

# Public Document Pack



**Service Director – Legal, Governance and  
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Tuesday 12 March 2024

## Notice of Meeting

Dear Member

### Standards Committee

The **Standards Committee** will meet in the **Meeting Room 1 - Town Hall, Huddersfield** at **1.30 pm** on **Wednesday 20 March 2024**.

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", on a light-colored background.

**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.

## **Standards Committee Members are:-**

### **Member**

Councillor Harry McCarthy (Chair)

Councillor Itrat Ali

Councillor Martyn Bolt

Councillor James Homewood

Councillor Manisha Roma Kaushik

Councillor Alison Munro

Councillor Mohan Sokhal

# Agenda

## Reports or Explanatory Notes Attached

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**Pages**

**1: Membership of the Committee**

To receive any apologies for absence.

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**2: Minutes of Previous Meeting**

1 - 4

To approve the Minutes of the Meeting of the Committee held on 23 October 2023.

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**3: Declaration of Interests**

5 - 6

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

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**4: Admission of the Public**

Committee Members will be asked to advise if there are any items on the Agenda in which they have a disclosable pecuniary interest, or any other interests, which may prevent them from participating in the discussion or vote on any of the items.

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**5: Deputation/Petitions**

The Committee will receive any petitions and/or 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 submit a petition at the meeting relating to a matter on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10, Members of the Public must submit a deputation in writing, at least three clear working days in advance of the meeting and shall subsequently be

notified if the deputation shall be heard. A maximum of four deputations shall be heard at any one meeting.

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**6: Public Question Time**

To receive any public questions.

In accordance with Council Procedure Rule 11, the period for the asking and answering of public questions shall not exceed 15 minutes.

Any questions must be submitted in writing at least three clear working days in advance of the meeting.

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**7: Code of Complaints Update**

7 - 20

To receive an update on complaints received under the Code of Conduct pursuant to the previous update in October 2023.

Contact: David Stickley, Legal Services

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**8: Cases and News Update**

21 - 54

To receive news and cases of interest since the last Standards Committee meeting in October 2023.

Contact: David Stickley, Legal Services

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Contact Officer: Leigh Webb

**KIRKLEES COUNCIL**  
**STANDARDS COMMITTEE**

**Monday 23rd October 2023**

Present: Councillor Harry McCarthy (Chair)  
Councillor Itrat Ali  
Councillor Mohan Sokhal  
Councillor Jo Lawson  
Councillor Alison Munro

In attendance: Julie Muscroft, Service Director, Legal, Governance and  
Commissioning  
David Stickley – Senior Legal Officer  
Michael Stow – Independent Person

Apologies: Councillor James Homewood

**1 Membership of the Committee**

Apologies were received from Councillor James Homewood.

**2 Minutes of Previous Meeting**

**RESOLVED:** That the minutes of the meetings held on 23 March 2023 and 24 May 2023 be agreed as a correct record.

**3 Interests**

There were no declarations of interest.

**4 Admission of the Public**

It was agreed that all agenda items would be held in public session.

**5 Deputation/Petitions**

No deputations or petitions were received.

**6 Code of Conduct complaints update**

The Committee received a report which provided an update on complaints that had been received since the previous meeting of the Committee on the 23 March 2023. The Committee was informed that the report looked at complaints received from 1<sup>st</sup> March 2023 to end of August 2023 and gave a breakdown. The report advised that since 1<sup>st</sup> March 2023 the Monitoring Officer had received 24 complaints relating to alleged breaches of the Code of Conduct. 16 of the complaints related to Kirklees Councillors (a total of 17 Councillors) whilst the remaining 8 related to Town or Parish councillors (4 named Councillors). It was reported that of these 24, 8 were

not progressed after the initial assessment process, with 4 complaints (both multiple complaints) found to be breaches of the Code of Conduct. The remaining 12 complaints are currently being investigated, being considered under the initial assessment process.

With regard to the 8 complaints that were carried forward from the previous report as ongoing, it was reported that 3 had been dismissed at the initial stage, 2 were not pursued by the complainants, 2 were finalised informally and 1 remained unresolved and carried forward.

The report set out details of the nature of the complaints and provided a comparison with the previous report submitted to this Committee. Comparison between the two reports showed that the overall number of complaints has risen by 17. In percentage terms, this was a 340% rise in the number of member complaints from the last reporting period. It was explained that if the comparison was extended to earlier periods, it can be seen that there was a general downward trend to the number of complaints being made, from a high of 32 complaints about Kirklees members in 2020 (the exceptional number of complaints about one member of a Parish Council having been discounted). The number of Councillors complained about had also risen, to 21, from the previous period's total of 6.

The report set out a simple summary table informing members of standards decisions that had been published on the Kirklees website. In line with the decision of this Committee, the published decisions only relate to complaints that have been upheld. Members were asked to consider whether any complaints that do result in a finding of a breach but which are resolved informally, should also be recorded on the Kirklees website.

During consideration of the complaints update, Members of the Committee suggested that the number of complaints could be shared anonymously across political Groups through Group Business Managers.

**RESOLVED:**

- (i) That the report be considered and noted,
- (ii) That complaints that do result in a finding of a breach, but which are resolved informally, should not be recorded on the Kirklees website.

**7 Cases and News Update**

The Committee received a report which provided an update on matters arising in terms of local government ethics, including relevant case law and decisions of other local authorities or any existing standards boards.

The report also provided an update on the work of the Committee on Standards in Public Life that followed on from the report on 'Ethical Standards in Local Government.

The report also made reference to a recent LGA survey regarding virtual and hybrid meetings. During discussion of this issue, Committee Members noted the value of in

## **Standards Committee - 23 March 2023**

person meetings but acknowledged the flexibility that technology provided in respect of hybrid meetings.

**RESOLVED:** That the report be received and noted.

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<b>KIRKLEES COUNCIL</b>			
<b>COUNCIL/CABINET/COMMITTEE MEETINGS ETC</b>			
<b>DECLARATION OF INTERESTS</b>			
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.



**REPORT TITLE: Code of Conduct complaints update**

<b>Meeting:</b>	<b>Standards Committee</b>
<b>Date:</b>	<b>20<sup>th</sup> March 2024</b>
<b>Cabinet Member (if applicable)</b>	<b>N/A</b>
<b>Key Decision Eligible for Call In</b>	<b>No No – not a decision-making report</b>
<p><b>Purpose of Report</b></p> <p>To brief the standards committee on Councillor complaints under the Code of Conduct since the last Standards Committee meeting in October 2023.</p>	
<p><b>Recommendations</b></p> <ul style="list-style-type: none"> <li>• That the report be noted by members</li> </ul> <p><b>Reasons for Recommendations</b></p> <ul style="list-style-type: none"> <li>• The report is for information only</li> </ul>	
<p><b>Resource Implications:</b></p> <p>None</p>	
<p><b>Date signed off by <u>Strategic Director</u> &amp; name</b></p> <p><b>Is it also signed off by the Service Director for Finance?</b></p> <p><b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b></p>	<p><b>Rachel Spencer-Henshall – 1<sup>st</sup> March 2024</b></p> <p><b>Isobel Brittan – 1<sup>st</sup> March 2024</b></p> <p><b>Julie Muscroft – 1<sup>st</sup> March 2024</b></p>

**Electoral wards affected: All**

**Ward councillors consulted: None**

**Public or private: Public**

**Has GDPR been considered? Yes**

## **1. Executive Summary**

- 1.1 This report follows on from the similar report that was before the Standards Committee on the 23<sup>rd</sup> of October 2023.
- 1.2 This report will look at the number of complaints received from the 1st of September 2023 to the end of February 2024, 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.

## **2. Information required to take a decision**

### **2.1 Complaints Summary**

- 2.1.1 Since the 1<sup>st</sup> of September 2023 the Monitoring Officer has received 24 complaints relating to alleged breaches of the Code of Conduct.
- 2.1.2 19 relate to Kirklees Councillors (a total of 17 Councillors) whilst the remaining 5 relate to Town or Parish councillors (5 named Councillors).
- 2.1.3 Of these 24, 9 were not progressed after the initial assessment process. 5 were resolved informally, and no complaints were found to be breaches of the Code of Conduct. The remaining 10 complaints are currently being investigated, being considered under the initial assessment process.

### **2.2 Update on previous complaints**

- 2.2.1 Of the 12 complaints that were carried forward from the previous report as ongoing, 5 were dismissed at the initial stage, 1 was not pursued by

the complainant, 5 were finalised informally and 1 remains unresolved and carried forward.

2.2.1 11 complaints have been carried forward in this reporting period.

### 2.3 Previous Report and comparison with the present report

2.3.1 The previous report, for the period the 1<sup>st</sup> of March 2023 to the end of August 2023, contained a total of 24 new complaints that related to 17 named Kirklees members and 4 Town or Parish Councillors. This compares with the current period under review, where there is a total of 24 complaints, with 19 complaints relating to 17 Kirklees Councillors and 5 complaints relating to 5 Town or Parish Councillors.

2.3.2 The nature of the complaints in the present report concern the behaviour of members towards members of the public / fellow members (14 complaints relating to 11 members), behaviour at meetings (3 complaints relating to 5 members), social media behaviour (2 complaints relating to 2 members), the planning process (1 complaints relating to 1 member) and press statements (1 complaint about 1 member).

The sources of the complaints are that 19 were received from members of the public, 5 received from members (2 Kirklees members, 3 Town or Parish Council members) and 0 from officers.

2.3.3 Comparing this to the previous report, complaints then concerned the behaviour of members towards members of the public / fellow members (11 complaints relating to 9 members), behaviour at meetings (2 complaints relating to 2 members), social media behaviour (4 complaints relating to 2 members), the planning process (5 complaints relating to 4 members) and pre-election behaviour (1 complaint about 1 member).

The sources of the complaints in the previous reporting period were that 14 were received from members of the public, 6 received from members (4 Kirklees members, 2 Town or Parish Council members) and 4 from officers.

2.3.4 Comparison between the two reports shows that the overall number of complaints has stayed the same, at 24. If we extend this to earlier periods, we can see that there has been a general downward trend to the number of complaints being made, from a high of 32 complaints about Kirklees members in 2020 (the exceptional number of complaints about one member of a Parish Council have been discounted) that now appears to be being reversed. The number of Councillors complained about has also remained the same, at 21.

- 2.3.5 In this period, we have seen 5 instances of ‘multiple’ complaints, all of which relate to member behaviours.
- 2.3.6 The total number of complaints relating to Town or Parish Councils has fallen in this reporting period, from 8 to 5.
- 2.3.7 The number of complaints relating to the planning process has fallen in this period, from 5 to 1.
- 2.3.8 In terms of any discernable trends, the numbers of complaints being made has picked up again, after a sustained period of complaints falling. Whether this a continuing trend or not remains to be seen.

## 2.4 **Published Decisions**

- 2.4.1 This report now contains a simple summary table that informs members of standards decisions that have been published on the Kirklees website. In line with the decision of the Committee, the published decisions will now only be complaints that have been upheld.
- 2.4.2 This is a summary only and full details, including copies of the relevant decision notices, remain available on the website.

<b>Council</b>	<b>Councillor</b>	<b>Complaint</b>	<b>Date of decision</b>	<b>Outcome</b>
Holme Valley Parish Council	Cllr James Dalton	member's use of social media	05/07/2023	Complaint upheld
Holme Valley Parish Council	Cllr James Dalton	member's use of social media	06/12/2021	Complaint upheld
Holme Valley Parish Council	Cllr James Dalton	member's use of social media	03/8/2020	Complaint upheld
Holme Valley Parish Council	Cllr James Dalton	member's use of social media	23/10/2019	Complaint upheld
Mirfield Town Council	Cllr Steven Benson	member's use of social media	16/10/2019	Complaint upheld

- 2.4.3 Members will note that this is the same as in the previous period’s report.

### **3. Implications for the Council**

#### **3.1 Working with People**

N/A

#### **3.2 Working with Partners**

N/A

#### **3.3 Place Based Working**

N/A

#### **3.4 Climate Change and Air Quality**

N/A

#### **3.5 Improving Outcomes for Children**

N/A

#### **3.6 Financial Implications**

N/A

#### **3.7 Legal Implications**

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 adverse reputational implications.

#### **3.8 Other (eg Risk, Integrated Impact Assessment or Human Resources)**

None

### **4. Consultation**

N/A

### **5. Engagement**

None

### **6. Options**

## **6.1 Options Considered**

It is recommended that the report be noted.

## **6.2 Reasons for Recommended Option**

The report is an 'information-only' report.

## **7. Next steps and timelines**

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.

## **8. Contact officer**

David Stickley  
Principal Lawyer  
01484 221000  
[david.stickley@kirklees.gov.uk](mailto:david.stickley@kirklees.gov.uk)

## **9. Background Papers and History of Decisions**

N/A

## **10. Appendices**

## **11. Service Director responsible**

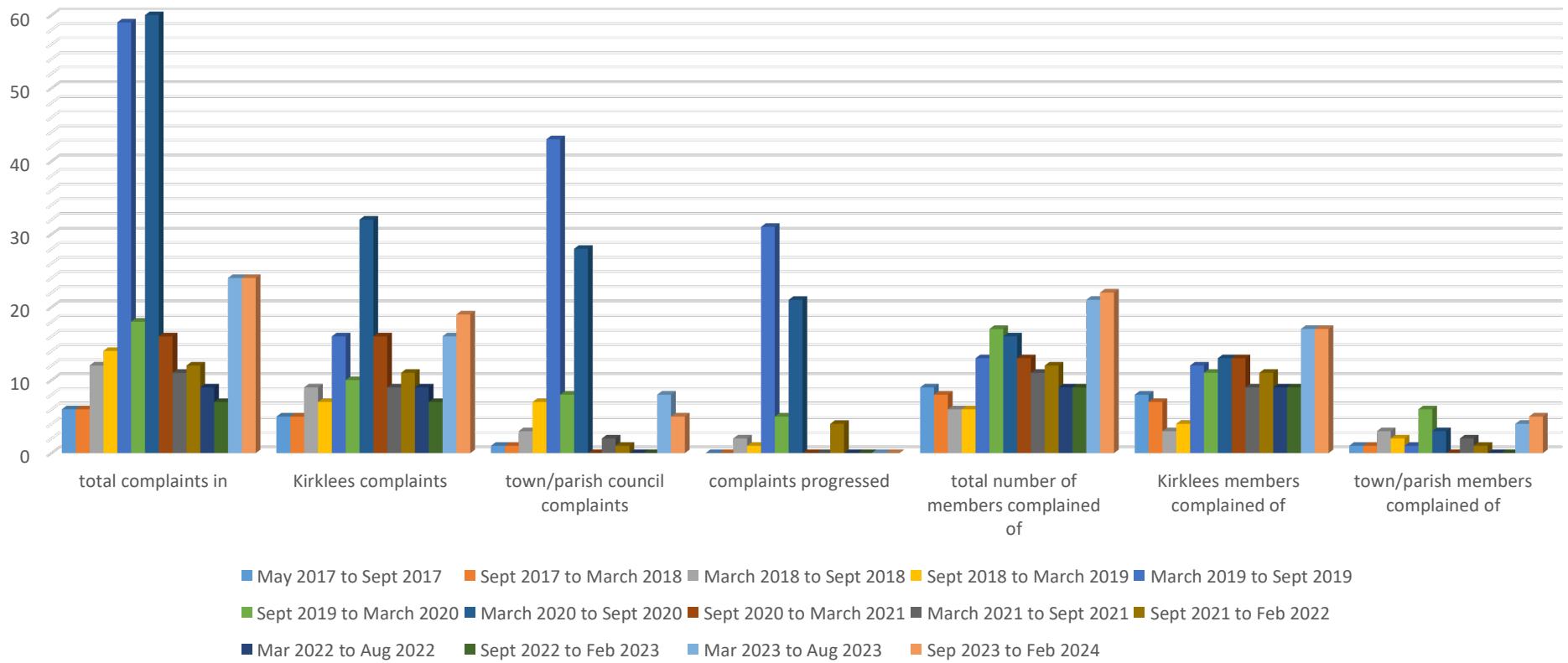
Julie Muscroft  
Service Director – Legal, Governance and Commissioning  
01484 221000  
[julie.muscroft@kirklees.gov.uk](mailto:julie.muscroft@kirklees.gov.uk)



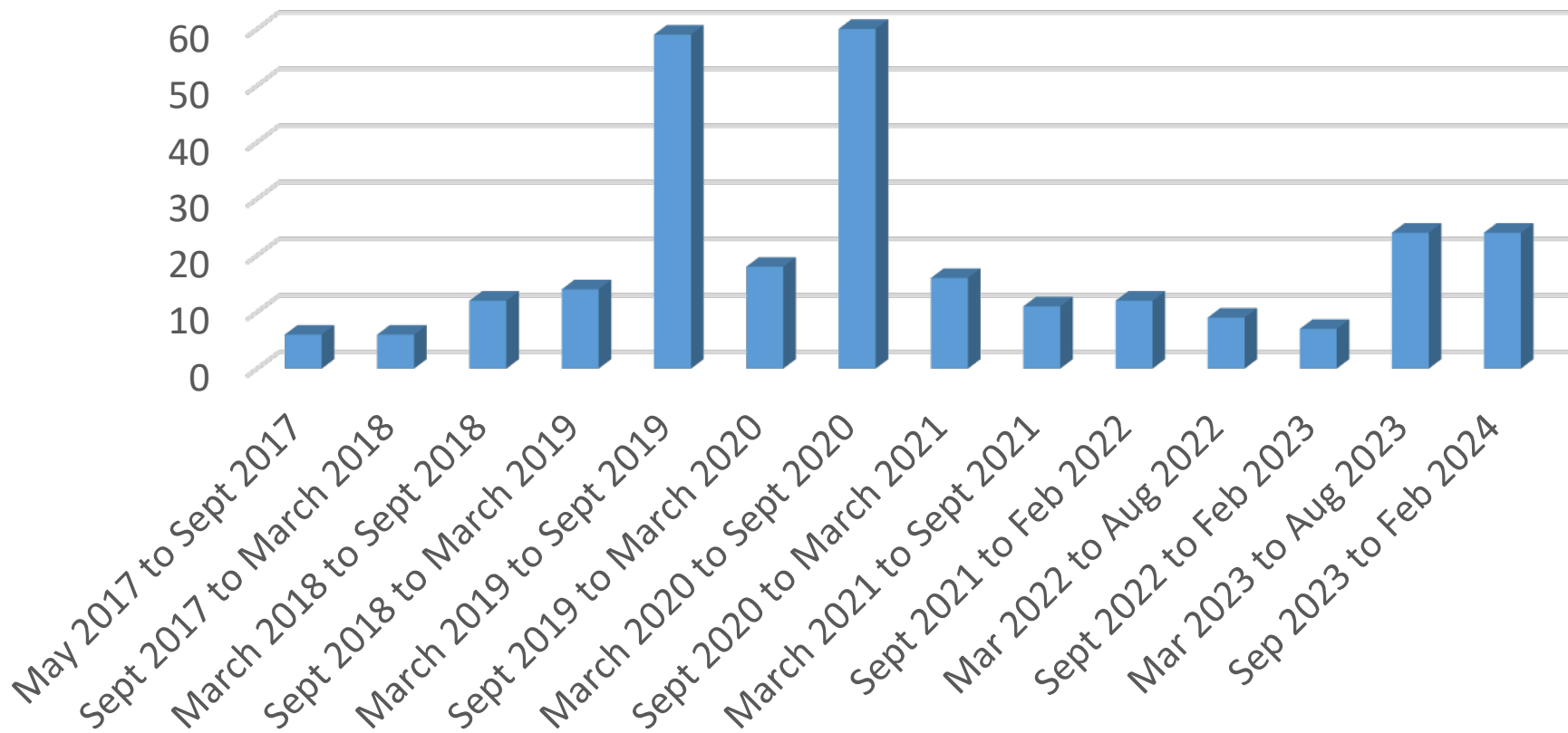
## **Appendix A**

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## Complaints summary

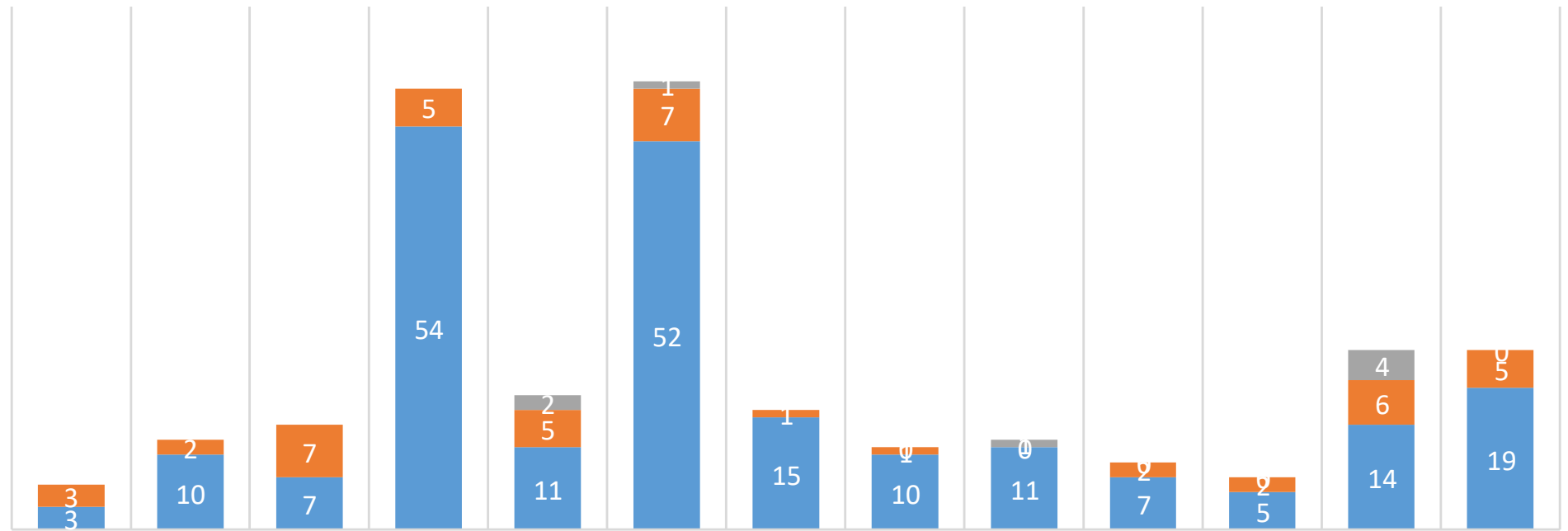


### total complaints in



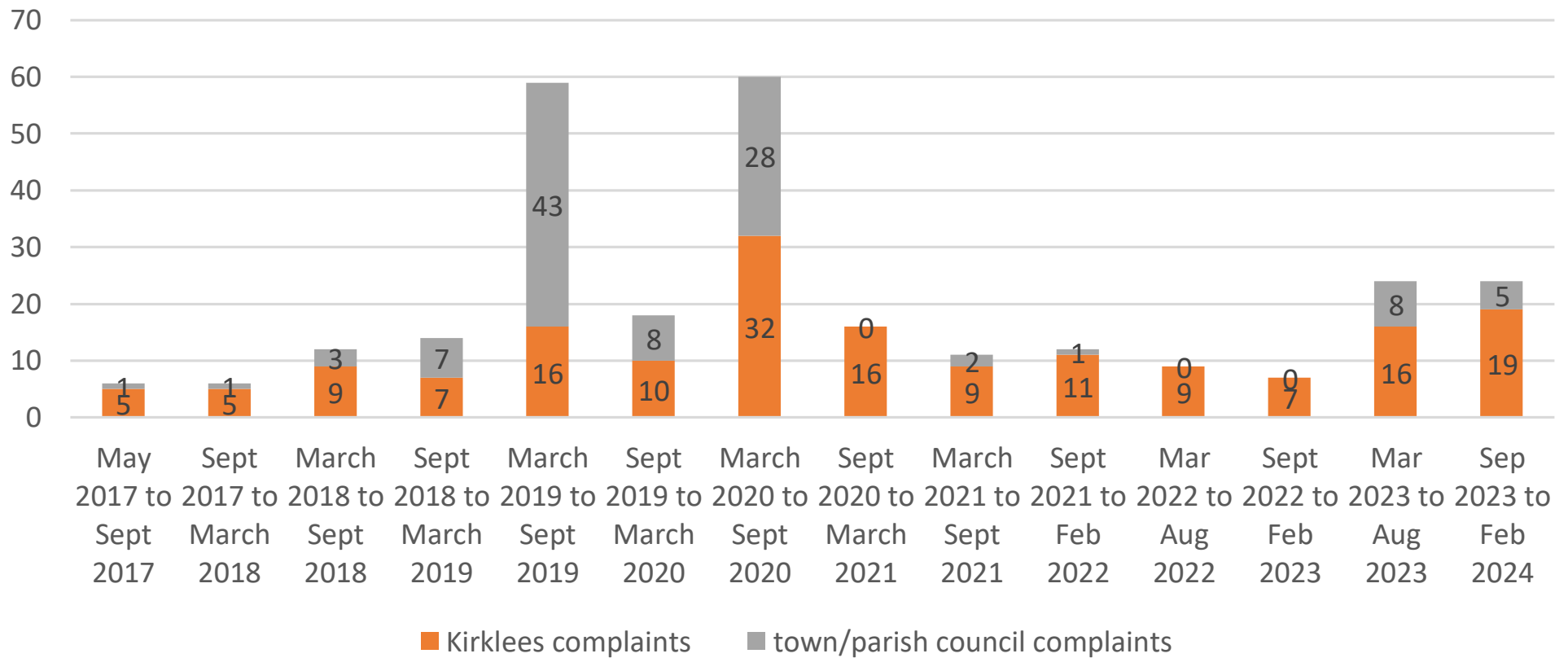
# SOURCES OF COMPLAINTS RECEIVED

from mop   from cllrs   from officers

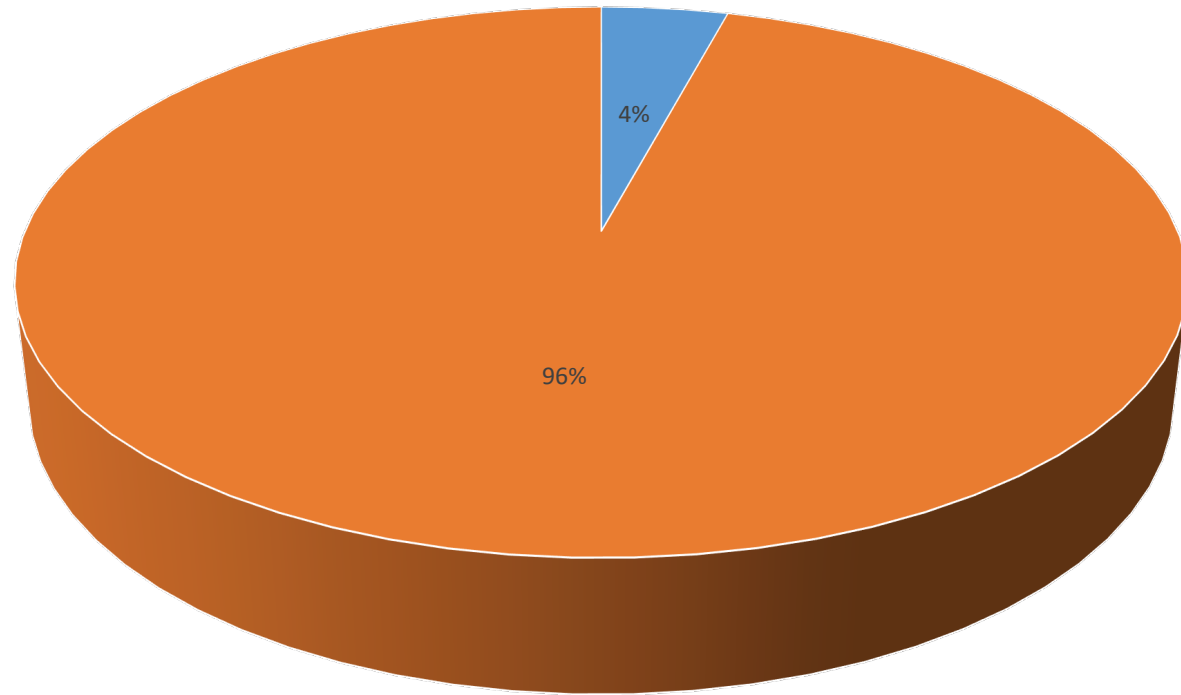


SEPT 2017 TO MARCH 2018   MARCH 2018 TO SEPT 2018   SEPT 2018 TO MARCH 2019   MARCH 2019 TO SEPT 2019   SEPT 2019 TO MARCH 2020   MARCH 2020 TO SEPT 2020   SEPT 2020 TO MARCH 2021   MARCH 2021 TO SEPT 2021   SEPT 2021 TO FEB 2022   MAR 2022 TO AUG 2022   SEPT 2022 TO FEB 2023   MAR 2023 TO AUG 2023   SEP 2023 TO FEB 2024

## COMPLAINTS - KIRKLEES / TOWN AND PARISH COUNCILS



Sep 2023 to Feb 2024



■ Planning related complaints ■ Other complaints

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**REPORT TITLE: Cases and News Update**

<b>Meeting:</b>	<b>Standards Committee</b>
<b>Date:</b>	<b>20<sup>th</sup> March 2024</b>
<b>Cabinet Member (if applicable)</b>	<b>N/A</b>
<b>Key Decision Eligible for Call In</b>	<b>No No – not a decision-making report</b>
<p><b>Purpose of Report</b></p> <p>To brief the standards committee on any news and cases of interest since the last Standards Committee meeting in October 2023.</p>	
<p><b>Recommendations</b></p> <ul style="list-style-type: none"> <li>• That the report be noted by members</li> </ul> <p><b>Reasons for Recommendations</b></p> <ul style="list-style-type: none"> <li>• The report is for information only</li> </ul>	
<p><b>Resource Implications:</b></p> <p>None</p>	
<p><b>Date signed off by <u>Strategic Director</u> &amp; name</b></p> <p><b>Is it also signed off by the Service Director for Finance?</b></p> <p><b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b></p>	<p><b>Rachel Spencer-Henshall – 4<sup>th</sup> March 2024</b></p> <p><b>Isobel Brittan – 4<sup>th</sup> March 2024</b></p> <p><b>Julie Muscroft – 4<sup>th</sup> March 2024</b></p>

**Electoral wards affected: All**

**Ward councillors consulted: None**

**Public or private: Public**

**Has GDPR been considered? Yes**

## **1. Executive 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.
- 1.3 It will also provide an update on the work of the CSPL, in particular that which follows on from their report 'Ethical Standards in Local Government'.

## **2. Information required to take a decision**

### **2.1 News since September 2023**

- 2.1.1 As reported previously, the Deputy Leader of Ashfield District Council had been charged with failing to notify a disclosable pecuniary interest. He has now entered a guilty plea and has been fined £2,400.
- 2.1.2 In January Lawyers in Local Government published a revised Members Planning Code of Good Practice, describing it as '*an invaluable tool for planning lawyers and local authorities in the exercise of their planning functions*'. Members will be aware that in the past, the planning process has attracted a number of member complaints. The code can be seen here: [llg-model-planning-code-2024-final.pdf](#)
- 2.1.3 In February, it was reported that the Mayor of Tower Hamlets had previously been found guilty of corruption. It was reported that the Mayor, Lutfur Rahman, had in 2015 been found to have won the 2014 election in the borough with the help of "corrupt and illegal practices", including the wrongful portrayal of his rival candidate John Biggs as a racist and the allocation of grants in a way that amounted to bribery.  
  
The election was subsequently declared void and Mr Rahman was disqualified from holding office for five years, but he was re-elected as executive mayor in 2022.

2.1.4 In Liverpool, the Echo reported on a FOIA request to the City Council that revealed that two elected members had been summonsed in respect of non-payment of Council Tax.

The Echo reported that the Council had refused to disclose the names of the two members and that a review had been sought, with a referral to the ICO if that position is maintained.

2.1.5 In February, the LGA warned in a briefing to the House of Commons of concerns that 'an increasing level of toxicity of debate' was having an effect on democracy, deterring people from standing for election.

2.1.6 In February, Local Government Lawyer reported that three Warwickshire councillors issued an apology in respect of comments that they had made about children with special educational needs during a Council meeting. The comments led to a number of complaints being made and investigation being commenced by the authority's Monitoring Officer.

## 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 continues to hold hearings both in person and remotely.

2.2.3 Since September 2023, the Commission has considered 8 cases, with a further two scheduled for March and April, and has published its findings in respect of the 8 cases that have been heard.

2.2.4 In these 8 cases, breaches were found to have occurred in 4, and these resulted in censure or suspension of the members complained of. The breaches included behaving discourteously and failing to advance equality of opportunity, showing disrespect in published comments, showing disrespect on social media, and bringing the authority into disrepute. Of the 4 findings of no breach, one is of interest as it considers Article 10 rights. Some of the Commission's press releases are in the Appendix. Members can read the full decision notices on the Commission's website.

2.2.4 The Commissioner for Standards in Northern Ireland has heard 2 cases referred to it since September 2023, with 2 more referrals yet to be heard. Of interest is that both of the subject members were no longer in post at the time of the hearings, with the sanctions being applied retrospectively.

- 2.2.5 One of the complaints concerned failure to declare a conflict of interest while sitting on the Council's Planning Committee. The Councillor was disqualified for 4 years.
- 2.2.6 The second case involved an allegation that a member had brought the Council into disrepute over comments made about the appointment process for a new CEO. The subject member was censured.
- 2.2.7 The Public Services Ombudsman for Wales publishes its finding directly to its website. There were 9 alleged breaches reported and investigated. These including breaches of the 'Promotion of Equality and Respect', the 'Duty to Uphold the Law' and around the declaration of interests.
- 2.2.8 The Adjudication Panel for Wales considers any appeals on decisions made by any Welsh Council's Standards Committees and, in this period, one appeal referral was made, but this was dismissed.
- 2.2.9 In England, publication of decisions still remains discretionary, although the CSPL did recommend publishing these, so it may be the case that we start to see more decisions from English local authorities being published in due course.
- 2.2.10 No reports have been identified in this period.

### 2.3 **Case Law**

- 2.3.1 No relevant case law has been identified in this period.

### 2.4 **The work of the Committee on Standards in Public Life**

- 2.4.1 In December 2023, the Committee announced the appointment of a new chair, with Doug Chalmers replacing Lord Evans. He was a career soldier, retiring with the rank of Lieutenant General. He is currently Master of Emmanuel College, Cambridge.
- 2.4.2 As reported previously, follow up on the 2019 report is no longer a standing item on the CSPL meeting agenda. The meeting minutes since the last report to this Committee show that the CSPL are continuing to monitor standards in public services, but there have been no specific discussions relating to standards in local government.

## 3. **Implications for the Council**

### 3.1 **Working with People**

N/A

**3.2 Working with Partners**

N/A

**3.3 Place Based Working**

N/A

**3.4 Climate Change and Air Quality**

N/A

**3.5 Improving Outcomes for Children**

N/A

**3.6 Financial Implications for the people living or working in Kirklees**

N/A

**3.7 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 adverse reputational implications.

**3.8 Do you need an Integrated Impact Assessment (IIA)?**

No

**4. Consultation**

N/A

**5. Engagement**

None

**6. Options**

**6.1 Options Considered**

It is recommended that the report be noted.

**6.2 Reasons for Recommended Option**

The report is an 'information-only' report.

## **7. Next steps and timelines**

The Monitoring Officer will continue to monitor any relevant news and cases and will report back to this committee. She will also continue to monitor and report back on any relevant work of the CSPL..

## **8. Contact officer**

David Stickley  
Principal Lawyer  
01484 221000  
[david.stickley@kirklees.gov.uk](mailto:david.stickley@kirklees.gov.uk)

## **9. Background Papers and History of Decisions**

N/A

## **10. Appendices**

## **11. Service Director responsible**

Julie Muscroft  
Service Director – Legal, Governance and Commissioning  
01484 221000  
[julie.muscroft@kirklees.gov.uk](mailto:julie.muscroft@kirklees.gov.uk)

## **Appendix A**

## Councillor pleads guilty to failing to disclose pecuniary interest

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Print (</governance/396-governance-news/56496-councillor-pleads-guilty-to-failing-to-disclose-pecuniary-interest?tmpl=component&print=1&layout=default>)

The Deputy Leader of Ashfield District Council has pleaded guilty to two charges under the Localism Act 2011 of failing without reasonable excuse to notify a disclosable pecuniary interest.

Cllr Tom Hollis was fined £2,400 at Nottingham Magistrates' Court for failing to disclose a pecuniary interest when he was re-elected in 2019 and 2021, which involved a £70,000 loan he made to friend, a [report \(https://www.standard.co.uk/news/crime/nottinghamshire-b1137153.html\)](https://www.standard.co.uk/news/crime/nottinghamshire-b1137153.html) from *The Evening Standard* said.

According to *The Evening Standard*, Hollis loaned the money to a fellow councillor in 2018.

The other councillor then used the money to buy a property, which she was registered as the legal owner of. Cllr Hollis meanwhile failed to register as a beneficial owner.

The *Evening Standard* reported that Deputy Chief Magistrate, Tan Ikram, said: "Throughout the period 2019 to 2021 he was the beneficial owner of the said property and was re-elected twice without disclosure on his part of that financial interest.

"It is not suggested by the prosecution that the defendant was dishonest.

"It is not suggested that he benefitted from any decision made in his role as a councillor as regards his non-disclosure.

"These offences, I am told, only came to light because of a police inquiry in relation to an unrelated case, and because the matter was in the hands of the police this matter comes before the courts, rather than being dealt with by internal processes within the local authority."

The magistrate accepted that there was no obvious benefit by his non-disclosure, adding: "Whilst these offences are serious, I can envisage more serious instances of non-disclosure, where there can be said to be actual benefit."

Cllr Hollis initially pleaded not guilty but later changed his pleading to guilty.

Local MP Lee Anderson, called for Cllr Hollis to step down as deputy leader in light of the prosecution.

Cllr Tom Hollis said: "Today, I pleaded guilty to a technicality of a paperwork error. My only crime was lending a friend some money, and I didn't record that loan as it was just to a friend. There have been no complaints about wrongdoing or any personal gain of any kind."

Hollis said the judge made it "clear he thought there had been no dishonesty" and refused to award costs to Nottinghamshire Police, which brought the prosecution.

**Adam Carey**



## **Council run by mayor found guilty of corruption facing Government probe**

Government inspectors have been sent in to a council whose elected mayor was previously found guilty of corruption, because of concerns about the authority's culture and use of resources.

A letter to Tower Hamlets Council sent on Thursday by the Department for Levelling Up, Housing and Communities (DLUHC) details a number of issues which are said to be cause for alarm.

They include budgetary proposals, financial planning, appointments to senior posts and the expansion of the mayor's office, currently occupied by Lutfur Rahman.

A High Court ruling in 2015 found Mr Rahman had won the 2014 election in the borough with the help of "corrupt and illegal practices", including the wrongful portrayal of his rival candidate John Biggs as a racist and the allocation of grants in a way that amounted to bribery.

The election was subsequently declared void and Mr Rahman was disqualified from holding office for five years, but he was re-elected as executive mayor in 2022.

The letter from Max Soule, DLUHC's deputy director for local government stewardship, was sent to Tower Hamlets chief executive Stephen Halsey, who took the role in July having previously been the council's head of paid service during a period of previous failures identified in 2014.

The letter notifies the council that it will be inspected to establish whether it is meeting its "best value duty" under the Local Government Audit and Accountability Act 1999.

This is a requirement for local authorities to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness".

The letter said Mr Rahman appointed Alibor Choudhury, who was also found guilty of corrupt and illegal practices in 2014, as deputy head of the mayor's office in June 2022.

Mr Rahman also intended to appoint eight policy advisers to an expanded mayoral office costing an extra £1.4 million.

This move, the letter said, would create "a risk of a 'dual council' sidelining officers of the authority in decision-making, which in turn risks replicating the circumstances in which decisions were made up to 2014 that were corrupt and/or failed in the authority's best value duty".

Inspectors will also examine changes to the council's grant allocation regime, which led to all funding decisions and financial management being brought back under the council's control after changes were made in the wake of irregularities being identified in the 2015 court judgment.

A decision to bring Tower Hamlets' homes and leisure services back in house, despite officer warnings about the financial implications, will also be scrutinised.

Mr Rahman's failure to attend more than 20 meetings of the council's overview and scrutiny committee since July 2022 will also be investigated.

The letter identifies a “significant level of churn” across management posts and notes evidence of the mayor’s office model causing unnecessary delays in decision-making.

Concerns were also raised about the council’s financial strategy, with a balanced budget in 2024/25 relying on the use of reserves, the success of untested adjustments to revenues and £31 million savings, which is described as “significant level”.

“The scale of the challenge may also be compounded by some significant insourcing of services which may require additional revenue and capital investment,” the letter adds.

Mr Soule said the inspectors will also examine unspecified potential changes to the council’s “constitutional arrangements” and electoral processes, including “the use of resources and the maintenance of the independence of the returning officer”.

Former chief executive of Newham Council, Kim Bromley-Derry, will lead the inspection and is expected to report the findings to Communities Secretary Michael Gove by May 31.

A Tower Hamlets Council spokesperson said: “We look forward to working in partnership to show the progress we have made as a council under our current administration.

“We are surprised by the decision. However, it is of course the prerogative of the government and we are confident in our work and will co-operate fully.

“Our work has been praised in recent independent reviews by the Local Government Association Peer Review and Investors in People.

“Although both reviews were positive, we are already delivering action plans to fulfil their recommendations for further improvement as is the culture in our council.

“In recent months, the council has also made significant progress in resolving historic financial issues of audit, assurance and governance going back to 2016.”

Source: PA Media

# Public has 'right to know' who court summons city councillors are

Pressure building on city council to reveal names of elected members taken to court over failure to pay Council Tax

The tax-paying public of Liverpool has a "right to know" the identities of two elected Liverpool Councillors who were summoned to court over failures to pay Council Tax.

**This weekend, a Liverpool ECHO investigation revealed that during the course of the past five financial years**, two elected councillors in the city received a court summons regarding the non-payment or late payment of Council Tax. That information was released to us following a Freedom of Information request to the city council.

However, despite the public interest involved and the precedent of previous cases, **the city** council has refused to release to us the names of the two elected members involved or any further details regarding their identities. This is a decision we have challenged, calling for an internal review from the city council.

If that process does not reveal the identities of the **councillors** involved, then we will escalate the matter to the office of the Information Commissioner and will consider the legal avenues available. Councillors facing court summons over a failure to pay Council Tax is a serious issue.

Section 106 of the Local Government Finance Act bars a councillor from voting on the council's budget if he or she has an outstanding Council Tax debt of over two months. Failure to comply with this is a **criminal offence**. Opposite parties are putting pressure on council bosses to be transparent and release the names of those involved.

Cllr Alan Gibbons, who leads the Liverpool Community Independents group on **Liverpool Council** said: "There is a possibility councillors who failed to pay their council tax on time voted on a maximum council tax rise. We all understand that mistakes can be made, but the public has the right to examine the issue and make its mind up on the conduct of councillors. Liverpool City Council continues to have a problem with transparency."


This followed comments from Liberal Democrat boss Cllr Carl Cashman, who said the decision from the council "smacks of the cover-up and hide away attitude" of previous eras at the local authority. He added: "City Councillors are voting for huge increases to people's Council Tax year after year but some haven't even paid their own Council Tax.

"The public have a right to know that when they're paying in, their elected representatives are paying in too. It is clear that these councillors should be named and if they haven't paid up, then they should pack up and resign."

Source: Liverpool Echo

## Toxicity of debate deterring underrepresented people from standing for election, councils warn

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 [Print \(/governance/396-governance-news/56579-toxicity-of-debate-underrepresented-people-from-standing-for-election-councils-warn?tmpl=component&print=1&layout=default\)](/governance/396-governance-news/56579-toxicity-of-debate-underrepresented-people-from-standing-for-election-councils-warn?tmpl=component&print=1&layout=default)

There are growing concerns about the impact an increasing level of toxicity of debate is having on the UK's democracy, including deterring underrepresented people from standing for election and representing their local communities, the Local Government Association has warned.

In a [briefing before a House of Commons debate on language in politics \(https://www.local.gov.uk/parliament/briefings-and-responses/house-commons-debate-language-politics-29-february-2024\)](https://www.local.gov.uk/parliament/briefings-and-responses/house-commons-debate-language-politics-29-february-2024) this week (29 February), the LGA acknowledged that debate, disagreement and having different views were "all part of a healthy democracy".

It said, however, that it was vital councils reflect the diversity of the communities they represent when making decisions that directly impact the lives of residents.

"In councils in England, only 33% of councillors are women; we, therefore, have further to go to break down the barriers to women entering and staying in politics and local government," the LGA said.

A lack of pension contributions, parental leave and flexibility in attending council meetings have been cited as key challenges to women standing for election, it revealed.

"However, over recent years, the issue of general and gendered abuse, harassment and threats has increased, with half of councillors saying abuse has increased in volume since they were first elected in the LGA's more recent [Debate Not Hate survey \(https://www.local.gov.uk/publications/debate-not-hate-survey-2023\)](https://www.local.gov.uk/publications/debate-not-hate-survey-2023)."

The LGA warned that abuse alongside councillors' vulnerability due to the availability of their personal information could dissuade people from standing for election.

It highlighted its research indicating that women, Black and ethnic minority people and LGBTQIA+ people and those with multiple protected characteristics may experience more personalised and higher volumes of more vitriolic abuse, particularly online.


The LGA said candidates needed to feel confident that if elected, they would be supported and protected from inappropriate levels of abuse, threats and harassment.

"Everyone should be able to express their view, challenge others, criticise and disagree with other people's views, opinions and policies in a robust but civil manner as a part of healthy and democratic debate. However, language and lines of argument that subject individuals, groups of people or organisations to personal attack are unacceptable and create a chilling effect on democracy."

The briefing added: "This challenge is multi-faceted, and a coordinated effort is needed across the Government to tackle the issues such as the cumulative effect of pile-on abuse online and the normalisation of abuse of public figures that are affecting our democratic institutions and society."

## Councillors issue apology over SEND comments as local authority launches investigation

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 [Print \(/governance/396-governance-news/56378-councillors-issue-apology-over-send-comments-as-local-authority-launches-investigation?tmpl=component&print=1&layout=default\)](/governance/396-governance-news/56378-councillors-issue-apology-over-send-comments-as-local-authority-launches-investigation?tmpl=component&print=1&layout=default)

Three Warwickshire councillors have apologised after making offensive comments about children with special educational needs during a council meeting.

At a meeting of the council's Children and Young People Overview and Scrutiny Committee on 25 January 2024, Cllr Brian Hammersley asked: "Why are there so many people now jumping out with these needs? Where were they in the past when I was at school?"

Cllr Jeff Morgan added: "Not automatically accepting the plea of a mother saying that little Willy has ADHD when in actual fact little Willy is just really badly behaved and needs some strict form of correction."

The local authority subsequently received a number of complaints.

In response, Cllr Izzi Seccombe, Leader of Warwickshire, said the views and language used were "not representative of this council, its wider councillors and staff or our commitment to children and young people especially those with Special Educational Needs or Disabilities and their families".

The local authority has confirmed that its monitoring officer has begun an investigation.

In a statement, Warwickshire County Council said: "It is clear that these comments have caused significant offence, distress and upset to children and their families within the Special Educational Needs and Disabilities (SEND) community. The Council takes that very seriously.

"The Council wishes to emphasise that the comments made are not representative of the views of the wider council body including those councillors and officers who work so hard to provide support and opportunities for children with SEND. The Council has built strong relationships with groups within the SEND community, and we are conscious of the damage this situation may cause to those relationships."

All three councillors have apologised personally for their comments, with Cllr Hammersley acknowledging his "clumsiness and lack of care in choosing [his] words".

Cllr Morgan said it was "never my intention to offend, and I regret the words I used to make a point about demand and need in the SEND area".

The third member, Cllr Clare Golby, said: "I accept that the words I used at the meeting were open to interpretation. I have spent many years working hard to support children and families in the SEND community and it was never my intention to offend."

**Lottie Winson**



**30 October 2023**

**MEDIA RELEASE**

### **ABERDEENSHIRE COUNCILLOR FOUND TO HAVE BREACHED COUNCILLORS' CODE**

Aberdeenshire Councillor Fatima Joji was censured by the Standards Commission at a Hearing, after she was found to have behaved disrespectfully towards a member of the public in respect social media comments made in July 2022.

Anne-Marie O'Hara, Standards Commission Member and Chair of the Hearing Panel, said: "In this case, the Panel considered some of the comments Cllr Joji had directed towards a member of the public on social media, to be personally offensive and gratuitous."

At the Hearing, held online on 30 October 2023, the Standards Commission's Hearing Panel heard that it was not in dispute that Cllr Joji had accused the Complainer of "harassing and hounding" others, and referred to him as being "scum", "toxic" and that he could "absolutely gtf".

The Panel noted that the Councillors' Code of Conduct requires councillors to treat their colleagues, council officers and members of the public with courtesy and respect.

In respect of her accusation that the Complainer had been "harassing and hounding" others, the Panel accepted that it was Cllr Joji's belief that the Complainer had been doing so and, as such, that she was expressing a value judgement. In the circumstances, the Panel did not consider a restriction on Cllr Joji's right to freedom of expression under Article 10 of the European Convention on Human Rights could be justified.

The Panel considered, however, that Cllr Joji's characterisation of the Complainer as "scum and "toxic" amounted to a gratuitous personal attack. The Panel considered that even if this was a genuinely held belief, it did not mean that Cllr Joji was entitled to direct such egregious, derogatory terms towards him in a public forum. The Panel considered that the use of such terms, in an open forum, about a member of the public, by someone who is, as a councillor, in a position of authority and responsibility, was disrespectful and had the potential to lower the standards of public debate. The Panel considered, therefore, that a restriction on Cllr Joji's right to freedom of expression could be justified in respect of these comments.

As such, the Panel concluded that Cllr Joji had contravened the requirement under the Code for councillors to treat everyone (including members of the public) with courtesy and respect.

The Panel noted that Cllr Joji had accepted that her conduct amounted to a breach of the respect provisions of the Code. The Panel also noted Cllr Joji had been the subject of abuse herself, and was satisfied that while her comments had been entirely inappropriate, it was apparent that she had been attempting to stand against what she perceived to be bullying and harassment of individuals from ethnic minorities in politics. In the circumstances, therefore, the Panel concluded that a censure, being the least restrictive option available to it, was the appropriate sanction.

Ms O'Hara, stated: "The Standards Commission considers that councillors should be able to express their views and opinions without resorting to personal abuse."

A full written decision of the Hearing will be issued and published on the Standards Commission's website within 7 days.

ENDS

#### **NOTES FOR EDITORS**

1. Complaints about councillors are made to the Ethical Standards Commissioner (ESC). The Standards Commission and ESC are separate and independent, each with distinct functions. The ESC is responsible for investigating complaints. Following investigation, the ESC will refer its report to the Standards Commission for Scotland for adjudication. Email: [info@ethicalstandards.org.uk](mailto:info@ethicalstandards.org.uk), <https://www.ethicalstandards.org.uk/> Tel: 0300 011 0550
2. 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 including in education, environment, health, culture, transport, and justice. The role of the Standards Commission is to encourage high ethical standards in public life; promote and enforce the Codes of Conduct; issue guidance to councils and devolved public bodies and adjudicate on alleged breaches of the Codes of Conduct, applying sanctions where a breach is found.
3. The [Codes of Conduct](#) outline the standards of conduct expected of councillors and members of devolved public bodies. In local authorities, there is one Code of Conduct, approved by Scottish Parliament, which applies to all 1227 councillors elected to Scotland's 32 Local Authorities.



**30 November 2023**

**MEDIA RELEASE**

### **WEST LOTHIAN COUNCILLOR CLEARED OF BREACH OF COUNCILLORS' CODE**

Following a Hearing held in Livingston on 30 November 2023, West Lothian councillor Sally Pattle was found by the Standards Commission to have breached the Councillors' Code of Conduct, on the face of it, for failing to behave with courtesy and respect during a visit to the offices of a local Business Improvement District, One Linlithgow, in July 2022. The Panel found, however, in the circumstances, that a formal finding of breach could not be made as a restriction on Cllr Pattle's right to freedom of expression could not be justified.

Ashleigh Dunn, Standards Commission Member and Chair of the Hearing Panel, said: "In this case, the Panel found that Cllr Pattle's conduct towards the staff present in the office was inappropriate."

The Panel heard that Cllr Pattle had visited the offices of One Linlithgow in order to hand over a cheque. Having heard from two witnesses at the Hearing, the Panel was satisfied, on balance, that following a disagreement over her status as a member of the board of One Linlithgow, Cllr Pattle behaved in an inappropriate manner by speaking in a loud and aggressive tone, and pointing her finger. As such, the Panel found that Cllr Pattle had failed to treat the staff members with courtesy and respect, as required by the Code.

The Panel accepted, nevertheless, that Cllr Pattle was entitled to the enhanced right to freedom of expression afforded to politicians commenting on matters of public interest, under Article 10 of the European Convention on Human Rights. The Panel heard that Cllr Pattle's interaction with employees had been very limited and that her loud and aggressive tone had been relative to the disagreement over her board status, rather than being aimed at any particular member of staff as an individual. As such, the Panel found that her conduct had not been sufficiently personal, offensive, abusive or gratuitous as to justify a restriction on her enhanced right to freedom of expression, which a finding of a breach of the Code and imposition of a sanction would entail. As such, the Panel concluded overall that a breach of the Code could not be found.

Ms Dunn stated:

"The Panel emphasised that the requirement for councillors to behave in a respectful and courteous manner towards others is a fundamental requirement of the Code, as it helps to both protect the public and to ensure confidence in the role of an elected member and the council itself is not undermined. Failing to uphold the values the public are entitled to expect only serves to contribute to poor standards of behaviour and public debate."



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

ENDS

#### NOTES FOR EDITORS

1. Complaints about councillors are made to the Ethical Standards Commissioner (ESC). The Standards Commission and ESC are separate and independent, each with distinct functions. The ESC is responsible for investigating complaints. Following investigation, the ESC will refer its report to the Standards Commission for Scotland for adjudication. Email: [info@ethicalstandards.org.uk](mailto:info@ethicalstandards.org.uk), <https://www.ethicalstandards.org.uk/> Tel: 0300 011 0550
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3. The [Codes of Conduct](#) outline the standards of conduct expected of councillors and members of devolved public bodies. In local authorities, there is one Code of Conduct, approved by Scottish Parliament, which applies to all 1227 councillors elected to Scotland's 32 Local Authorities.

15 February 2024

## **PRESS RELEASE**

### **Former councillor Luke Poots disqualified for 4 years**

**Former councillor Luke Poots (Lisburn and Castlereagh City Council) has been disqualified from holding the office of councillor for 4 years following an Adjudication Hearing held today (15 February).**

The sanction was imposed after Assistant Commissioner for Standards Ian Gordon ruled that former councillor Poots had breached the Local Government Code of Conduct for Councillors by failing to declare a conflict of interest while sitting on the Council's Planning Committee between 2015 and 2019.

Assistant Commissioner Gordon also made reference to a planning application submitted originally in the maiden name of former councillor Poots' mother, and the lack of clarity in the original application that the former councillor was a joint owner of the land.

Between February 2016 and February 2018 there were 35 occasions when the former councillor was present that his father, Mr Edwin Poots MLA, spoke at the Planning Committee either in favour of or against a planning application.

On more than half of those occasions, the former councillor did not declare any conflict of interest. He also remained in the Planning Committee and participated in the decision-making process in relation to all 35 applications.

Assistant Commissioner Gordon found that the former councillor had received legal advice that his father speaking on specific planning applications at meetings when he was participating in the Committee could give the appearance of bias. He referred to the councillor's Code of Conduct, which states that if there are conflicts of interest councillors should make a declaration and withdraw from the meeting.

He considered that in not doing so members of the public could conclude that former councillor Poots had not acted fairly.

Assistant Commissioner Gordon highlighted it was the former councillor's personal responsibility to comply with the Code, finding that he was in breach of paragraphs 4.3, 6.3 and 6.4, which related to declaration of significant non-pecuniary interest and decision making.

He also found that he had breached paragraph 4.2 of the Code, which states that councillors must not bring their position of councillor, or the council, into disrepute.

Referring to the fact there were multiple breaches of the Code over a long period of time, and the former councillor's non-cooperation with the process, the Assistant Commissioner concluded that a disqualification of 4 years was an appropriate sanction.

**Notes:**

The Assistant Commissioner's full written decision will be made available shortly on the Commissioner's website at:

<https://www.nipso.org.uk/nlgcs/hearings>

Mr Poots may appeal to the High Court against this decision in accordance with the provisions of the Local Government Act (Northern Ireland) 2014.

**ENDS**

For further information contact Andrew Ruston on 07503640551 or [communications@nipso.org.uk](mailto:communications@nipso.org.uk)



Northern Ireland

# Local Government Commissioner for Standards

## Local Government Act (Northern Ireland) 2014

**In the Matter of Former Councillor Patrick Brown Newry, Mourne and Down District Council**

**Case Reference: C00416**

### **DETERMINATION ON ADJUDICATION**

The Northern Ireland Local Government Commissioner for Standards, Ms Margaret Kelly (the Commissioner), appointed Mr Ian Gordon, OBE, QPM, as Assistant Local Government Commissioner (the Assistant Commissioner) in relation to the Adjudication process in respect of this complaint. Mr Gordon was assisted by Mr Michael Wilson, Solicitor, Legal Assessor.

#### **1. COMPLAINT**

On 1 July 2019 the Local Government Ethical Standards (LGES) Directorate of the Northern Ireland Ombudsman's Office received a complaint from Mr Liam Hannaway alleging that former Councillor Patrick Brown, then a member of Newry, Mourne and Down District Council ('the Council') had, or may have, failed to comply with the Northern Ireland Local Government Code of Conduct for Councillors ('the Code'). The complaint was dated 27 June 2019.

Both former Councillor Brown and Mr Hannaway were informed on 30 July 2019 that an investigation into the allegations was commencing. Mr Hannaway alleged that former Councillor Brown published on Facebook the content of a meeting held 'in committee' regarding the appointment of an interview panel for the post of Council Chief Executive Officer (CEO). Mr Hannaway also complained that former Councillor Brown published his

understanding of what happened during a confidential interview process for the Council CEO. Mr Hannaway confirmed by telephone on 24 July 2019 that the confidential information he was referring to in relation to this was: *“I’ve heard Sinn Fein & UUP voted for the appointment and SDLP and DUP voted against”*.

Mr Hannaway alleged that former Councillor Brown’s disclosure:

- broke confidence.
- brought the Council’s recruitment process into disrepute.
- suggested that the recruitment process was political rather than representative of community and gender.
- had the potential to damage relationships between Council political parties by suggesting how each party voted in the recruitment process.
- had the potential to damage the newly appointed CEO, Mrs Marie Ward’s, prospective relationship with party groupings; and
- breached several of the Nolan Principles of Public Life.

The allegation was investigated by the Deputy Commissioner and his staff in LGES. The Assistant Commissioner has no role in the receipt, assessment or investigation of a complaint.

The Deputy Commissioner submitted a report, dated 23 March 2023, to the Commissioner in accordance with sections 55 and 56 of Part 9 of the Local Government Act (Northern Ireland) 2014, and it was accepted for Adjudication by the Assistant Commissioner on 24 October 2023.

### **Breaches of the Code**

The alleged breaches of the Code were:

#### **Paragraph 4.2:**

“You must not conduct yourself in a way which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute.”

**Paragraph 4.6:**

“You must comply with any request of the Commissioner in connection with an investigation conducted in accordance with the Commissioner’s statutory powers.”

**Paragraph 4.13 (a):**

*“You must show respect and consideration for others”.*

**Paragraph 4.14:**

*“You must work responsibly and with respect, with others and with employees of councils.”*

**Paragraph 4.15:**

*“You must not disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required to do so by law.”*

In his Investigation Report, the Deputy Commissioner said he had found evidence which would point to former Councillor Brown having potentially failed to comply with the following paragraphs of the Code:

- Paragraph 4.2
- Paragraph 4.14
- Paragraph 4.6

**2. ACTION BY THE ASSISTANT COMMISSIONER**

The Assistant Commissioner has a discretion as to the procedure to be followed in any Adjudication, and this includes whether or not to hold an Adjudication Hearing. Having considered the Investigation Report, he requested the parties to attend a Review of the case, which was held on 23 November 2023. The Assistant Commissioner was accompanied by his Legal Assessor, and it was attended by both parties together with their legal representatives.

Without expressing any view on the contents of the Investigation Report and although the matter was now one for Adjudication, the Assistant Commissioner asked the parties if they had considered whether or not the complaint was capable of resolution in a manner that

would take account of the Commissioner’s Alternative Action Policy (‘the Policy’)<sup>1</sup>. The Assistant Commissioner advised that, should the parties propose any agreed outcome this would require his approval, and would have to be both a proportionate outcome and satisfy the public interest.

Both parties agreed to consider this and to submit to the Assistant Commissioner a written update on their discussions.

On 24 January 2024, both parties submitted a Joint Position paper (see Appendix A) proposing an outcome to dispose of the matter and conclude the Adjudication without the requirement of an Adjudication Hearing.

The Assistant Commissioner carefully considered the Joint Position Paper and acknowledged:

- a. The acceptance by former Councillor Brown of his breaches of the Code at paragraphs:
  - **4.14** *“You must work responsibly and with respect, with others and with employees of councils.”*
  - **4.2** *“You must not conduct yourself in a way which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute.”*
  - **4.6.** *“You must comply with any request of the Commissioner in connection with an investigation conducted in accordance with the Commissioner’s statutory powers.”*
- b. The detailed content of the paper and the recognition, by former Councillor Brown, of the potential damage to the Council, fellow councillors and the public, following his Facebook Post, which implied “the selection process was political” and not merit based.
- c. The contrition expressed by former Councillor Brown in the paper and his willingness to give apologies, to the Selection Committee and Mr Hannaway, for his conduct.
- d. Former Councillor Brown had quickly taken down the Facebook Page and took steps to ameliorate the damage through contact with local newspapers.

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<sup>1</sup> <https://www.nipso.org.uk/sites/default/files/2023-05/FINAL-Alternative-Actions-Policy-launched-on-21-June-2016.pdf>

The Assistant Commissioner notes that the apologies, in the terms proposed in the paper, have been furnished to the persons concerned. The Assistant Commissioner also notes that the Joint Position Paper contains an acknowledgment by former Councillor Brown that the selection process leading to the appointment of Mrs Marie Ward, was both merit based and was not political.

### **3. DECISION**

In coming to his determination, the Acting Commissioner has taken into account that the overriding objective of an Adjudication is to determine a complaint in a manner that is fair, efficient and proportionate. This is also reflected in the Commissioner's Alternative Action Policy. Although this Policy is particularly directed to the possibility of the resolution of a complaint at the Investigation stage, it also provides a useful indication of how a complaint might be resolved, even where, as here, the matter has proceeded to Adjudication.

The purpose of any resolution is to seek a satisfactory outcome without the cost and resource implications of an Adjudication and or an Adjudication Hearing. In the context of the present complaint, it is relevant to note that paragraph 3.1 of the Policy states Alternative Action may be appropriate in certain circumstances, including those set out at sub-paragraphs 3.1 a) and b):

- a) It is the most efficient, effective and proportionate means of resolving a complaint.
- b) A councillor is likely to be found in breach of the Code, but it is not likely that this would result in a significant sanction being provided by the Commissioner i.e. suspension for more than one month or disqualification for any period.

The Acting Commissioner determined as follows:

- a. Former Councillor Brown was elected to Newry, Mourne and Down District Council and his initial 'Declaration of Acceptance of Office' was dated 3 June 2014 and his most recent 'Declaration of Acceptance of Office' was dated 20 May 2019. By signing the declarations, former Councillor Brown affirmed that he had read and would observe the Code.
- b. The Code applied to former Councillor Brown.
- c. Former Councillor Brown admitted that he had breached the Code at:



- Paragraph 4.14
- Paragraph 4.2 and
- Paragraph 4.6

The Assistant Commissioner said former Councillor Brown had admitted breaches of the Code which were serious. He had accepted that his conduct was inappropriate and brought the Council into disrepute. He had, however, put forward a cogent account of how he would seek to remedy that conduct and would make apologies. If the case had proceeded to an Adjudication, it might have warranted a short period of suspension or partial suspension of up to one month for a sitting Councillor, but the Assistant Commissioner would not have considered disqualification.

The Assistant Commissioner said that his consideration of the wider public interest involved the need to act proportionately when seeking a fair and efficient outcome to an Adjudication process, and to reflect this in his Decision. The Assistant Commissioner considered that whilst an Adjudication Hearing was not necessary in this case, he would impose a sanction for former Councillor Brown's breaches of the Code.

The Sanction Guidelines at paragraph 3, state the objectives relevant to determining sanction are:

- a) *The public interest in good administration, upholding and improving the standard of conduct expected of councillors, and the fostering of public confidence in the ethical standards regime introduced by the 2014 Act; and*
- b) *Any sanction imposed must also be justified in the wider public interest and should be designed to discourage or prevent any future failures to comply with the Code by the particular Respondent and to discourage similar conduct by other Councillors.*

The Assistant Commissioner accepted the admissions by former Councillor Brown of his breaches of the Code. He decided that concluding the Adjudication by imposing a Censure, was an appropriate course of action which would still reflect the public interest in good administration, would uphold and improve the standard of conduct expected of councillors

and would foster public confidence in the ethical standards regime introduced by the 2014 Act.

This is not a case which, in all the circumstances, including former Councillor Brown's cooperation with the Adjudication process, and having considered the Sanctions Guidelines and the body of previous Decisions relating to the Code, would have merited disqualification. Furthermore, as former Councillor Brown was not a sitting Councillor, the sanction of suspension would not have been available in any event. Therefore, the Assistant Commissioner only considered whether to take No Action or to impose a Censure.

**No Action** – would include an inadvertent failure to comply with the Code. That was not a feature in the conduct of former Councillor Brown in this case and the Assistant Commissioner did not find 'no action' to be an appropriate sanction.

**Censure** – would generally take the form of criticism of the conduct which constituted or gave rise to a failure to comply with the Code, which might include a failure to comply where the Councillor accepted that the behaviour was inappropriate and had taken clear steps to mitigate the failure.

The Assistant Commissioner carefully considered the balance between the level of seriousness of the breaches and the willingness of former Councillor Brown to seek to fully mitigate his inappropriate conduct. The Sanctions Guidelines at paragraph 3.b) requires that any sanction imposed must also be justified in the wider public interest and should be designed to discourage or prevent any future failures to comply with the Code by the particular Councillor and to discourage similar conduct by other Councillors. The Assistant Commissioner considered that 'censure', in this particular case, would meet that requirement.

In coming to this conclusion, the Assistant Commissioner recognised that Former Councillor Brown had previously been sanctioned by the Commissioner (Marie Anderson) in May 2018, when a period of suspension was imposed after Councillor Brown (as he then was) self-referred to the Commissioner following a 'drink-driving' conviction. The Assistant

Commissioner was satisfied that the facts of the present complaint were markedly different and arose in a wholly different context, and that it was not necessary for him to take into account the previous breach of paragraph 4.2 of the Code in determining the appropriate sanction in this case.

#### **4. SANCTION**

The Assistant Commissioner's decision, made under Section 59(3)(c) of Part 9 of the Local Government Act (Northern Ireland) 2014, was to censure former Councillor Brown for his breaches of the Code.

The Assistant Commissioner said it was appropriate for him to express his appreciation to all involved for their diligent work in assisting him towards this outcome and the willingness of former Councillor Brown to accept his breaches and learn from the events. The Assistant Commissioner acknowledged the saving of the time and resources, which would otherwise have been needed for an Adjudication Hearing.

#### **5. LEAVE TO APPEAL**

Former Councillor Brown may seek the permission of the High Court to appeal against a decision made by the Assistant Commissioner, which must be made within 21 days of the date that he receives written notice of the Acting Commissioner's decision.

Ian Gordon

Assistant Northern Ireland Local Government Commissioner for Standards

12 February 2024

## APPENDIX A

### Former Councillor Patrick Brown Joint Position Paper

The Deputy Commissioner and the former Councillor are grateful for the time allowed by the Commissioner, to facilitate discussions between the legal representatives. Both the Deputy Commissioner and the former Councillor entirely accept that the future progress and outcome of this Adjudication procedure is a matter for the Commissioner to determine. While recognising this, the former Councillor has taken what may be considered a helpful and constructive step, by indicating that should the Commissioner be amenable to censure, the Former Councillor will accept the following breaches:

- (i) Breaching Rule 4.14 by failing to act with respect to others;
- (ii) Breaching Rule 4.2 by bringing the Council into disrepute;
- (iii) Breaching Rule 4.6 by failing to properly and within time comply with investigation into alleged breaches.

The former Councillor accepts that his actions brought the Council into disrepute and may have given the impression that the selection process was not merit based or appropriate for use. The former Councillor accepts that the selection process was not a political selection and that it is a merit-based process. For the avoidance of doubt, the former Councillor also accepts that the Facebook post he made on 24 June 2019 that implied the selection process was political was inappropriate.

The former Councillor agrees to provide a written apology to the selection panel in the following terms:

*“I apologise to the selection panel for undermining their role and suggesting that the panel made a choice of Chief Executive based on political lines. I accept that the selection process was merit based and that my comments were open to alternative interpretation. I, therefore wish to set the record straight and I apologise specifically to the members of the Selection Panel.”*

The former Councillor accepts that the email sent to Mr Liam Hannaway on 18 July 2019 was inappropriate in all the circumstances and agrees to provide a written apology to Mr Hannaway for the email and for suggesting that the selection process was a political selection and in the following terms:

*“I apologise to Mr Hannaway in relation to the email that I sent to him on 18 July 2019. I accept that this was not appropriate and I apologise for suggesting in that email that the selection process was political. It was not my intention to cause him any hardship or to cause there to be any negative reflection on his role or leadership. My intention in sending this email was to seek a resolution of the issues, however, I accept that by the stage that I emailed Mr Hannaway he had made an allegation to the LGES team about my conduct and asking him to withdraw the complaint was not appropriate. I accept that the selection process was merit based and that my comments were open to alternative interpretation and that these comments to Mr Hannaway were unacceptable. I therefore wish to set the record straight and*

*I apologise specifically and directly to Mr Hannaway for any undue stress, inconvenience or distress caused."*

The former Councillor also undertakes not to breach the Code in the future.

The former Councillor acknowledges that this is not the first occasion on which the former Councillor has come before the Commission, however, he submits that these facts can be differentiated from the previous allegations. The Deputy Commissioner accepts that the present complaint arises in a different context.

In regards to the Facebook post, the former Councillor has explained that he took the post down and took proactive steps to contact local newspapers to ensure that statements were altered and correctly put in the public eye.

The former Councillor agrees, as set out above, to provide a written apology to the selection committee to further cement his position that the selection process was a merit-based scheme.

The breaches and the selection process itself, along with the comments he made about it, stem from 2019, some four and a half years ago now. The former Councillor asks the Commissioner to take into consideration that he has had to deal with the stress and inertia caused by such a lengthy period to determine the issues.

In respect of Mr Hannaway, the former Councillor states that his actions were a genuine attempt to move on and put differences aside but now readily accepts that it was inappropriate and that although that was his intention, this was not the manner in which to do that. The Deputy Commissioner welcomes the former Councillor's recognition of inappropriate conduct and his intention to apologise to both the selection committee and Mr Hannaway.

The former Councillor would like to draw attention to his previous good conduct, years of public service and willingness to learn from these events. The Deputy Commissioner also notes that the former Councillor is no longer a serving Councillor.

The former Councillor would ask that the Commissioner takes into consideration his willingness to accept Censure and the breaches, saving public time and expense in relation to a contested hearing, and would ask that this be reflected in any notice or article on the Commission website.

**NOTICE OF DECISION**

**TRIBUNAL REFERENCE NUMBER:**

**APPELLANT:** Councillor David Metcalfe

**RELEVANT AUTHORITIES:** Cefn Community Council (principal authority - Wrexham County Borough Council)

1. Following a decision by the Standards Committee of Wrexham County Borough Council (“the Standards Committee”) on 16 January 2024 that the Appellant breached the Code of Conduct of the Relevant Authority, and the Notice of Decision which was emailed to the Appellant on 19 January 2021 (receipt confirmed), the Appellant has made an application to appeal under Regulation 10(8) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees (Wales) Regulations 2001.
2. I have deemed the application to be in time. The Appellant’s appeal was received by the APW on 5 February 2024, within the 21-day period in which applications for permission to appeal must be received.
3. The Appellant sent a copy of the standards committee’s decision and the minutes with his appeal form.
4. I have made my decision on the basis of the following evidence:
  - a. The completed APW05 form from the Appellant seeking permission to appeal (together with the additional sheets provided as attachments to that form);
  - b. The Notice of Decision from the Standards Committee sent to the Appellant;
  - c. The minutes of the Standards Committee meeting held on 16 January 2024;
  - d. The comments of the Appellant disputing the minutes of the Standards Committee meeting held on 16 January 2024

5. The Appellant has raised several grounds of appeal, which focus on facts and the alleged breaches of the Code of Conduct found. I am required to consider whether it has no reasonable prospect of success. I will take the Appellant's case at its highest (this means assuming his version of key disputed facts is correct for the purposes of considering his application), unless it is conclusively disproved, is entirely unsupported by reasonable argument or the evidence before me, or can reasonably be viewed as fanciful allegations.
6. If any ground of appeal is found by me to have no reasonable prospect of success, that ground will not proceed to be considered by the Appeal Tribunal. I am required to give reasons if I find a ground of appeal has no reasonable prospect of success. The threshold is low to obtain permission to appeal – even if I take the view the ground is unlikely to succeed, unless I find there is no reasonable prospect of success, I will allow the ground to be considered by an Appeal Tribunal. Where there is a dispute about the fact-finding undertaken by a standards committee, I will consider the decision of that committee to consider whether the criticisms made have no reasonable prospect of success.
7. If any ground does have a reasonable prospect of success, I am required to arrange for an Appeal Tribunal to be convened to hear the appeal.
8. I note that the decision letter of the standards committee is summary in nature. The draft minutes sets out evidence was received, that submissions were made, and the sanction imposed. There is no record of the Committee's reasoning, what the submissions were, the weight placed on the evidence or submissions received or whether the Sanctions Guidance was considered. I observed that compared to the detailed decisions supplied by other Standards Committee, the letter did not enable a review of the decision making process to be undertaken by an objective reader. I reviewed the minutes of the meeting (whilst noting that the Appellant disputed their accuracy); again I noted that there was no record setting out why the Standards Committee reached the conclusion that it did.
9. The Appellant raised the following grounds in his application for permission to appeal:
  - a. He commented on the phrase of "*cripple your business*", aspects of his hopes for the Ebenezer building and the underlying dispute over its future with the principal authority– there are not relevant to the reasons why he was found to have acted aggressively in a meeting of 4 May 2021 or failed to declare an interest in council business at the same meeting, and the details of the underlying dispute cannot be resolved in this forum. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
  - b. The Appellant complains of a presentation made in the meeting of 4 May 2021 – this is not something that can form the basis of a ground

of appeal. Taking his additional comments made into consideration, it appears that the Appellant asserts that there has been a “cover up” by both the community council and the principal authority regarding the Ebenezer building; again, this is not relevant as to whether the Appellant breached the Code of Conduct and the underlying dispute cannot be resolved in this forum. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**

- c. The Appellant accepts that he did not seek advice from the clerk, the monitoring officer or any other body as to whether he should declare an interest when attending the meeting on 4 May 2021; his position is that he did not need to do so and asserts that there is no need to declare something that should have been known. This is incorrect – it is necessary to declare even if known. The Appellant admits that he made no declaration and sought no advice, but this is on the basis that his interest was known. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
- d. The Appellant accepts that he raised his voice at the meeting of 4 May 2021 but says that others did so. This is not an acceptable justification as the Appellant is responsible for his own conduct. There is no challenge that he conceded to the Standards Committee that he behaved aggressively. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
- e. The Appellant touched on the finding that he brought his office or the relevant authority into disrepute, but does not set out any basis on which the finding can be challenged. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
- f. The Appellant says that he did not use his official capacity as a councillor to improperly obtain an advantage for himself or any other, or create a disadvantage – this was found by the Standards Committee but the Appellant has failed to explain why he challenges this finding. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
- g. The Appellant denies that he had a personal or prejudicial interest in the business of the authority and failed to disclose it. On his account within the application for permission to appeal alone, it is evident that the Appellant did have a personal interest in the fate of the Ebenezer building (which was financial in nature as it could lead to the insolvency of his personal business according to the Appellant) and says that he did not need to disclose it (or withdraw) as it was known. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
- h. The Appellant has made no submission that the sanction imposed was inappropriate. I have closely examined all of his documents, and



no argument is made and no comment in the form set out challenging this. **It therefore is not a ground of appeal and cannot proceed to an Appeal Tribunal.**

10. An Appeal Tribunal will not be convened by the President of the Adjudication Panel for Wales. The Monitoring Officer will be notified to enable the period of suspension to commence.

Signed: 

Date: 8 February 2024

Claire Sharp  
President of the Adjudication Panel for Wales

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