ("the Complainant"), alleging that Cllr Nethsingha ("the Subject Member") had breached the Cambridgeshire County Council Code of Conduct.
- 1.2. The substance of the complaint relates to an online article published by Cambridgeshire Live on 9th November 2018 and subsequently then discussed on Radio Cambridgeshire. In particular it is alleged that Councillor Nethsingha had used the following words "not safe", 'not a safe or sensible solution' and 'horrendous' without basis and in direct opposition to the information supplied by officer. It is alleged that by so doing Cllr Nethsingha had implicitly implied that the Council had put a person at risk and that that conditions arranged for the person in question were below an acceptable standard which is denied.

2. Evidence Considered

- 2.1. The following documents and information were considered for the purposes of this initial assessment of this complaint:-
 - 2.1.1. Complaint sent by email on 5th February 2019 together with the links referred to therein;
 - 2.1.2. Responses from the Subject Member sent by email on 5th to 7th February 2019; and
 - 2.1.3. The Council's Members' Code of Conduct.

3. Jurisdiction

- 3.1. For a complaint to be considered in connection with the Member's Code of Conduct, the following test must be satisfied:
 - 3.1.1. the complaint was made against a person who, at the time the alleged action took place, was a member of Cambridgeshire County Council; and
 - 3.1.2. the Subject Member had signed up to the Members' Code of Conduct in force at the time the alleged action took place; and
 - 3.1.3. the Subject Member was conducting the business of their authority or acting, claiming to act or giving the impression of acting as a representative of the authority.

- 3.2. The Independent Person and Deputy Monitoring Officer have concluded all three limbs of this test are satisfied in this matter.

4. Initial Assessment Decision

- 4.1. The Independent Person has considered whether the actions of the Subject Member described in paragraph 1.2 above constitutes a breach of the following provisions of the Members' Code of Conduct:

- 4.1.1. You must treat others with respect (para 2.1 Code of Conduct);
- 4.1.2. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute (para 2.2(e) Code of Conduct.

- 4.2. The complaint and subject member's response can be summarised as follows:

- 4.2.1. Councillor Count alleges that Councillor Nethsingha has failed to treat officers with respect by disregarding the information that was shared with her relating to the circumstances of the individual concerned. In particular it is said that whilst assurances were given that the individual was safe and receiving 24 hour care Councillor Nethsingha's comments to the media were not reflective of that and were sufficiently sensationalised as to cause reputational damage to the council.
- 4.2.2. Councillor Nethsingha contends that she does not believe that the circumstances the individual was in prior to her being removed was safe as supported by the fact that she was relocated to the Travelodge. Furthermore she does not consider that a Travelodge is suitable accommodation for an individual suffering from advanced dementia. Councillor Nethsingha has explained that her use of the term 'horrendous' was intended to apply to the situation and not the hotel itself. Furthermore it remains her view that for a care-worker to be looking after an active individual with dementia in a hotel would be pretty awful and has great concern for anyone put in that situation. Councillor Nethsingha has confirmed that she did not intend to blame individual council employees for the circumstances and she acknowledges being aware that there were difficulties in managing this case. Her concern however was that the system is not sufficiently well resources and the financial pressures and staff workload pressures in her view are leading to poor decision making in some cases. To that end Councillor Nethsingha believes the financing of the social care system, and the workload of social work staff to be a matter for legitimate political debate, and thus entirely within her role as Leader of the Liberal Democrat group.

- 4.2.3. Councillor Nethsingha has also sought to clarify aspects of the complaint as follows:
- 4.2.3.1. "Councillor Count's assertion: "Not safe" Cllr. Nethsingha has implicitly implied we have put a person at risk. I said "I am concerned that the county council is pretending that it can manage this shortage by caring for people in their homes, when in fact that is not a safe or sensible solution" — that is a general point, and by definition not even related to the situation of the lady in the Travelodge.
- 4.2.3.2. Councillor Count asserts: "Not safe or sensible solution" Cllr. Nethsingha has implicitly implied our actions allow us to continue to put individuals at risk. As above, and entirely legitimate matter for political debate.
- 4.2.3.3. Councillor Count asserts: "Horrendous" Cllr. Nethsingha has implicitly implied that the conditions we arranged for this person to temporarily live in were far below what would be an acceptable standard. I said "I don't know how long she was in a Travelodge with her carer, but the idea of having to care for someone in this state in a Travelodge, even for a few days, is pretty horrendous". That's a comment about how difficult it would be for the carer to have to care for someone with this condition in a hotel."
- 4.2.4. Councillor Nethsingha has declined to apologise or retract her statement.
- 4.3. The Independent Person and Deputy Monitoring Officer, having considered all of the available evidence, have concluded as follows:
- 4.3.1. As to the question of whether Councillor Nethsingha has failed to treat others with respect; it was felt that the comments made were not designed with the deliberate intent to be disrespectful. It is however acknowledged that the views of officers who had provided reassurances were disregarded for the purpose of the article which could be construed as undermining the integrity of their views. This is balanced again the fact that no individuals were personally named and, as per Councillor Nethsingha's response, many of the comments were intended to be considered in the 'broader' sense as opposed to specifically in relation to this particular case. Nevertheless it is acknowledged that officers may have felt devalued by the comments made and whilst this is unlikely to have been the intended consequence is something which must be considered in future.

4.3.2. As to the question of whether Councillor Nethsingha has behaved in a way that could reasonably be regarded as bringing herself or the authority into disrepute; it is acknowledged that the comments made were of a critical nature and had the effect of highlighting concerns generally and in relation to the particular individual associated with the article. Councillor Nethsingha however contends that her comments did not go beyond those which she is reasonably entitled to make in a political arena and as the Leader of the Liberal Democrats. Whilst this is acknowledged, the words published have again to be considered in conjunction with the advice that was given by officers.

4.4. In summary the Independent Person's view is that:

4.4.1. In respect of the allegation of Cllr Nethsingha having failed to treat others with respect, whilst it is clear that there are lessons to be learnt it is not considered that this reaches the threshold for further investigation.

4.4.2. In respect of the allegation that Cllr Nethsingha is guilty of bringing herself/Cambridgeshire County Council into disrepute, whilst in the overall context it is considered that the remarks don't go far enough to amount to a breach of the code, there is a very fine line to be drawn and care should always be taken to ensure the accuracy of the information published.

4.5. As a consequence of the above, the Independent Person advised that in her opinion there was no apparent breach of the Code of Conduct and therefore no further action should be taken.

4.6. The Deputy Monitoring Officer concurs and therefore no further action will be taken.

Approved By: Gill Holmes (Independent Person)
Amy Brown (Deputy Monitoring Officer)

Dated: 26th March 2019

STOCKTON ON TEES BOROUGH COUNCIL

STANDARDS PANEL

SHORT WRITTEN DECISION

1. SUMMARY OF ALLEGATION

That Councillor Mark Chatburn ("the Councillor") disclosed legally privileged information, namely Counsel's Opinion, given in confidence to Members of Stockton on Tees Borough Council's ("the Council") Planning Committee in connection with an application for planning permission for residential development (13/2184/OUT) in relation to a site at Urlay Nook Road, Eaglescliffe, Stockton on Tees.

2. RELEVANT SECTION OR SECTIONS OF CODE OF CONDUCT

That as a result there was a breach of paragraph 6 of the Council's Code of Conduct for Members.

3. SUMMARY FINDINGS OF FACT

- (i) The Councillor was sent a legally privileged advice note prepared by Counsel and this was provided to him in confidence under cover of a letter dated 5 November 2013. The letter included specific advice that the legal advice was exempt information and "must not be shared with anyone who is not also a Member of the Planning Committee as this would be a breach of the Members' Code of Conduct and may further prejudice the Council's position at the forthcoming appeal".
- (ii) The Councillor did not seek advice from any Council Officer as to whether the publication of the privileged legal advice was appropriate, whether it may be in breach of the Code or whether it may prejudice the Council's position in relation to the current planning appeal.
- (iii) The Councillor did not obtain written authority from the Council to disclose the information by the publishing of the privileged legal advice.
- (iv) On 9 November 2013 the Councillor published a blog posting entitled "How Stockton Council is trying to manipulate it's own Planning Committee" which included an un-redacted copy of the privileged legal advice from Counsel which had been provided to the Councillor in confidence as a Member of the Planning Committee.

- (v) On 9 November 2013 the Councillor posted a link to his published blog post and therefore to the privileged legal advice via his Twitter account.
- (vi) The Councillor was acting in his capacity as an elected Member when publishing information on his blog and his Twitter account.

4. SUMMARY FINDINGS AS TO WHETHER THE MEMBER FAILED TO FOLLOW THE CODE

That the Councillor knowingly disclosed privileged legal advice provided to him in confidence, and which was marked as exempt information, and that the publishing of this information constituted a breach of paragraph 6 of the Council's Code of Conduct for Members.

5. SANCTIONS APPLIED (IF ANY)

The Standards Panel:-

- (i) agreed that the allegation should be considered in public and that there were no justifiable reasons why it should be considered (either partly or wholly) in private.
- (ii) noted that the Councillor was aware of the Panel's meeting, that the meeting had been rearranged to a date he could attend, but that he had not attended.
- (iii) agreed to proceed to consider the allegation in the Councillor's absence.
- (iv) having considered the report of the Investigating Officer, the Investigating Officer's submissions, and having sought and considered the Independent Person's views, determined that the Councillor knowingly disclosed legally privileged advice that had been provided to him in confidence, and which was marked as exempt information under paragraph 5 of Schedule 12A of the Local Government Act 1972; that the publishing of this information in the public domain by placing a copy of the privileged legal advice on the Councillor's blog, and by linking that blog to the Councillor's Twitter account, did not fall within any of the exemptions specified in paragraph 6(a)-(d) of the Council's Code of Conduct for Members, and that it therefore constituted a breach of paragraph 6 of the Code.
- (v) noted the Councillor's unwillingness or refusal to accept responsibility for the breach of the Code, and his unwillingness or refusal to agreed to abide by the Code in the future, in similar or the same circumstances.

- (vi) noted that the breach of the Code was deliberate and blatant and that the disclosure was of not just confidential or exempt information, but legally privileged information; and that the breach was aggravated by its likely impact in relation to the planning and appeal process.
- (vii) noted that the Councillor had shown no remorse, but rather to the contrary had indicated that he would do it again without hesitation, and that he had demonstrated scant regard for the pre-hearing and hearing process.
- (viii) considered that the Councillor's actions represented unacceptable behaviour for a Councillor.
- (ix) agreed that a notice, signed by the Chair of the Panel, and summarising the Panel's decision should be sent to the Councillor as soon as reasonably practicable and that a copy of the notice should thereafter be published in a prominent place at the Council's Municipal Buildings, and on the Council's website.
- (x) agreed that details of the Panel's decision should be reported to a full Council meeting and to a meeting of the Planning Committee.
- (xi) determined that the Councillor should be asked to provide written reassurance within two weeks of receiving the written notice of the Panel's decision, that he would not repeat the failure to comply with the Council's Code of Conduct in the same or similar circumstances, and that in the absence of such written reassurance the Councillor should not be provided by, or on behalf of the Council with any exempt, confidential, or legally privileged council information for the remainder of the Councillor's current term of office.
- (xii) agreed that the Councillor should be provided with appropriate advice and guidance regarding paragraph 6 of the Code of Conduct, including a copy of the Council's Confidential Information Protocol.
- (xiii) asked that the Council's Confidential Information Protocol be re-issued and re-circulated to all Members in light of the Councillor's breach of the Code of Conduct and the Panel's decision in that respect.



Chair of the Standards Panel held on 2nd May 2014

Dated: 7 May 2014

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